



# Leveraging Federal Resources: Creating Equity through Employment Rights and Protections

September 17th, 2024

# Who We Are



[JustUScc.org](https://JustUScc.org)

The JCC is a national federal policy table led by and created for individuals who are directly impacted. The JCC forms the connective tissue needed to catalyze full participation in policy practices and changes for formerly incarcerated people and directly impacted individuals and their communities.

# Our Why



**The voices of those most impacted by the criminal legal system have been missing and/or excluded from decision-making tables.**

# Priorities



# Employment Equity: One of Several Federal Priorities



**Within employment** — just one aspect of the reentry experience — federal resources and opportunities for ensuring equity are ineffective in helping a diverse group of individuals navigating supporting themselves and their families:

Discrimination in hiring practices often improperly lock out persons with lived experience

Employment opportunities for persons with lived experience can be unsafe and exploitative

Too few individuals that have their rights violated are not aware of protections and resources

# Centered back to people





# What You Should Know About EEOC Laws and Workplace Protections Regarding Arrest & Conviction Records

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SEPTEMBER 17, 2024

2:00 PM – 3:30 PM EST

# Equal Employment Opportunity Commission (EEOC)

- The EEOC's Vision is:

- Respectful and inclusive workplaces with equal employment opportunity for all.*

- The EEOC's Mission is to:

- Prevent and remedy unlawful employment discrimination and advance equal opportunity for all in the workplace.*





# Laws Enforced by EEOC



- Title VII of the Civil Rights Act of 1964 (Title VII)
- Equal Pay Act of 1963 (EPA)
- Age Discrimination in Employment Act of 1967
- Rehabilitation Act of 1973
- Title I of the Civil Rights Act of 1991
- Americans with Disabilities Act of 1990 (ADA)
- ADA Amendments Act of 2008
- Genetic Information Non-Discrimination Act of 2008 (GINA)
- Pregnant Workers Fairness Act of 2023 (PWFA)

# Title VII & Criminal History Records

- Title VII prohibits employers from treating job applicants with the same criminal records differently due to their race, color, religion, sex or national origin.
- Even if the rules on criminal records is **applied evenly**, policies or practices that exclude candidates with records may disproportionately exclude people of a particular race or national origin without a business necessity

- Employers prohibited from disparate treatment (treating one group less favorably) based on a protected basis (race, color)

- EVIDENCE CAN INCLUDE

- Biased statements

- Inconsistencies in requesting criminal records

- Comparators treated better

- Employment testing is unfair

- Statistical data shows weight of criminal history more a factor for some than others

# DISPARATE TREATMENT

# Job Related & Business Necessity

- A company is allowed to use criminal records in employment decisions when it can show that the use is *job related* and a *business necessity for the position in question*
- The burden is on the company to show that the use of the criminal records “bears a demonstrable relationship to successful job performance of the job it is used for” and “measure the person for the job and not the person in abstract”  
–*Griggs v. Duke Power Company*



# Time Passed

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- Employer policies typically specify the duration of a criminal conduct exclusion. While the *Green* court did not endorse a specific timeframe for criminal conduct exclusions, it did acknowledge that permanent exclusions from all employment based on any and all offenses were not consistent with the business necessity standard.

# Nature of Job Being Sought

Job Title

Job duties

Essential Functions of Job

Circumstance under which the job will be performed

- Level of supervision
- Interaction with other co-workers or vulnerable populations

Environment in which the job will be performed

- Outdoors
- Warehouse
- Private home

# Exceptions

- Federal Workers (NOT state & local)
- **Employer compliance with federal law requirements is a valid defense for exclusion.**
  - airport screeners, law enforcement officers, child care workers in fed facilities, bank or port employees.

# Who is protected by the laws enforced by EEOC?

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- Employee
- Temporary Worker
- Job Applicant
- Former Employee
- Undocumented Worker

*☐ INDEPENDENT CONTRACTORS -- not covered.*



**Who can file  
an EEOC  
charge?**

- Individuals
- Individuals or organizations on behalf of others (third party charges)
- EEOC District Director (ADEA or EPA Directed Charge)
- EEOC Commissioner's Charge (systemic)

