

Employee Accident Incident Report

Personal Information

First Name:

Last Name:

Date of Birth:

Home Address:

Other Telephone:

Social Security Number:

Incentive programs

**OAR 437
Division 1**

Oregon OSHA's rules on recording workplace injuries and illnesses require employers to have a reasonable procedure for employees to report work-related injuries and illnesses. The rules also ban retaliating against employees for reporting work-related injuries or illnesses.

These retaliation prohibitions can affect how employers use incentive programs. This fact sheet will clarify some of those issues.

Incentive Programs

Oregon OSHA does not prohibit incentive programs. However, employers must take care in how they are developed and applied. The rule bans taking adverse action against employees simply because they report work-related injuries or illnesses. Adverse actions can affect not only the worker who reported the injury, but co-workers as well when a benefit is withheld.

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 rule. 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,” and therefore not a legitimate reason for taking adverse action against employees.

For example, an employer raffles a \$500 gift card at the end of each month with 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 rule because the employer did not consider the circumstances of the injury. Canceling the raffle is 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 would not violate the rule.

Oregon OSHA encourages employers to find creative ways to incentivize safe work practices and accident-prevention measures. However, employers must make sure those ways do not penalize workers who report work-related injuries or illnesses.

Oregon OSHA may cite an employer if it determines the employer withheld a benefit from an employee for reporting an injury or illness without taking into account the circumstances surrounding the injury or illness.

Oregon
OSHA

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Incentive programs – *continued*

The flowchart below can be used to help decide if an incentive program is in compliance with the rules.

Decision Flowchart

