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Employer forum airs rights of disabled

By Robert Rodriguez

Santos Albarran, an outreach manager for the Equal Employment Opportunity Commission, would rather employers become accustomed to his agency now, rather than later.

Albarran and Melissa Barrios, director of the EEOC's Fresno office, spoke to more than 50 members of the California Employers Association on Tuesday about complying with the Americans with Disabilities Act, which prohibits discrimination against disabled citizens.

Albarran, who is based in Los Angeles, said the EEOC is working harder at helping employers understand the law so they can avoid costly litigation. "We don't want an employer's first contact with the EEOC to be when there is a charge filed against them," he said. "That is why we are here, preparing them and educating them."

Albarran urged employers to talk with their employees who may be disabled and need better access about their situation and find an accommodation that is reasonable. "It sounds simple, but many employers refuse to do that," Albarran said.

But what is reasonable by the EEOC's standard isn't always viewed the same way by employers.

Barrios said, for instance, a job applicant could ask to take home an application if he or she had dyslexia and needed more time to fill it out.

Several forum attendees scoffed at the idea, saying that they would be hesitant to hire someone who had trouble filling out a job application.

Albarran said employers need to remember that if the applicant was requesting an accommodation because of a disability, allowing that person to take home the application would be considered reasonable. "All you are doing is providing that individual the opportunity to apply for a job."

How far an employer should go to accommodate a disabled employee has long been a contentious issue and the basis of many lawsuits. Under the law, reasonable accommodations can include job restructuring, creating part-time or modified work schedules or acquiring or modifying equipment.

Small-business owners may claim the accommodations create an undue hardship on the company, but larger companies are less likely to win that argument, Albarran said.

And if an employee files a complaint with EEOC, Barrios and Albarran said,

the agency will look at what efforts were made by the company in question to help that employee. Doing something after an investigation has begun is too late, Barrios said.

Several employers and human resource professionals said that while they appreciated the information, the issue remains difficult to wrestle with.

"It seems to me that the employer is always at fault," said Dee Stonebraker, an insurance broker. "And what's really difficult is that a lot of our businesses in this area are small-business owners who don't have full-time human resource professionals to keep up on all this."

Kim Parker, executive vice president of California Employers Association, agreed that one of the challenges for business owners is understanding what the law says and how to stay in compliance.

"Employers aren't saying to themselves, 'Let's see how we can ruin our employees' rights,' " Parker said. "The problem is the law is not always easily spelled out."

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