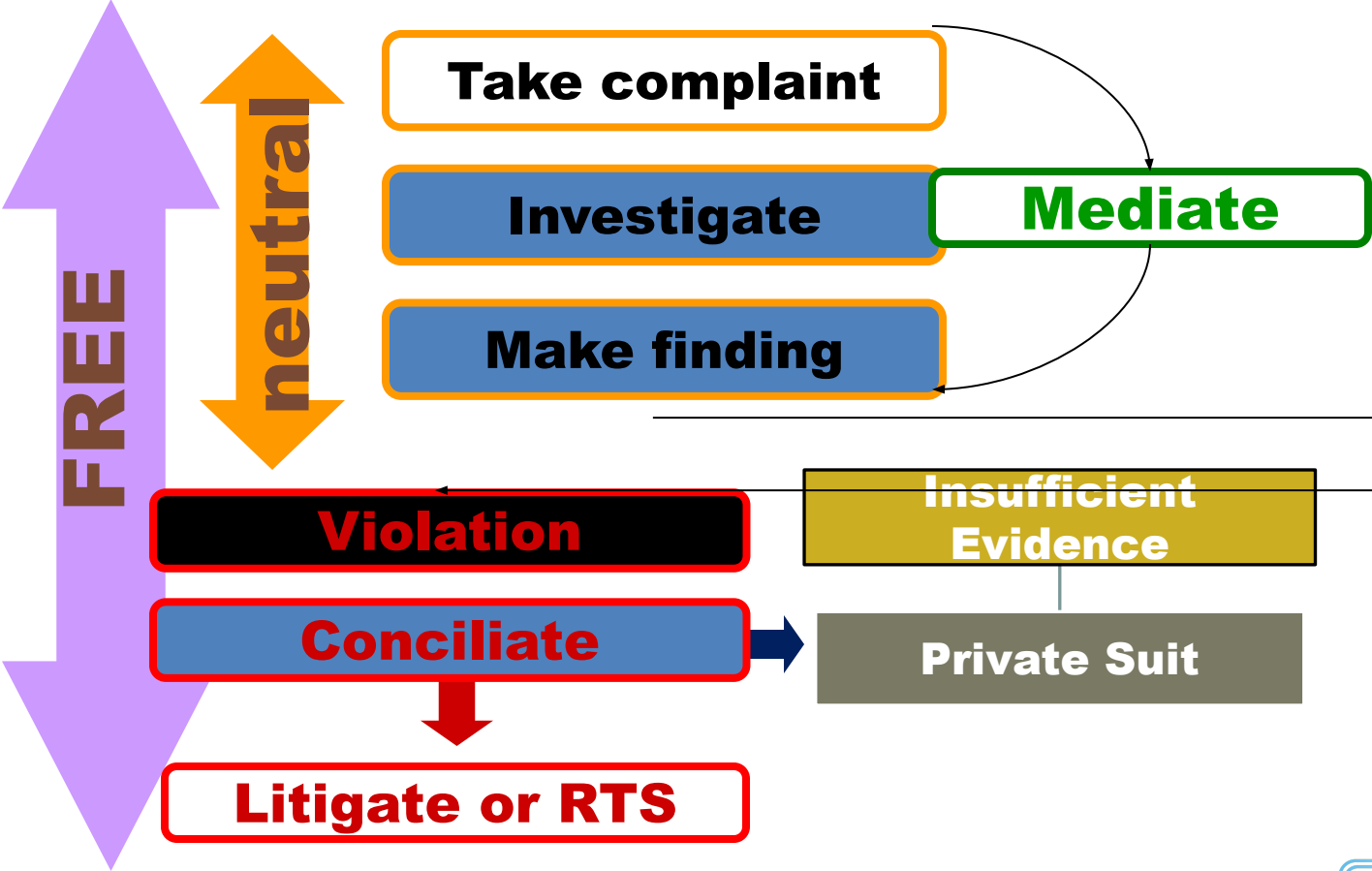
# EEOC Filing Deadline



- **Private Sector, State & Local Government**

File a “charge of discrimination” with EEOC within **190 days** of the last date of discrimination (NOTE: CA DFEH within one year)

# EEOC's Process



# How to File a Charge with the EEOC

[eeoc.gov](https://www.eeoc.gov) or scan QR code



The background of the image is a faded, circular seal. The outer ring of the seal contains the text "U.S. DEPARTMENT OF JUSTICE" at the top and "OFFICE OF PROFESSIONAL RESPONSIBILITY" at the bottom. The central part of the seal features an eagle with its wings spread, holding a shield with vertical stripes. Above the eagle's head is a crest with a blue field containing white stars. Two yellow ribbons are draped across the eagle's chest, with the word "EPISTOLAE" on the left and "UNUM" on the right. The eagle is flanked by a green laurel wreath on the left and a bundle of arrows on the right.

