

WORKSAFE!

A California Coalition for Worker Occupational Safety & Health Protection

FACT SHEET YOU HAVE A RIGHT TO A SAFE PLACE TO WORK – Ergonomics Focus

You should work with your employer before you are injured to ensure that your employer meets his or her responsibility to make your workplace safe. But if your employer does not respond, you have rights.

You have a right to file a complaint with Cal/OSHA. Even if you don't file a complaint with Cal/OSHA **before** you are injured, file one immediately after you are injured, **otherwise Cal/OSHA may not be required to investigate your accident.** If Cal/OSHA finds violations, it must issue citations within 6 months, so don't delay.

Cal/OSHA now has an ergonomics regulation to minimize the instances of injury from repetitive motion. See Title 8 California Code of Regulations § 5110 [8 CCR 5110]. Although limited, it provides some protection. Also your employer must provide a safe place to work. 8 CCR 3203 requires every employer to have an effective Injury and Illness Prevention Program with specific elements, including a system for identifying and evaluating work place hazards, procedures to investigate occupational injuries or illnesses, and methods for correcting unsafe or unhealthy conditions in a timely manner. The employer must also provide training to employees about safe and healthy work practices.

You can use these regulations as the basis of your complaint BUT you do not need to point to any specific regulation when you file your complaint. Call and **follow-up in writing** with Cal/OSHA at the appropriate District office. The complaint should describe in detail the unsafe condition and the nature of the injury you suffered (who, what, when, where, how, why). It should include certain specifics so that Cal/OSHA responds in a timely fashion (when will a temp job end or this condition be gone). It should state the fact that you are an employee, that you have suffered or will suffer serious physical harm unless the unsafe condition is corrected. And it should state the steps you have taken (if any) to notify your employer of the problem and what response you received; this will establish **employer knowledge** of the unsafe condition. Although you may fear being fired, if possible, give your name and ask it remain confidential. Anonymous complaints are often delayed.

Labor Code §6309 says that if Cal/OSHA receives a complaint from “an employee, the employee's *representative*, or an employer of an employee directly involved in an unsafe place of employment, that his or her employment or place of employment is not safe, it **shall**” investigate, within 3 working days if the complaint alleges a **serious** violation, or not later than 14 days if the complaint states a **nonserious** violation. A complaint is considered **serious** if there is a substantial probability that death or serious physical harm could result from a condition which exists. **Serious physical harm** isn't further defined. But if you are seeing a physician, who believes you are suffering a serious physical harm, that should be sufficient. Be sure to state this in your complaint. If an **employee or representative** makes a **serious** complaint, Cal/OSHA must actually investigate.

Please see the form to designate your own physician. DO IT NOW!

Feel free to contact WORKSAFE! at 510-302-1071 or worksafe@worksafe-cosh.org for assistance in filing Cal/OSHA complaints. Cal/OSHA may not be the best answer, but it is one approach. Employers have a duty to protect their employees, but to assure you are protected, you must assert your rights.