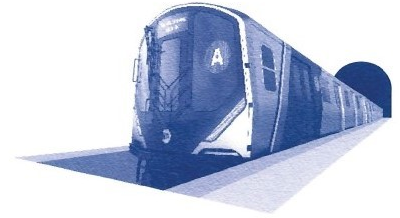


BULLETIN



BULLETIN NO.: 173-19 (Supersedes Bulletin No.: 29-18) December 3, 2019

TO: ALL EMPLOYEES

SUBJECT: **SAFETY RULE DISPUTE RESOLUTION FORM**

All supervisors are reminded to utilize the *Safety Rule Dispute Resolution Form* when a TWU-represented employee or group of employees assert that they have been directed by a supervisor to violate a departmental or NYCT safety rule or law.

Forms can be obtained under Commodity Number 58-12-0075.

These forms **must** be made available *from the supervisor* at the work location to any TWU-represented employee who wishes to raise such an allegation. Only work relating to the allegation shall stop until the dispute resolution process is completed. All work not related to the allegation shall continue.

All written information should be as specific as possible. Refer to the attached sample of the form and instructions. Below is a summary of how the form must be utilized.

Section 1

- ✓ The employee who makes the allegation will complete this section. If a group of employees are asserting a violation, one employee shall complete the form on behalf of the group.
- ✓ The information must be as specific as possible to properly resolve the issue.
- ✓ After completing this section, the employee must give it to the supervisor identified on the form.

Section 2

- ✓ The supervisor and the employee must discuss the issue and the applicable rules.
- ✓ The supervisor will complete this section noting his/her explanation and/or actions, and if the employee agreed or disagreed. If agreement is reached work may resume.
- ✓ If the employee disagreed, the supervisor must note the disagreement. The concern must then be raised immediately to a manager (superintendent).
- ✓ Each employee will sign their names noting the time and date.

Section 3

- ✓ The manager **must** be contacted if the employee disagrees with the supervisor's explanations/actions.
- ✓ The manager **must** notify the Rail Control Center and advise it to notify *TWU at (888) 302-3727* immediately and proceed to interview the supervisor and employee, and render a decision in the matter. The interview may be conducted by telephone. If the issue is resolved, the manager must complete this section by the end of the shift.
- ✓ If the issue cannot be resolved by telephone, the manager **must** report to the location and complete this section immediately after rendering a decision.
- ✓ The decision of the manager is *final and binding* on both parties.

- ✓ The manager will direct the employee(s) back to work.

Section 4 (Distribution)

- ✓ The **white copy** is the supervisor/manager copy. This copy **must** be distributed via fax or email as follows:

Division Head:

Car Equipment: *John Santamaria*, Vice President & Chief Mechanical Officer

- Interoffice mail to 130 Livingston Street, Room 2015
- Fax to (718) 694-5353 and
- Emergency Response fax to 212-712-4752 / 4128

MOW (Electrical, Track, Infrastructure, Elevators & Escalators, Engineering and Electronics Maintenance): *Joseph Joyce*, Vice President & Chief Maintenance Officer

- Interoffice mail to 130 Livingston Street, Room 9061
- Email to Joseph.Joyce@nyct.com and
- Email to Elizabeth.DeLuca@nyct.com

Station Environment (Districts, Specialized Cleaning & Environmental Operations, Operations Support/Quality Assurance): Office of the Chief Stations Officer

- Interoffice mail to 2 Broadway, D11.125
- Fax to (646) 252-5152

Service Delivery: *Barry Greenblatt*, Vice President & Chief Officer

- Interoffice mail to 2 Broadway, Room A29.06
- Email to Barry.Greenblatt@nyct.com and
- Email to Diedre.Thomas@nyct.com

Division Safety Office (DOS Safety): *Gus Rivera*, Chief Officer

- Interoffice mail to 130 Livingston Street, Room 7048
- Fax to (718) 694-1196

Office of System Safety (OSS):

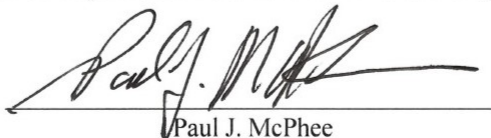
- Fax to (646) 252-5933
- Email to Charlene.Calhoun@nyct.com

TWU: fax to (646) 998-7155

- ✓ The **pink copy** is the employee copy.

NOTE: A Divisional Review Panel convenes quarterly, chaired by the division heads, with representation from the Office of System Safety (OSS) to review the forms. Reports will be provided to the Senior Vice President, Subways, and the Vice President, OSS.