Visit [EEOC.gov](https://www.eeoc.gov) for Additional  
Information

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# Questions

THANK YOU!!



# Worker Rights Review

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**Isabel DeOliveira**

**Regional Compliance Assistance Specialist  
Occupational Safety and Health Administration**

**Philadelphia, PA**

## Disclaimer - CAS-Developed Written Materials

This information has been developed by an OSHA Compliance Assistance Specialist and is intended to assist employers, workers, and others improve workplace health and safety. While we attempt to thoroughly address specific topics [or hazards], it is not possible to include discussion of everything necessary to ensure a healthy and safe working environment in this presentation. This information is a tool for addressing workplace hazards, and is not an exhaustive statement of an employer's legal obligations, which are defined by statute, regulations, and standards. This document does not have the force and effect of law and is not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. It does not create (or diminish) legal obligations under the Occupational Safety and Health Act. Finally, OSHA may modify rules and related interpretations in light of new technology, information, or circumstances; to keep apprised of such developments, or to review information on a wide range of occupational safety and health topics, you can visit OSHA's website at [www.osha.gov](http://www.osha.gov).



# OSHA Compliance Assistance Specialist and Coordinator

Region 3  
Philadelphia Regional Office

Isabel DeOliveira



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# Objectives

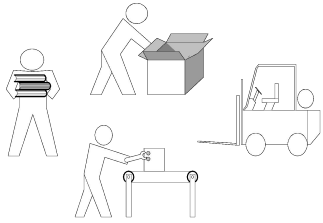
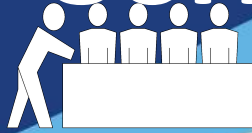
- Review OSHA's Worker Rights
- Employer Responsibilities
- Identify Compliance Resources

# What is OSHA's Mission?

to assure safe and healthful  
working conditions for  
working men and women.

<https://www.osha.gov/laws-regs/oshact/toc>

# OSHA



## WORKERS

## EMPLOYER

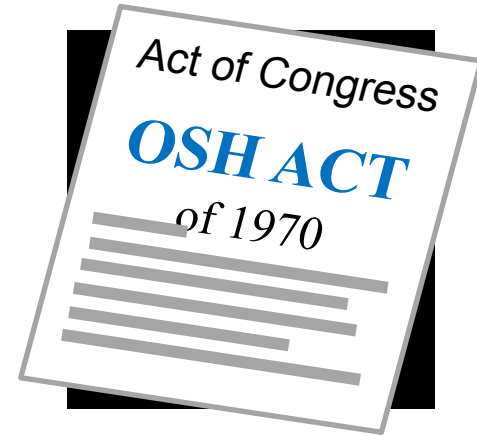


Everyone is responsible  
for safety on the job

# What Responsibilities Does Your Employer have Under OSHA?

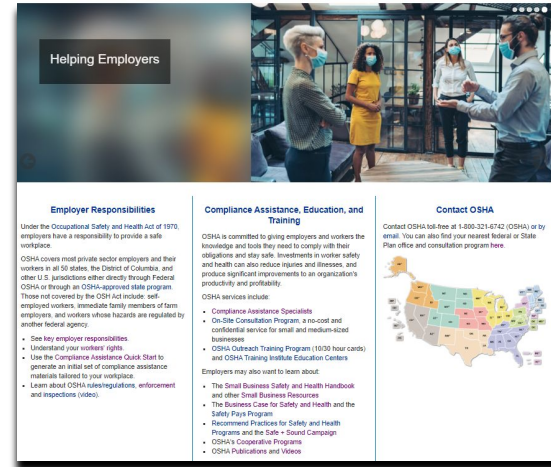
Employers have the responsibility to:

- Provide a workplace **free from recognized hazards and comply** with OSHA standards
- Provide **safety training** required by OSHA standards in a way that workers can understand



# Employer Responsibilities (Cont'd)

- Post the OSHA poster, report fatalities and severe injuries, and comply with injury/illness recordkeeping requirements
- Keep records of injuries and illnesses
- Provide and pay for PPE



The poster is titled "Helping Employers" and features a photograph of four people in a modern office setting. Below the photo, the poster is divided into three columns of text and a map of the United States.

