

OSHA Recording and Reporting Prohibition against discrimination

Interpretation of 29 CFR 1904.35(b)(1)(iv) Regarding Incentives

This U.S. Department of Labor memorandum addressed issues relative to a longstanding requirement for employers to have a reasonable procedure for employees to report work-related injuries and illnesses. More so, it incorporates explicit prohibition on retaliating against employees for reporting work-related injuries or illnesses.

OSHA considered post injury drug testing and incentive programs to have retaliatory potential and/or deter reporting work-related injuries and illness. As it relates to incentives, OSHA offered this example, *“withholding a benefit such as a cash prize drawing or other substantial award simply because of a reported injury or illness would likely violate section 1904.35(b)(1)(iv).”* In this interpretation, OSHA “does not prohibit safety incentive programs.”

To avoid violation of 29 CFR 1904.35(b)(1)(iv) insure that the incentive program rules **do not disqualify** and/or withhold awards based on an employee recordable or reportable workplace injury or illness.

SAFE-T-WORD[®] Bingo is not a typical safety incentive promotion. It is first a game and an extension of safety education because the safety slogans relate to best safety practices and procedures. Playing SAFE-T-WORD[®] Bingo can and perhaps often incorporates “no workplace accidents or incidents” as a qualification to win. Adjust the SAFE-T-WORD[®] Bingo game rules and guidelines to avoid violation of OSHA 29 CFR 1904.35(b)(1)(iv). Continue to use SAFE-T-WORD[®] Bingo and/or other incentive programs to raise awareness to safe practices. Remember, increased awareness to safety practices decreases workplace injuries and illnesses.