



OSHA's Anti-Retaliation Provision [effective Nov. 1st]

The anti-retaliation provision, effective November 1, 2016, is part of OSHA's final rule to improve tracking of workplace injuries and illnesses that will become effective January 1, 2017.

What's included in the Provision:

- Employers must inform workers of their right to report work-related injuries and illnesses free from retaliation. (Employers can do this by posting the OSHA [Job Safety and Health – It's the Law](#) poster.)
- An employer's procedure for reporting work-related injuries and illnesses must be reasonable and must not deter or discourage employees from reporting.
- Employers can not retaliate against employees for reporting work-related injuries or illnesses.

Fast Facts for Employers:

- This final rule does not ban drug testing of employees. However, the final rule does prohibit employers from using post-incident drug testing (or the threat of testing) as a retaliatory measure.
- Drug testing policies should limit post-incident testing to situations in which employee drug use is likely to have contributed to the incident, and for which the drug test can accurately identify impairment caused by drug use.
- Nothing in the final rule prohibits employers from disciplining employees from violating legitimate safety rules, even if the same employee who violated a safety rule also was injured as a result of that violation and reported that injury or illness.
- OSHA has previously recognized that incentive programs that discourage employees from reporting injuries and illnesses by denying a benefit to employees who report an injury or illness may be prohibited by sections 11(c).

Related Quick Links:

For more information, visit the OSHA website www.osha.gov

Read the Final Rule <https://www.federalregister.gov/articles/2016/05/12/2016-10443/improve-tracking-of-workplace-injuries-and-illnesses>

OSHA Fact Sheet (Final Rule to Improve Tracking of Workplace Injuries and Illnesses):
<https://www.osha.gov/Publications/OSHA3862.pdf>

Questions?

Employers should contact their labor attorney or email jose.ramos@ffvamutual.com