### Helping Employers

**Employer Responsibilities**

Under the Occupational Safety and Health Act of 1970, employers have a responsibility to provide a safe workplace.

OSHA covers most private sector employers and their workers in all 50 states, the District of Columbia, and other U.S. jurisdictions either directly through Federal OSHA or through an OSHA-approved state program. Those not covered by the OSH Act include: self-employed workers, immediate family members of farm employers, and workers whose hazards are regulated by another federal agency.

- See key employer responsibilities.
- Understand your workers' rights.
- Use the Compliance Assistance Quick Start to generate an initial set of compliance assistance materials tailored to your workplace.
- Learn about OSHA rules/regulations, enforcement and inspection codes.

**Compliance Assistance, Education, and Training**

OSHA is committed to giving employers and workers the knowledge and tools they need to comply with their obligations and stay safe. Investments in worker safety and health can also reduce injuries and illnesses, and produce significant improvements to an organization's productivity and profitability.

OSHA services include:


- Compliance Assistance Specialists
- On-Site Consultation Program: a no-cost and confidential service for small and medium-sized businesses.
- OSHA Outreach Training Program (1050 hour cards) and OSHA Training Institute Education Centers

Employers may also want to learn about:

- The Small Business Safety and Health Handbook and other Small Business Resources
- The Business Case for Safety and Health and the Safety Pays Program
- Recommended Practices for Safety and Health Programs and the Safe + Sound Campaign
- OSHA's Cooperative Programs
- OSHA Publications and Videos

**Contact OSHA**

Contact OSHA toll-free at 1-800-321-6742 (OSHA) or by email. You can also find your nearest Federal or State Plan office and consultation program here.

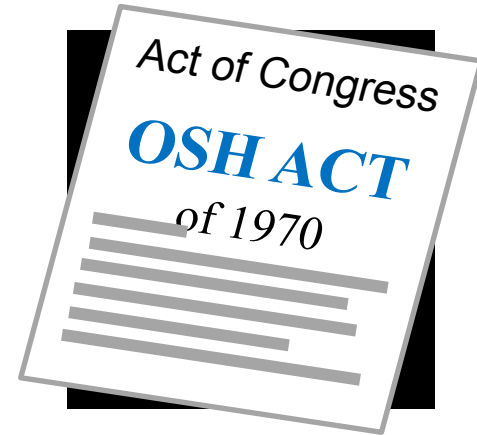


# Worker Rights

Employees have the right to:

- Report **unsafe conditions and injuries** to management or OSHA
- Assist an **OSHA investigation**
- Request **Training**
- Request **PPE**

[www.osha.gov/workers](http://www.osha.gov/workers)



# Whistleblower Protections

Employers cannot retaliate against employees who exercise their rights.

Retaliation includes:

- Reducing pay or hours
- Firing, laying off, or suspending an employee
- Reassigning, disciplining, or demoting
- Harassing, threatening, or intimidating
- Blacklisting from hiring





# OSHA Poster – It's the Law!

- It's free and required
- Employers must display in a conspicuous location
- Available in several languages
- State Plans may have their own versions



## Job Safety and Health: It's the Law Workplace Poster **FREE**



**OSHA**  
Occupational Safety and Health Administration

### Job Safety and Health IT'S THE LAW!

**All workers have the right to:**

- A safe workplace.
- Raise a safety or health concern with your employer or OSHA, or report a work-related injury or illness, without being retaliated against.
- Receive information and training on job hazards, including all hazardous substances in your workplace.
- Request a confidential OSHA inspection of your workplace if you believe there are unsafe or unhealthy conditions. You have the right to have a representative contact OSHA on your behalf.
- Participate to have your representative participate in an OSHA inspection and speak in private to the inspector.
- File a complaint with OSHA within 30 days, by phone, online or by mail, if you have been retaliated against for using your rights.
- See any OSHA citations issued to your workplace.
- Request copies of your medical records, tests that measure hazards in the workplace, and the workplace injury and illness log.

This poster is available free from OSHA.

**Contact OSHA. We can help.**

1-800-321-OSHA (6742) • TTY 1-877-889-5627 • [www.osha.gov](http://www.osha.gov)



What is the OSHA poster and why do I need it?

The **OSHA Job Safety and Health: It's the Law** poster, available for free from OSHA, informs workers of their rights under the Occupational Safety and Health Act. All covered employers are required to display the poster in their workplace.

