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Case of the Month

State laws prohibiting biological males from participating on female sports teams do not violate Title IX or the Equal Protection Clause.

The 2021 West Virginia Save Women's Sports Act and the 2020 Idaho Fairness in Women's Sports Act each prohibit biological males from joining female sports teams in public schools and public institutions of higher education. B.P.J., a biological male who identifies as female and takes puberty blockers and hormones, was prohibited from joining girls' athletic teams at her West Virginia middle school. B.P.J. sued West Virginia, claiming that the law violated Title IX of the Education Amendments of 1972, [20 U.S.C. § 1681](#), and the U.S. Constitution Fourteenth Amendment Equal Protection Clause, [U.S. Const. amend XIV](#). West Virginia filed a motion for summary judgment on both claims, arguing, in part, that the law did not violate Title IX because B.P.J. was not excluded from participation in athletics altogether; rather, she was excluded from the girls' team. The federal district court granted the motion, and B.P.J. appealed. On appeal, the U.S. Fourth Circuit Court of Appeals reversed summary judgment on the Title IX claim, reasoning that B.P.J. provided sufficient evidence of disparate treatment and a deprivation of meaningful athletic opportunity on the basis of sex. The court remanded for further proceedings on the Equal Protection claim, and West Virginia appealed.

In a separate case, Lindsay Hecox, who underwent male puberty and began to take hormones once she entered college, wanted to try out for women's sports teams at Boise State University. After Idaho enacted its law, Hecox sued state officials and agencies under the Equal Protection Clause and sought a preliminary injunction to block enforcement of the law, which was granted by the federal district court. Idaho appealed. The U.S. Ninth Circuit Court of Appeals affirmed the injunction, finding that Hecox was likely to succeed on her Equal Protection claim and that she faced irreparable harm in the absence of relief. Idaho again appealed.

The U.S. Supreme Court consolidated the two cases for purposes of the appeal. With regard to B.P.J.'s Title IX claim, the Court first reasoned that nothing in Title IX or the related statute and regulations could be interpreted to give the term sex a meaning other than biological sex. The Court next concluded that Title IX does not require schools to allow biological males to participate on women's and girls' sports teams and found that separating sports teams by biological sex is reasonable, particularly when considering safety and competitive fairness. Lastly, the Court held that Title IX regulations guarantee only equal athletic opportunity, not participation, and rejected B.P.J.'s contention that [Bostock v. Clayton County](#), 590 U.S. 644 (2020), in which the Court held that an employer who fires an individual for being transgender violates Title VII of the Civil Rights Act of 1964, [42 U.S.C. § 2000e-2](#), means that Title IX similarly prohibits West Virginia's restriction on transgender individuals' sports participation. The Court reasoned that because *Bostock* dealt specifically with employment discrimination, it was not applicable in the context of school athletics. In applying intermediate scrutiny to the equal protection claims in both cases, the Court found that the sex-based classifications were substantially related to the States' interests in ensuring safety and competitive fairness given the general physical differences between males and females. The Court further emphasized the judicial impropriety of making individual determinations of athletic ability, considering factors such as height, weight, strength, and speed, and that interventions such as hormone blockers have not been proven to eliminate biological advantage. In both cases, the Court reversed the judgment of the lower courts and remanded the case for further proceedings. [W. Va. v. B.P.J.](#), No. 24-38, 2026 WL 1868739 (June 30, 2026).

Why is This Case Significant?

The Supreme Court's ruling means that the 2023 Texas' Save Women's Sports Act, which prohibits a biological male from competing in a collegiate women's athletic competition, remains effective. Though the Court limited its decision to sports, its interpretation of Title IX and deviation from Title VII precedent will likely influence decisions in other contexts.

The President's removal of the Federal Trade Commission's two Democratic appointees without cause is constitutional.