Line Managers and Train Service Supervisors must monitor for strict compliance with this directive.



Paul J. McPhee
Chief Officer, Field Operations
Service Delivery

“EVERY SECOND COUNTS”

Attachment

SAFETY RULE DISPUTE RESOLUTION FORM

This section is for the employee who is alleging a violation of a departmental or applicable NYC Transit-wide safety rule or a section of an applicable law.

An employee or group of employees directed by supervision to violate a departmental or applicable NYC Transit-wide safety rule or applicable law can utilize the following procedure in order to have the situation immediately reviewed by a supervisor and manager, if necessary.

If a manager is present when the issue is raised, the alleged violation need only be reviewed by the manager.

This procedure does not supercede or replace the provisions of the Collective Bargaining Agreement.

2. In this section the supervisor at the location must indicate what actions he/she took regarding the concerns that the employee has indicated. If the employee does not agree with the explanation or action, indicate what the disagreement is and refer the matter to a manager who must notify his/her divisional Control Center and advise them to immediately notify the TWU of the issue (888-302-3727). If there is no divisional Control Center the manager must notify the TWU. The manager must immediately review the matter.

Employee Name (Your Name)	
Title (Title)	Pass # (Your Pass)
Dept./Division (ex. Buses, Stations, Subway)	
Supervisor	Pass #
Date (Today's Date)	Time (Time)
Task Being Performed (Task Being Performed)	
Location (Location)	

1. In this section the employee must specifically describe the alleged violation. Indicate or describe the rule or standard being violated.

1

(Describe the Safety Issue/Rule or Standard being Violated)

Time ___ a.m. ___ p.m. Date ___/___/___

(Signature)

Employee Signature (required)

Employee Agree Disagree

(You Agree or Disagree & Sign)

Employee Signature

Time ___ a.m. ___ p.m. Date ___/___/___

Supervisor Signature (required)

3. In this section a manager from the division must indicate what actions he/she took regarding the concerns that the employee indicated above. Upon explaining to the employees what changes will be made at the work site or that the challenge is not valid, the manager will direct the employee back to work. If the employee/gang refuses the manager's decision, appropriate action may be taken against the employee(s). If the supervisor/manager fails to correct a valid safety condition, appropriate action will be taken against the supervisor/manager.

3

Time ___ a.m. ___ p.m. Date ___/___/___

Manager Signature (required)/Print Name/Pass Number

Upon completion of this form it must be forwarded to the division head, the Office of System Safety (fax #646-252-5933), and the TWU Director of Safety and Health (fax #212-245-4102).

Supervisor/Manager Copy

POLICY AND PROCEDURE FOR RESOLVING A SAFETY RULE DISPUTE

An employee or group of employees who allege that they have been directed by supervision to violate a departmental or applicable NYC Transit-wide safety rule or applicable law can utilize the following procedure in order to have the situation immediately reviewed by a supervisor and manager, if necessary. Supervisors and managers must have this form on site and make it available to any employee that wishes to initiate a review.

If a manager is present when the issue is raised, the disputed issue need only be reviewed by the manager.

This procedure does not supercede or replace the provisions of the Collective Bargaining Agreement.

All employees must follow these policies and procedures when they allege a violation of a departmental or applicable NYC Transit-wide safety rule or applicable law in effect at a job location.

The Safety Rule Dispute Resolution Form is provided on the reverse side to document the allegation. The form must be completed as follows:

The employee alleging the violation must fill out the employee section of the form and give it to his/her immediate supervisor. The employee must be as specific as possible if supervision/management is to conduct an appropriate review and resolve the issue as expeditiously as possible.

The immediate supervisor will discuss the specific concerns and explain the rule/law in effect at the work site. The immediate supervisor will fill out section 2 of the form and indicate whether the employee agrees with the explanation; if a change in on-site procedures is necessary, the change will be made. The employee signs that he/she agrees or disagrees with the supervisor's action in section 2 of the form. If a disagreement exists, the issue will be immediately referred to a manager for immediate resolution. The manager must notify his/her divisional Control Center and advise them to

immediately notify the TWU of the issue (888-898-6608).

The manager must interview the employee and the immediate supervisor prior to rendering his/her decision. If the manager can resolve the issue over the phone based on the verbal description of the events the manager's decision can be communicated verbally to the supervisor, employee, and union representative, if one is present. By the end of the shift, the manager must complete his/her section on the form and indicate whether the employee is satisfied with the explanation, if a change in on-site procedures is necessary or if a disagreement still exists. If the manager is unable to resolve the issue based on the verbal description, the manager must report to the location of the incident before rendering a decision and the form must be completed immediately.

