

HR QUESTION ? of the month



Reasonable accommodation – or not?

Question: An employee came back from the chiropractor with a handout of specific ergonomic measurements for her work station, stating that the employee's back problem - a previous condition – is being exacerbated by what she is doing at work. The company's office is state of the art, and designed with ergonomic considerations. The employee sits at a station to type, and turns her head to address patients, versus turning her chair and whole body. The employee also wants to have the computer screen higher, despite the desk and screen currently being set at the proper height. The company feels that the issues are caused by the employee not using the equipment properly, versus facilities that are being provided. What does the company need to document or purchase now, to ensure it does not get a future claim for the employee's back issue?

Response: Generally employers are required to provide a safe and healthful work environment under OSHA, including appropriate chairs and workstations for employees who do their work seated. This does not mean that the employer has to buy the most expensive chair and equipment available. Rather, a chair and workstation, including a computer screen and keyboard, that are well-designed and appropriately adjusted, even if moderately or even inexpensively priced, will still fit the bill of contributing to a safe and productive workstation. For more information, please see OSHA's excellent guidance on the subject at <https://www.osha.gov/SLTC/etools/computerworkstations/components.html>

If, however, the employee is disabled -- as may be the case if the employee suffers from a back condition -- and needs accommodation in the form of a more ergonomically sound chair and/or workstation than what is currently provided, an employer may need to change (or upgrade) the chair or workstation, or perhaps look into less expensive options such as supportive pillows, cushions, articulating keyboard drawer, monitor riser, foot stools etc., if doing so is reasonable. The employer may require medical documentation to assist in determining whether the employee has a disability and if so, to support the employee's need for reasonable accommodation. If the employee is not disabled, the employer is not required by law to provide an accommodation. As I mentioned, though, the employer does have an obligation to ensure that the employee is still provided an appropriate chair and workstation as every other employee should be provided. If the employee is disabled, then she would be entitled to a reasonable accommodation under the Americans with Disabilities Act if she needed one in order to perform the essential functions of her job. Keep in mind that a reasonable accommodation for purposes of the ADA is not necessarily one the employee wants (such as a brand new or certain brand of

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equipment, chair or workstation) if there is another, less expensive option available (i.e., cushions, foot rest, modifications to the existing chair and workstation, etc.) that achieves the same result. However, denying an accommodation altogether because the expense of doing so is not in the budget may create exposure to a potential failure-to-accommodate claim under discrimination laws, particularly if the accommodation would not, in fact, cause the employer to suffer "significant difficulty or expense."

The employer in this instance should engage the employee in an interactive discussion to explore these options. For more information, please see <http://www.eeoc.gov/facts/accommodation.html> and see also <http://askjan.org/media/Back.html> for specific assistance in exploring accommodations to back conditions.

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