

Ergonomics in the Workplace: What's "Reasonable"?

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California employers have seen a sharp increase in ergonomic-related disability claims in recent years. With heightened awareness of the physical impact a poorly-designed workplace can have upon employees, business owners would be well-advised to consider the productivity boost inherent in providing quality workspace. That said, however, granting your employees' workstation requests can quickly add up. How can you determine whether an ergonomic request is mandatory, or merely an employee's wish list?

When addressing a request for ergonomic intervention, consider the following:

1. ***Is the employee requesting standard equipment that you would typically provide to any similar worker?*** If the employee's request is for low-cost or clearly necessary equipment, consider granting the request simply because it is reasonable to do so, without becoming bogged down in red tape or overly complex analysis. An employee on the phone eight hours each day should be given a headset, and an employee who kneels throughout the day should be given a set of knee pads. Asking for medical certification or the completion of workplace forms for simple requests can make the employer seem unreasonable or downright cruel.
2. ***Is the employee's request an unreasonable or overly-costly solution to a relatively simple problem?*** Just because an employee requests a particular piece of equipment doesn't mean the request is reasonable. Consider the employee who requests a new smaller-profile printer after complaining of shoulder pain because the older, larger printer on the counter above her is too tall to comfortably reach. Rather than buying an updated printer, try moving the printer to a cabinet at waist level where the employee can reach it without lifting her shoulder. Look first for reasonable and cost-effective solutions to the problem the employee is experiencing, rather than merely jumping to meet the specific request. You may also consider offering to split the cost of the request with the employee, or offer to contribute the cost of the lesser option and let the employee decide whether he wants to pay the difference for the more desirable option.
3. ***Is the employee's request supported by medical evidence?*** When the ergonomic request seems questionable, ask the employee to submit medical certification of the need for new equipment or accommodations. Prepare a detailed job description, listing the physical requirements of the employee's position (i.e., length of time sitting, standing, typing, walking, bending, stooping, lifting, etc.). Ask the employee to take the description to her physician and return with a clear indication of what exact tasks can be performed, any limitations in performing those tasks, and any equipment the employer is asked to provide.

Always follow the doctor's note, no matter what alterations the employee may suggest or request.

4. ***Should you grant the request even in the absence of medical support?*** If the employee cannot submit medical certification of the need for a change to his duties or physical environment, consider granting all or a portion of the request anyway. Where an employee is complaining of pain or discomfort, it is not likely to improve on its own. Ignoring the employee's requests for accommodation can lead to more challenging medical issues down the road. Granting reasonable requests can foster improved workplace morale and increase the productivity of the impacted employee. If nothing else, granting accommodations where it was not legally necessary to do so will generate solid evidence of the employer's willingness to address employee needs and may tend to prove that the employer does not avoid disability or workers' compensation issues.

5. ***How can you protect yourself from later claims?*** Consider bringing in an ergonomics expert to analyze the employee's work station and make suggestions for any necessary changes. If there are problems in the physical workspace, expert analysis and recommendations may deflect those problems by solving issues before they become medical concerns. Where there is no ergonomic issue to address, however, the employer's effort in engaging the expert and reviewing the outcome can still serve as solid evidence of the employer's willingness to put time and resources into addressing similar workplace complaints – or, support the employer's decision not to make any changes.

6. ***Have you submitted evidence of your efforts to your insurers?*** Conducting ergonomic evaluations and addressing any problems that arise may tend to demonstrate to your group health, employment practices liability and workers' compensation insurers that you are taking all possible steps to protect from claims. Some insurers may grant discounted premium rates to employers who "go the extra mile" to ensure a safe and healthy workplace. In the event of a claim, evidence that you made proactive efforts to care for your employees, rather than willfully ignoring workplace safety issues, may make the difference between your insurer's denial or acceptance of your claim or the resulting premium increase after a claim. Review your insurance policies to determine whether your carriers provide workplace assessment for ergonomic or safety purposes, and take advantage of any such opportunities.

7. ***Have you documented your efforts?*** As with all employment issues, it is critical to document the complaints you have received, the efforts made to address those complaints, and the solutions implemented to solve impending problems. Keep a log of all communications with an employee who complains of discomfort or pain at work. Note the information received, any responses given, any internal or expert analysis conducted, and the resolution(s) implemented. Disability cases are more factually complex than any other employment issue, and documentation of the reasonable accommodation process can be critical to the employer's defense.

For questions regarding accommodation of ergonomic issues or other disability complaints, or any other employment law issues, contact Karen L. Gabler, Esq., at www.lightgablerlaw.com.