When the manager renders the decision, he/she will direct the employee back to work. If the employee/gang refuses the manager's decision, appropriate action may be taken against the employees. If the supervisor/manager fails to correct a valid safety issue, appropriate action will be taken against the supervisor/manager.

SAFETY RULE DISPUTE DIVISIONAL REVIEW PANEL (This section applies to supervisors and managers only.)

To insure consistent application of the safety rules or applicable law, a Divisional Review Panel will be established.

The Division Head will chair this panel and it will include a representative of the Office of System Safety.

The Panel will review all Safety Rule Dispute Resolution Forms quarterly. The Panel will also provide a written report of their meetings to the Departmental Senior Vice President and the Vice President of the Office of System Safety.

Upon completion of the form, it must be forwarded to the division head, Office of System Safety (fax #718-243-4770), and the TWU Director of Safety and Health (fax #212-724-5826).

ATTACHMENT G

Safety Procedures

Memorandum of Understanding

In full settlement of all issues raised by Union and Management, the following has been agreed to by the parties subject to approval of the principals:

- 1) Management agrees that departmental safety representative will not implement or publish new safety policies without prior approval of the Office of System Safety.
- 2) The Union may request its own safety expert to be present on Transit property to review a safety issue. In order to do so, the Union must give sufficient notice and demonstrate that the consultant is qualified as a safety expert in the appropriate field. Management agrees that access will not be reasonably withheld with the Unions understanding that the request or the presence of the expert on the property cannot be utilized to stop or interfere with the work that has been deemed by Management to be safe.
- 3) TWU Local 100 will receive the same telephonic call-in data which has been provided to NYC Transit's Department of Law, which includes the name of the employee, pass number, the Responsibility Center Number and a brief description of the accident.
- 4) NYC Transit will provide the following reports to TWU Local 100 Safety Department when issued:
 - Board of Inquiry Reports/ Notice of Hearing
 - TA Committee Reports
 - COLDER (Collision Department)
 - Annual Summary of Lost Time Accidents
 - Quarterly Near Miss Reports
 - Monthly Fire Reports
 - DOSH 900
 - Exposure Assessment Surveys
 - Outreach Programs Report
 - Product Evaluations
 - Asbestos and Lead Placards
 - Monthly Lost time Statistic Book
 - Hazard Assessments
 - Timely Notification of Accidents by Command or Control Center or Reporting Desk
- 5) The union will be provided with an opportunity to review and comment on new and revised policy instructions prior to their issuance. The Union will be permitted to preview and comment on newly proposed safety training program content. The Union agrees to provide its comments within a reasonable time period. The paragraph is not intended as a waiver of the Union's legal or other rights.

- 6) Safety issues related to substantial new projects in the Department / Division can be reviewed at the request of the Union at the monthly divisional safety committee meetings or as required. Management will give notice of such projects.
- 7) Section 1.9A shall be written to read: "The Authorities agree to continue to provide adequate, clean, safe and sanitary working conditions, in conformance with the standards of applicable law."
- 8) For the term of this contact, the following pilot program will be implemented:
 - a. An employee/gang that believes that he/she is being asked to perform a task that is in violation of the departmental or applicable Authority-wide safety rules or applicable law has the right to challenge the decision of the immediate supervisor. The challenge must be in writing on a form provided by NYC Transit and must identify the rule or standard that was violated. NYC Transit supervisors will carry such forms.
 - b. The supervisors must respond/resolve the issue in writing on the form. If the response/resolution is acceptable, the issue is resolved and both must sign the resolution.
 - c. If an employee/gang does not agree with the supervisor's response/resolution, a manager must be contacted to review the issue and determine who is correct. The Union will also be notified. If the employee/gang refuses the manager's decisions, appropriate action may be taken against the employee(s).
 - d. If the supervisor/manager fails to correct a valid safety condition, appropriate action will be taken against the supervisor/manager.
 - e. The form must be turned into a departmental review team and the TWU Safety Department for quarterly evaluation.
- 9) The parties agree to work together to ensure that the monthly safety walk around and/or meetings take place in accord with Section 1.19. It is the intent of the parties to achieve at all levels interface and cooperation between Union and Management concerning safety related issues.

This Divisional package is subject to an entire agreement on a successor agreement for the Transport Workers Union, Local 100.

For Transport Workers Union, Local 100

For MTA NYC Transit

 /s/ RT
Roger Toussaint, President Date

 /s/ GD
Lawrence G. Reuter, President Date