Title 49, Part 218 Subpart F, § 218.97 - Good Faith Challenge Flow Chart

An employee challenges a directive or order...

Does the issue pertain to Title 49 Part 218 Subpart F?
- 218.99 - Shoving or pushing movements
- 218.101 - Leaving equip. in the clear
- 218.103 - Hand op. switches, including crossovers
- 218.105 - Additional req. hand op. main track switches
- 218.107 - Additional req. hand op. crossover switches
- 218.109 - Hand op. fixed derail

Yes

Establish Dialogue

RR manager accepts employee’s request

Resolved

Employee acceptance of the order

Resolved

Employee and RR manager compromise to solution

Resolved

Employee and RR manager cannot resolve

Does the railroad have 400,000 total employee work hours annually?

Yes

No

The GFC must be immediately reviewed by an officer/employer. The RR officer/employer reviewing the GFC can NOT be the person issuing the challenged directive, or that person's subordinate. The officer can resolve the issue using the same options as the original officer.

The reviewing RR officer decides to resolve using original options.

The reviewing RR officer concludes the challenged directive does not violate this subpart.

RR officer must explain that Federal law protects the employee from retaliation if he or she refuses to do the work and the challenge is a lawful good faith challenge.

Copy of written good faith challenge must be retained at the employer or railroad's system HQ and at the division HQ to which the employee was working when the challenge was initiated for at least one calendar year after expiration of the year during which the decision was issued*.

*Must be made available to representatives of FRA during normal business hours

The RR must permit the employee to document the protest of the employer's final decision in writing or electronically prior to completing his or her tour of duty.

The RR must provide the employee, upon written request, a further review by a designated RR officer within 30 days beyond the month during which the challenge occurred. The employer's verification of the application of the regulation, law, procedure or rule must be made in writing.

RR is not required to conduct a second review. RR manager's decision represents RR final position.