

Court dismisses retaliation case against Metro State

The Tenth Circuit Court of Appeals recently affirmed a decision to dismiss a lawsuit alleging that Metropolitan State College had retaliated against an employee after she filed a sexual harassment complaint against her supervisor.

The Case

Hanh Ho Tran worked as a computer programmer for Metropolitan State College in Denver. In early 1997, Tran lodged a sexual harassment complaint against her supervisor, Mr. Liberatore. To remedy the complaint in a manner consistent with Tran's stated wishes, the college reassigned Tran to work under Ms. Hanna, the college's web manager. Later that year, Tran expressed "discomfort with Ms. Hanna's informal management and communication style." Tran said she was not qualified for the position, nor did she receive proper training for it. In December 1997, Tran was reassigned to work under Ms. Doyle, the Student Information Systems Coordinator. The second transfer was designed to put Tran in "a more structured administrative environment." After four months in the new job, Tran was promoted.

In December 1998, Doyle met with Tran to discuss her numerous work absences and her alleged deteriorating work performance. In January 1999, Doyle issued a corrective action to Tran for unapproved absences. This corrective action was later removed from Tran's personnel file after the college received documentation explaining her need to take family medical leave. In March, Doyle gave Tran a performance evaluation stating that her performance had deteriorated in the past six months and that she needed to improve in certain areas. In August 1999, Doyle issued another corrective action claiming that Tran had willfully failed to perform an assignment competently. Tran filed grievances in response to all of the actions against her. In September 1999, Tran resigned from her job.

In March 2000, Tran filed a complaint in district court against Metro State for sexual harassment and retaliation under Title VII of the Civil Rights Act. According to Tran, the two reassignments were retaliation for her sexual harassment complaint and the college's reasons for their actions were pretextual. She claimed that she was forced to quit because working conditions were intolerable. In January 2002, the district court dismissed the lawsuit without trial because the college had legitimate non-retaliatory reasons for their actions.

Tran appealed. The Tenth Circuit Court of Appeals concluded that neither of the transfers resulted in loss of employment, compensation or benefits. The court said, "Under these circumstances, requiring an employee to develop new skills is not the kind of adversity that can support a *prima facie* case of retaliation, especially in a rapidly evolving field such as computer programming." The appeals court concluded that the college had articulated a legitimate non-retaliatory reason for Tran's initial reassignment—to remedy her sexual harassment complaint. Tran's numerous absences and her failure to complete assignments on time were objective, verifiable grounds for the college to take corrective actions against her.

What Counties Can Learn from this Lawsuit

Metro State was able to get the lawsuit dismissed because they had well-founded business reasons for their actions following the sexual harassment complaint and they documented the reasons for their actions. They also had a grievance process in place which allowed Tran to respond to their actions.

For more information, contact CTSI at 303-861-0507.