Courts Continue to Highlight The Importance of Developing and Enforcing Personnel Policies

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A recent case from the Eastern District of Illinois highlights the importance of colleges and universities developing, and enforcing, policies regarding medical leaves of absence, as well as following regular procedures to review employee job performance. In Silk v. Board of Trustees of Moraine Valley Community College, District No. 524, No. 12-cv-01425 (May 30, 2014), the Court dismissed claims of disability and age discrimination and retaliation brought by a former adjunct professor who the College terminated after more than 20 years of employment. The Court resolved one aspect of the disability discrimination claim by noting that the College had, reasonably, developed and enforced a policy requiring an employee on medical leave to provide a physician's release before returning to work, which the plaintiff failed to do prior to the College re-assigning summer classes that the plaintiff originally had been scheduled to teach. As for the remaining aspect of the disability discrimination claim, as well as the age discrimination and retaliation claims, the Court found that the plaintiff was unable to show that the College's asserted reason for terminating his employment, poor job performance, was a pretext in light of the record evidence showing that the College had followed its faculty review process and determined that the plaintiff simply was not performing his job up to the College's standards.

Client tip: *The Silk case illustrates the fundamental importance of being able to answer the question "Why?" Where a college or university can show that it had policies in place that reasonably served its operational needs, and followed those policies, it will be able to mount a strong defense to claims of discrimination and/or retaliation.*

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