

Frequently Asked Questions on Employee Protections for Reporting Work-Related Injuries and Illnesses in the Railroad Industry

Employees working for railroad carriers who notify, or attempt to notify, a railroad carrier, the Secretary of Transportation, or any Federal, State, or local regulatory or law enforcement agency, of a work-related personal injury or work-related illness are protected from retaliation under the Federal Rail Safety Act (FRSA), 49 U.S.C. 20109. Below are some answers to frequently asked questions about these employee whistleblower protections. The specific facts of every FRSA case will be different, so the information below may not apply in every instance.

Q: Who is protected under FRSA for reporting a work-related injury or illness?

A: The Federal Rail Safety Act protects public and private sector employees of railroad carriers, as well as employees of contractors and subcontractors of railroad carriers who report a work-related personal injury or work-related illness.

Q: Can a railroad carrier discipline an employee for reporting a work-related personal injury or work-related illness?

A: No. Reporting a work-related personal injury or work-related illness is specifically protected under FRSA.

Q: Can a railroad discipline an employee for violating safety rules which caused a work-related injury?

A: Yes. An employee can be disciplined for violating safety rules, but not for reporting the injury.

Q: Is it a violation of FRSA for a railroad to harass or intimidate an employee into not reporting an injury, or to report it as non-work related?

A: Yes. This violates FRSA.

Q: Is it a violation of FRSA for a railroad to classify an employee's work-related injury as not work-related?

A: Yes. If the railroad classifies a work-related injury as not work-related in an effort to avoid having the injury be "reportable" then this practice would violate FRSA.

Q: Is it a violation of FRSA for a railroad to force an employee to work against medical advice?

A: Yes. FRSA prohibits a railroad from requiring an employee to work against the orders of a treating physician. FRSA does not prohibit a railroad from requiring that an employee perform alternate duties that would be permitted under a treating physician's treatment plan.

Q: Is it a violation of FRSA for a railroad to discipline anyone who is injured on the job?

A: Yes. Except to the extent that a railroad may discipline an injured employee for violating work safety rules, a railroad may not discipline employees who get injured on the job. A policy or practice that disciplines employees who receive on-the-job injuries would violate FRSA.