

Incentive programs

OAR 437 • Division 1



Employers are required to have a reasonable procedure for employees to report work-related injuries and illnesses, without retaliation.

These retaliation prohibitions can affect how employers use incentive programs.

Incentive Programs

Oregon OSHA allows for incentive programs. However, employers must take care in how such programs are developed and applied.

Withholding a benefit—such as a cash prize drawing or other substantial award—simply because of a reported injury or illness would likely be considered retaliating against an employee and a violation of the law. Penalizing employees simply because an employee reported a work-related injury or illness without regard to the circumstances surrounding the injury or illness is not “objectively reasonable.”

For example, an employer raffles a \$500 gift card at the end of each month after no accidents that require any employees to miss work. Then, the employer

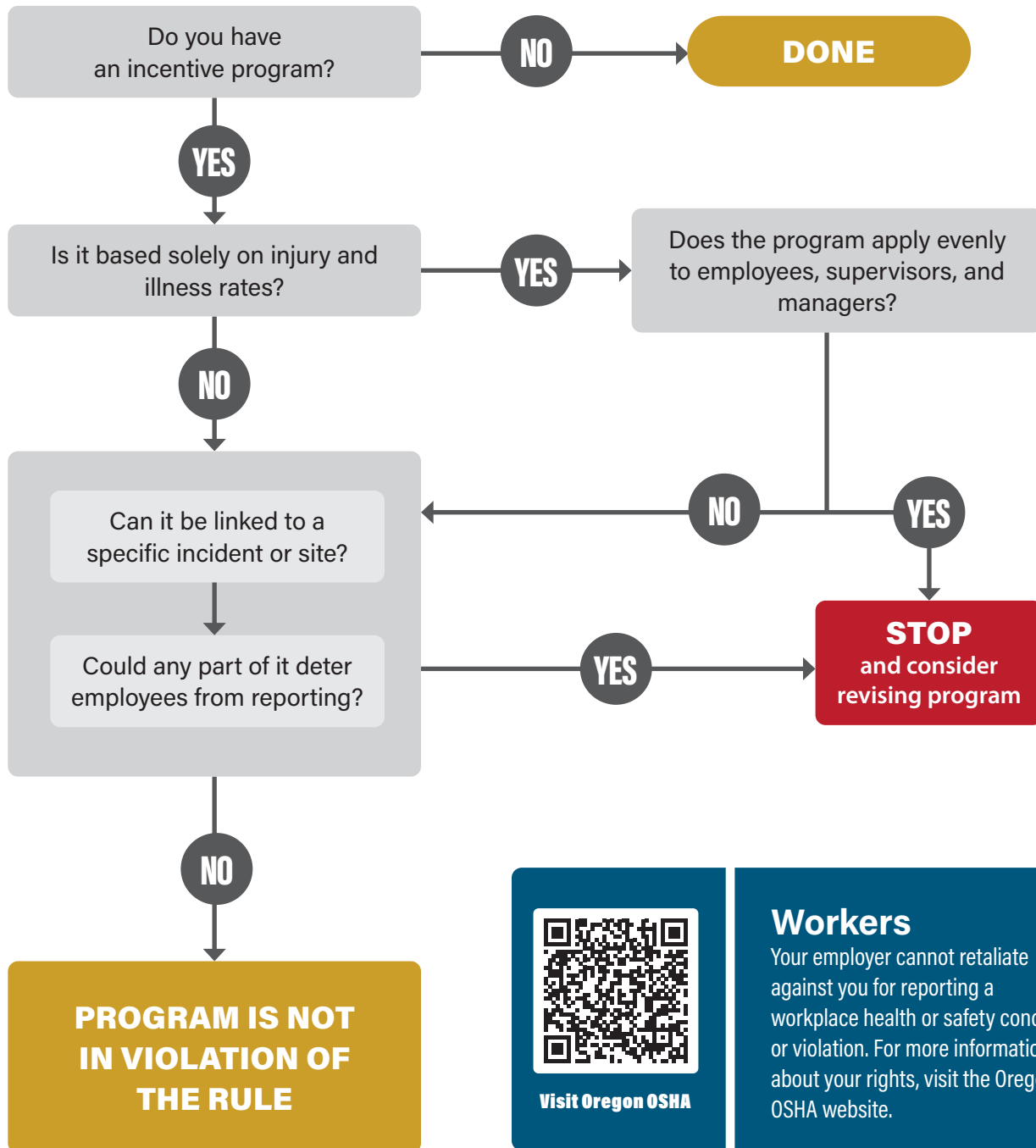
cancels the raffle one month because an employee reported a lost-time injury. This likely violates the law because the employer did not consider the circumstances of the injury. Canceling the raffle is an example of an adverse action against an employee with a work-related injury.

Providing an incentive for employees to comply with legitimate safety rules or to participate in safety-related activities would not violate the rule. For example, raffling a \$500 gift card each month where employees universally complied with legitimate workplace safety rules—such as wearing hard hats and fall protection and following lockout-tagout procedures—would not violate the rule. Likewise, rewarding employees for participating in safety training or identifying unsafe working conditions is allowed.

If an employer withholds a benefit from an employee for reporting an injury or illness without taking into account the circumstances surrounding the injury or illness, this could violate the rule.

Decision Flowchart

This can help determine if an incentive program is in compliance with the rules.



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Workers

Your employer cannot retaliate against you for reporting a workplace health or safety concern or violation. For more information about your rights, visit the Oregon OSHA website.

The Technical Section of Oregon OSHA produced this fact sheet to highlight health and safety programs and rules. The information is intended to explain the rules and provide best practices to employers.