**Employers do not need to replace previous versions of the poster.** Employers must display the poster in a conspicuous place where workers can see it.

If you are in a state with an **OSHA-approved state plan**, there may be a **state version** of the OSHA poster. Federal government agencies must use the **Federal Agency Poster**.

How do I get a free copy?

Is the poster available in other languages?

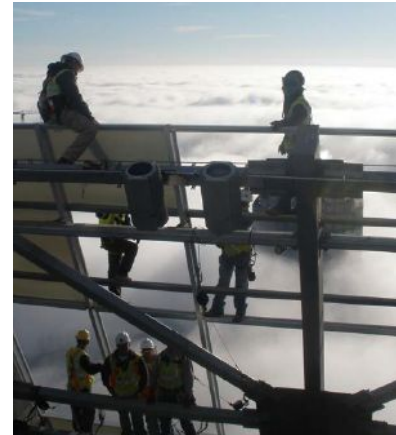
Law requiring poster to be displayed in the workplace

OSHA 3167 - 2019) (Spanish: PDF)  
(OSHA 3725 - 2019) (Korean: PDF)  
(OSHA 3495 - 2017) (Portuguese: PDF )  
(OSHA 3921 - 2017) (Tagalog: PDF )  
(OSHA 3837 - 2015) (Vietnamese: PDF

<https://www.osha.gov/publications/poster>

# OSHA's Balanced Approach

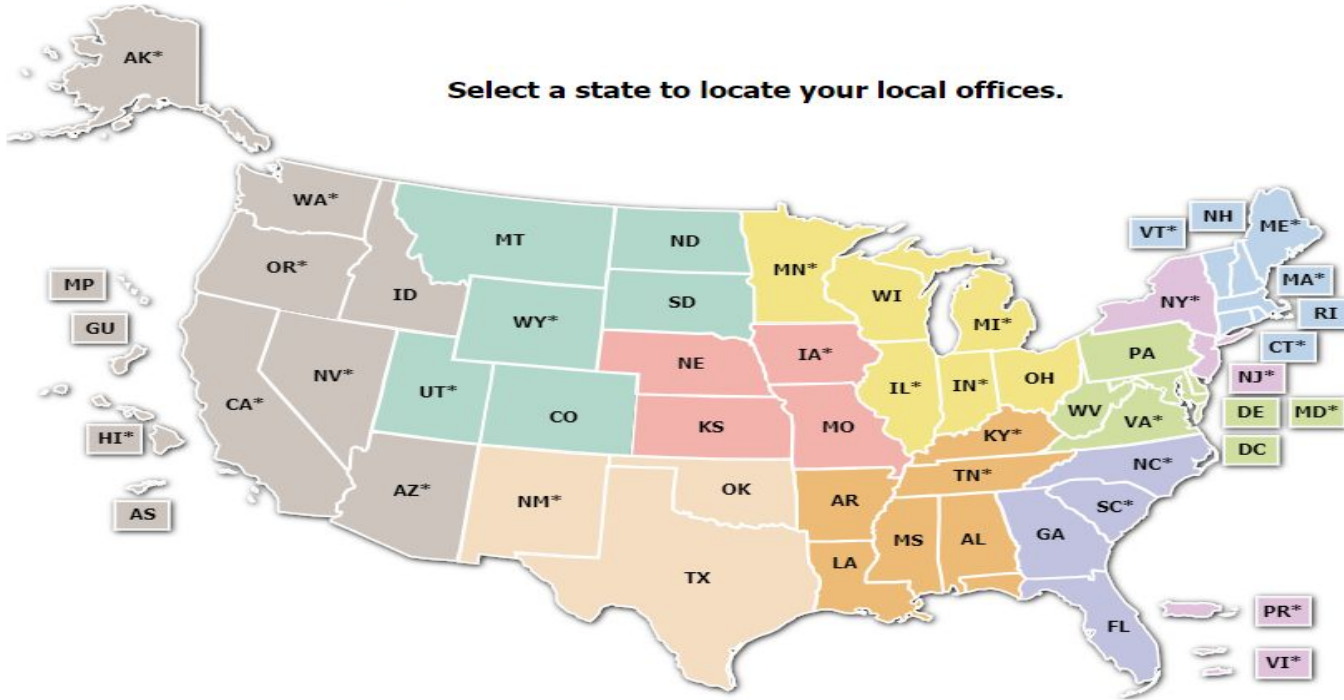
- Enforcement
- Outreach and Consultation
- Compliance Assistance



# OSHA's Continuing Mission

- OSHA and its state partners, coupled with efforts of employers, safety & health professionals, unions and advocates, have helped **dramatically reduce** workplace injuries and illnesses.
- Worker fatalities in America are **down**— on average, from 38 workers a day in 1970 to **15** a day in **2022**.
- Worker injuries and illnesses are **down**— from 10.9 incidents per 100 workers in 1972 to **3.7** per 100 in **2022**.

