

Why Safety Requires Consistent Discipline

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An effective safety process requires consistent discipline to support other company safety efforts, but it doesn't always happen.

The Occupational Safety and Health Administration (OSHA) is aggressively suing employers for allegedly using safety rules to terminate employees for reporting workplace injuries. In fact, it often turns out that the only employees terminated for safety violations were those terminated for unsafe behavior after an injury. Why? The employer was sloppy about disciplining employees for unsafe behavior, and the only time the employers "caught" employees acting unsafely was when investigating the injury.

Employers seldom successfully assert the "unpreventable employee misconduct/isolated incident" affirmative defense to employee OSHA violations because they cannot prove they manage an effective safety program that includes documented safety rules or procedures, proof that the employee was trained, evidence of the employer's efforts to monitor and enforce the safety program, or past discipline for unsafe behavior (more than a verbal warning).

Employers generally cannot show the element of regular safety-related discipline. Even the most safety-conscious employers admit that they don't adequately use discipline. Fisher and Phillips' 2012-2013 survey of large general contractors with some of the nation's best safety programs revealed that 56 percent were "not satisfied by how often supervisors discipline employees for unsafe behavior."

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