

Professor With Heart Condition Sues University to Work Remotely

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By Charlie McCarthy

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A college professor unable to receive a COVID-19 vaccine due to health conditions is suing her school claiming it has violated the Americans with Disabilities Act by demanding she work on campus instead of remotely, according to NBC News.

Attorneys for Dr. Elizabeth Kostal, 48, filed a complaint with the U.S. Equal Employment Opportunity Commission on Sunday in anticipation of filing a federal class-action lawsuit for any South University employees who sought and were denied related accommodations, [NBC News](#) reported Monday.

South University, located in Virginia Beach, ordered employees back to their offices in the spring even though most students continued to study remotely, according to Kostal, who is an associate professor of nursing and health sciences and the academic program director for the department of public health and health sciences.

Kostal, who has a pacemaker, also is not eligible to get a COVID-19 shot because she has had allergic reactions to past vaccines, including myocarditis, an inflammation of the heart muscle, NBC News said.

Due to the high risk of complications that the coronavirus poses to her, Kostal barely has left her house since the pandemic began.

NBC News said Kostal requested to continue to work from home, and submitted medical documentation with her request, according to the legal filing. She was told there would be no exceptions to the return-to-campus policy.

Kostal, who also has asthma, told NBC News that South University's human resources department told her she did not outline a disability consistent with an approval for remote work conditions.

When she returned to her office in April, Kostal told NBC News she was double-masked even though she was in a building where she would not be interacting with students of her own. However, nursing students who came into potential contact with COVID-19 patients passed through the structure.

"I was literally undergoing an astronomical risk that could end my life to open up my laptop in my office to teach live, remote classes to teach my students who were at home," Kostal told NBC News. "It's an incredulous position to be placed in by an employer."

Kostal said she worked from her office for five weeks, fearing for her life each time she went to work.

"I'm being forced to constantly make this decision in my head and think about these parameters. Is my physical health more important or my financial health?" she told NBC News.

After being contacted by Kostal's attorneys, South University agreed to temporarily allow the professor to work remotely — but the agreement would be re-evaluated every 30 days.

"I shouldn't have to fight so hard to preserve my life," she said.

NBC News said it was unclear how many other South University employees sought such accommodations.

Kostal's attorneys told NBC News the fact the school refused to grant anyone the ability to work from home is a violation of the Americans with Disabilities Act, which prohibits discrimination against people with documented disabilities in multiple arenas, including employment.

"Putting aside the reasons why Dr. Kostal is completely able to work from home and be successful, you can't just make a blanket determination for all people. The Americans with Disabilities Act requires an individualized determination," said Christine Hogan, a partner at Wigdor LLP in New York City, the law firm representing Kostal.

Hogan said Kostal's various medical conditions satisfy the legal definition of a disability, and allowing her to continue to work from home would not create an undue hardship on South University.