# OSHA Offices by State



Select a state to locate your local offices.

Find Office By State

Select a State

- [Consultation Offices](#)
- [State Plans](#)
- [Worker Rights \(Complaints\)](#)
- [OSHA Office Directory](#)

## OSHA Regional Offices

- [Boston](#)
- [New York City](#)
- [Philadelphia](#)
- [Atlanta](#)
- [Chicago](#)
- [Dallas](#)
- [Kansas City](#)
- [Denver](#)
- [San Francisco](#)
- [Birmingham](#)

<https://www.osha.gov/contactus/bystate>

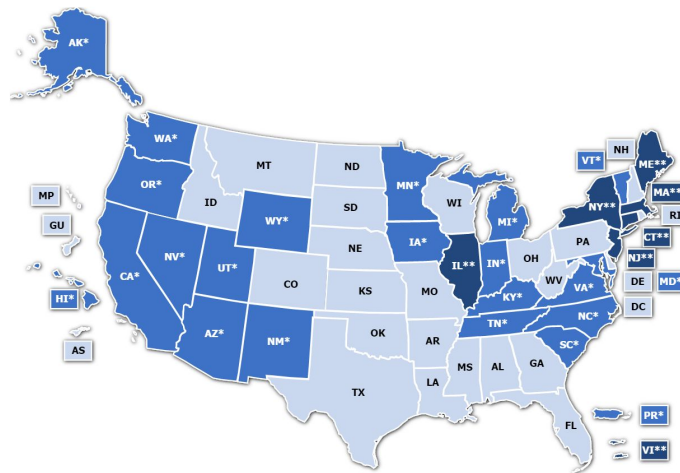
# Regional and Area Office Functions

- Inspections
- Compliance Assistance
- Outreach
- Training
- Penalty Collection



# State Plans

- 22 State Plans covering private sector and state/local government workers
- 7 State Plans covering only state/local government workers
- State Plans must be at least as effective as federal OSHA



# State Plans Benefits

## Benefits of State Plans:

- Protection for government workers
- Meets local needs
- More efficient, flexible, and innovative



# OSHA Enforcement



OSHA sets enforcement policy and targeted inspection programs, and responds to fatalities, catastrophes and complaints.

# Top 10 Violations: FY 2023

## Most frequently cited OSHA standards during FY 2023 inspections:

1. Fall Protection – General Requirements (1926.501)
2. Hazard Communication (1910.1200)
3. Ladders (1926.1053)
4. Scaffolding (1926.451)
5. Powered Industrial Trucks (1910.178)
6. Lockout/Tagout (1910.147)
7. Respiratory Protection (1910.134)
8. Fall Protection – Training Requirements (1926.503)
9. Eye and Face Protection (1926.102)
10. Machine Guarding (1910.212)

# OSHA Penalty Levels: 2024

Type of Violation	New Maximum
<ul style="list-style-type: none"><li>• Serious and</li><li>• Other-Than-Serious</li><li>• Posting Requirements</li></ul>	<b>\$16,131 per violation</b>
Willful or Repeated	<b>\$161,323 per violation</b>
Failure to Abate	<b>\$16,131 per day</b> beyond the abatement date

# Emphasis Programs



- **Hazardous Machinery** OSHA Instruction - CPL 03-00-022 - [National Emphasis Program on Amputations in Manufacturing Industries](#) - 12/10/2019 - [PDF](#)
- **Heat** OSHA Instruction - CPL 03-00-024 - [National Emphasis Program – Outdoor and Indoor Heat-Related Hazards](#) - 04/08/2022 - [PDF](#)
- **Warehousing and Distribution Center Operations**  
OSHA Instruction - CPL 03-00-026 - [National Emphasis Program on Warehousing and Distribution Center Operations](#) - 07/13/2023 - [PDF](#)

