

## Teacher's ADA, Age Discrimination Claim Given New Life By Sixth Circuit

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A school district's decision to eliminate a teacher's position while the teacher was out on Family Medical and Leave Act (FMLA) leave may have been pretext to disability discrimination, according to the U.S. Court of Appeals for the Sixth Circuit. While on approved FMLA leave, a high school economics teacher was notified by the school's principal that the economics position would be one of several eliminated due to budget cuts. All teachers in the eliminated positions received notices that their contracts would be terminated the following school year. After receiving this notice, the economics teacher complained the school had violated the Americans with Disabilities Act (ADA) and alleged that his position was eliminated due to his disability – a hip injury. After later being advised that he would not be terminated, the teacher filed a discrimination charge with the Equal Employment Opportunity Commission (EEOC) based on disability and age discrimination. He also filed a lawsuit. While the school offered a plausible defense regarding the need for a reduction in force, the teacher offered evidence of the principal's statements to other teachers regarding his health and disability, as well as an email sent from the principal to the teacher. The email stated "I don't think teaching from a wheelchair is an option if you think back to the difficulty that [] had but that is your call too. If you can do it, do it regularly, effectively, and successfully then I am all for it." The Sixth Circuit found that the combined comments and email could support a claim for disability discrimination. The case has been remanded in part to the U.S. District Court for the Western District of Tennessee to determine whether the principal's comments and email are enough to show pretext for disability discrimination.

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