


At-risk prof sues school over return-to-work edict

 [reuters.com/legal/government/at-risk-prof-sues-school-over-return-to-work-edict-2021-07-12](https://www.reuters.com/legal/government/at-risk-prof-sues-school-over-return-to-work-edict-2021-07-12)

Daniel Wiessner

- Elizabeth Kostal has serious heart and lung conditions that place her at a high risk of death from COVID-19
- Students still being taught remotely

(Reuters) - A program director and associate professor at South University in Virginia has filed a complaint alleging the school unlawfully refused to allow her to continue working from home despite serious heart and lung conditions that place her at a high risk of death from COVID-19.

Elizabeth Kostal, represented by Wigdor, told the Equal Employment Opportunity Commission in a [complaint](#) filed over the weekend that beginning in April she was forced to report to campus despite classes and meetings still being held remotely, and was surrounded by nursing faculty and students who were in daily contact with COVID-19 patients.

Kostal said South last month only agreed to temporarily extend her remote work arrangement when she threatened litigation, and accused the school of violating the Americans with Disabilities Act.

South, which is based in Savannah, Georgia and has campuses in Virginia, Florida, and three other states, did not immediately respond to a request for comment on Monday.

Christine Hogan, a lawyer for Kostal, in a statement said: "we intend to send a loud message to all universities and employers throughout the country that it is completely unlawful to disregard the health, well-being and disabilities of employees in the return to work from the pandemic."

According to the complaint, South hired Kostal in 2019 as its academic program director for public health and health sciences and as an associate professor of nursing and health sciences.

Kostal has asthma and a serious heart condition that has required her to use a pacemaker since she was 24 years old and makes her ineligible to receive a COVID-19 vaccination.

Kostal says that from the beginning of the pandemic, the university's leadership was intent on reopening the Virginia campus as quickly as possible. The university in February ordered faculty to report back to campus on April 19, according to the complaint.

Kostal requested that she be allowed to continue working remotely in order to accommodate her medical conditions, but the university refused, she said. The school claimed Kostal could not perform all of her job duties remotely, which she said was belied by the fact that she had

been doing her job from home for the preceding year.

When Kostal returned to campus, she was forced to teach remote classes in her office with the door closed while wearing two masks, which made it difficult to breathe and caused her pacemaker to not function properly, according to the complaint.

Kostal's office was situated close to housing facilities for nursing students and faculty who had been exposed to COVID-19, she said.

In June, after Kostal's lawyers sent a letter to the school, South agreed to allow Kostal to work remotely for 30 days, subject to future renewals, according to the complaint. But in doing so, school leaders suggested she could be limited to performing "teaching or nonmanagerial roles that may be better suited for working remotely."

Kostal in the complaint says that warning amounted to retaliation in violation of the ADA, and that South broke the law by failing to provide reasonable accommodations.