Warehousing



# Temporary Workers

- 
- **2.4 million people are employed by staffing companies every week.**
  - **12.7 million temporary and contract employees are hired by U.S. staffing firms over the course of a year.**

# Protecting Temporary Workers: A joint responsibility

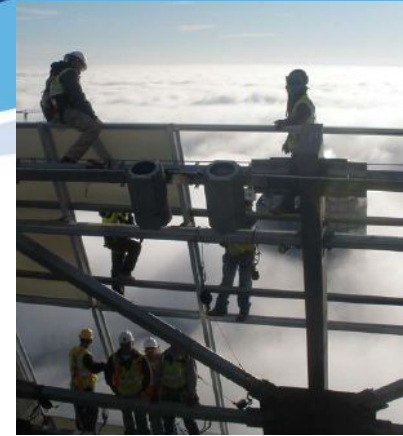
- **Both host employers and staffing agencies** have roles in complying with workplace health and safety requirements and they share responsibility for ensuring worker safety and health.
- Legally, **both the host employer and the staffing agency** are employers of the temporary worker.

**Shared control over worker = Shared responsibility for worker**

# TWI Bulletins

- [Bloodborne Pathogens](#)
- [Ergonomics for the Prevention of Musculoskeletal Disorders](#)
- [Exposure to Outdoor and Indoor Heat-Related Hazards](#)
- [Hazard Communication](#)
- [Hazardous Energy \(Lockout/Tagout\)](#)
- [Injury and Illness Recordkeeping Requirements](#)
- [Noise Exposure and Hearing Conservation](#)
- [Personal Protective Equipment](#)
- [Powered Industrial Truck Training](#)
- [Respiratory Protection](#)
- [Safety and Health Training](#)
- [Shipyards Employment](#)
- [Warehousing Industry Employment](#)
- [Whistleblower Protection Rights](#)

# Compliance Resources



- Safety and Health Topics Pages
- Publications
- Compliance Assistance



# Suicide Prevention Awareness



- Suicide is a complex public health problem that deeply impacts workers, their families, and our communities.
- Worker suicides are especially high among construction workers, due in part to work-related stresses such as seasonal work, demanding schedules, and workplace injuries.
- OSHA has a poster, “Suicide Prevention: 5 Things You Should Know” and handout, “Role of Employers in Preventing Suicide.”
- The agency continues to support Suicide Prevention Awareness Month activities each September.

# Harwood Grant Materials

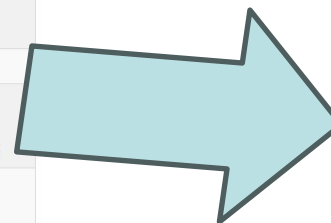
<a href="#">Warehouse Worker Hazards</a>	Warehouse Worker Hazards in Structural Steel Fabricating and Supply Companies	Michigan State University	2014	SH-26316-SH4	<a href="#">English</a> <a href="#">Spanish</a>
<a href="#">Warehouse Worker Hazards</a>	Warehousing	Western Nebraska Community College	2014	SH-26328-SH4	<a href="#">English</a> <a href="#">Spanish</a>
<a href="#">Workplace Safety &amp; Health</a>	Chemical and Machine Hazards	Western North Carolina Workers' Center	2017	SH-31206-SH7	<a href="#">English</a>

- Grants are awarded to provide training and education programs for employers and workers *on the recognition, avoidance, and prevention of safety and health hazards* in their workplaces.
- All training materials developed and/or training conducted must serve new (small) businesses, limited English proficiency workers, non-literate and low literacy workers, young workers, temporary workers, minority and other hard-to-reach workers, and workers in high-hazard industries and industries with high fatality rates.
- Materials are available at:



<a href="#">Warehouse Worker Hazards</a>	Warehouse Worker Hazards in Structural Steel Fabricating and Supply Companies	Michigan State University	2014	SH-26316-SH4	<a href="#">English</a> <a href="#">Spanish</a>
<a href="#">Warehouse Worker Hazards</a>	Warehousing	Western Nebraska Community College	2014	SH-26328-SH4	<a href="#">English</a> <a href="#">Spanish</a>
<a href="#">Workplace Safety &amp; Health</a>	Chemical and Machine Hazards	Western North Carolina Workers' Center	2017	SH-31206-SH7	<a href="#">English</a>

<a href="#">Electrical Safety</a>	Safety Training for Workers in Chemical, Refinery, and Construction Industries	Construction Advancement Foundation of Northwest Indiana, Inc.	2015	SH-27662-SH5	<a href="#">English</a>
<a href="#">Ergonomic Hazards</a>	Ergonomic Hazards in Material Handling	Timber Products Manufacturers Association	2014	SH-26336-SH4	<a href="#">English</a>
<a href="#">Ergonomic Hazards</a>	Ergonomic Risk Reduction for Commercial Fishermen and Seafood Processing Workers	Alaska Marine Safety Education Association	2014	SH-26334-SH4	<a href="#">English</a> <a href="#">Tagalog</a> <a href="#">Vietnamese</a>
<a href="#">Ergonomic Hazards</a>	How to Build a Safe Working Environment Workshop	Casa Latina	2014	SH-26284-SH4	<a href="#">English</a> <a href="#">Spanish</a>
<a href="#">Ergonomics</a>	Basic Electricity Safety	National Day Laborer Organizing Network	2015	SH-27667-SH5	<a href="#">English</a> <a href="#">Spanish</a>
<a href="#">Ergonomics</a>	Ergonomics Solutions	Casa Latina	2016	SH-29599-SH6	<a href="#">English</a> <a href="#">Spanish</a>
<a href="#">Ergonomics</a>	Ergonomics The Next Level	Timber Products Manufacturers	2015	SH-27694-SH5	<a href="#">English</a> <a href="#">Spanish</a>



# Unsafe Practices



*Figure 1: Example of a worker unsafely pulling inventory on a raised pallet.*



<https://www.dol.gov/sites/dolgov/files/whd/youthrules/ForkEnSp.pdf>

# Heat Illness Prevention

Every year, dozens of workers die and thousands more become ill while working in hot or humid conditions. OSHA's Heat Illness Prevention campaign educates employers and workers on heat hazards and provides resources to keep workers safe.



## Employer Responsibilities

*Employers can keep workers safe in the heat.*



## Information for Workers

*Understand workers' rights and what workers should know about heat illness.*



## More Resources on Heat

*Heat illness is serious, but you can prevent it.*

# Social Media

- <https://www.facebook.com/departmentoflabor>
- [X https://twitter.com/OSHA\\_DOL](https://twitter.com/OSHA_DOL)
- <https://www.instagram.com/USDOL/>
- [USDOL YouTube Channel: \(OSHA Playlist\)](#)
- <https://www.linkedin.com/company/u-s-department-of-labor/>

Connect With OSHA



# OSHA QuickTakes



- **Free** OSHA e-newsletter delivered twice monthly to more than 385,000 subscribers
- **Latest news** about OSHA initiatives and products to help employers and workers find and prevent workplace hazards
- Sign up at [www.osha.gov](http://www.osha.gov)

# Summary

- Reviewed OSHA's Worker Rights
- Reviewed Employer Responsibilities
- Identified Compliance Resources



# Contact Us

- Toll-free: 1-800-321-OSHA (6742)
- Submit email questions through OSHA's website at [www.osha.gov](http://www.osha.gov)
- Contact your local OSHA Area Office



[www.osha.gov](http://www.osha.gov)

800-321-OSHA (6742)



Isabel DeOliveira  
USDOL-OSHA Philadelphia Regional Office  
(215)861-4931  
[Deoliveira.isabel@dol.gov](mailto:Deoliveira.isabel@dol.gov)

# FILING A WORKPLACE COMPLAINT

## CHOOSING THE RIGHT ONE

### Safety and Health Complaint

### Whistleblower Complaint

File your complaint online, by phone or letter



Submit your oral or written complaint in any language



File your complaint anonymously



Allow someone to file for you



Report unsafe or unhealthy conditions



Report retaliation or threats for raising a safety or health concern



Provide the employer's name, address, and contact information



Filing deadline

< 6 months\*

30-180 days\*\*

\* OSHA cannot issue citations for violations that occurred more than six months prior

\*\* Deadline varies with each statute



**JOIN THE TABLE TODAY!**

**[justuscc.org](http://justuscc.org)**

**CONTACT US**

**[info@justuscc.org](mailto:info@justuscc.org)**

**[facebook.com/JustUSCoordinatingCouncil](https://facebook.com/JustUSCoordinatingCouncil)**

**[instagram.com/justuscouncil](https://instagram.com/justuscouncil)**



***TAKE OUR SURVEY!!***