The Federal Trade Commission (FTC) is an executive agency created by the U.S. Congress but is referred to as an independent agency because it is not under the oversight of a cabinet secretary. Instead, the FTC is led by five commissioners, no more than three of whom can come from a single political party. Once appointed by the president and confirmed by the Senate, the commissioners serve seven-year terms. In March 2025, President Trump fired the two Democratic commissioners, alleging that their continued service was inconsistent with the presidential administration's priorities, and citing the U.S. Constitution Article II Vesting Clause, [U.S. Const. art. II](#), which vests executive power in the president, as the basis for the removal. One of the commissioners, Rebecca Slaughter, sued President Trump and other executive officials, arguing that her removal without cause, was beyond President Trump's legal authority, and violative of the federal Administrative Procedure Act, [5 U.S.C. § 551-559](#), and the separation of powers. The federal district court agreed with Slaughter and issued a permanent injunction enjoining interference with her right to serve the full duration of her appointment. The government appealed and filed a motion to stay the injunction.

The U.S. D.C. Circuit Court of Appeals denied the government's request. The appeals court pointed to [Humphrey's Executor v. United States](#), 295 U.S. 602 (1935), in which a unanimous U.S. Supreme Court upheld the constitutionality of a federal statute that restricted the president's ability to remove FTC commissioners to instances of inefficiency, neglect of duty, and malfeasance in office, reasoning that FTC commissioners differ from ordinary executive officers in that they perform quasi-legislative and quasi-judicial functions. The appeals court declined to reconsider that precedent and the government again appealed.

The U.S. Supreme Court, in considering history, including the Framers' intent, the text of the Constitution, and case law, took the opposite approach of the appeals court. In ultimately holding the for-cause removal requirement is contrary to the separation of powers, the Court reasoned that the structure of the executive branch necessarily requires that those officers within the president's administrative control be removable by the president, with or without cause. The Court pointed to decisions since *Humphrey's Executor* that found that a large portion of the FTC's duties fall within the purview of the executive branch, including promulgating substantive rules and filing suit on behalf of the United States. Therefore, the Court found, the commissioners in charge of the FTC must be accountable to the president, and presidential removal authority cannot be restricted by Congress. The Court overruled *Humphrey's Executor* but recognized that not all offices created by Congress exercise executive power, such as the Federal Reserve Board. The Court reversed the judgment of the lower court and remanded the case for further proceedings. [Trump v. Slaughter](#), No. 25-332, 2026 WL 1855612 (June 29, 2026).

Why is This Case Significant?

The U.S. Supreme Court overturned longstanding court precedent, and in so doing, considerably expanded presidential authority over what were once considered independent federal agencies, such as the U.S. Equal Employment Opportunity Commission, many of which make decisions that are consequential to the colleges.

Federal law does not require that absentee ballots be received by election day to be counted.

Mississippi and approximately 30 other states, including Texas, have enacted laws that provide that at least some absentee ballots, if postmarked by election day but received within a certain window of time afterward, will be counted. In 2024, the Republican National Committee, the Mississippi Republican Party, and various individuals sued the state, alleging that the federal election day statutes prohibit Mississippi from counting ballots received after election day. After the Libertarian Party of Mississippi filed a similar suit, the federal district court consolidated the cases. The federal district court granted summary judgment to Mississippi, finding that in the absence of federal law regulating mail-in ballot procedures, it is within the purview of the states to enact laws concerning the time, place, and manner of voting, including whether certain ballots may be counted after election day. The Republican National Committee appealed.

The U.S. Fifth Circuit Court of Appeals reversed the lower court's ruling. In holding that the Mississippi statute is preempted by federal election law, the court concluded that text, precedent, and historical practice mandate that election day is the day on which ballots must be both cast and received. Mississippi appealed.

The U.S. Supreme Court discussed the history of relevant statutes, finding that in all three federal election day statutes, an election is defined as the expression of the electorate's choice, which is made when voting is complete, not when all votes are received. Further, the Court emphasized that a related federal statute, the Uniformed and Overseas Citizens Absentee Voting Act, [52 U.S.C. §§ 20301-11](#), confirms that while Congress has set the deadline for all votes to be cast, the states have the power to decide when such votes must be received. Lastly, the Court squared its interpretation with the U.S. Constitution, noting that the Framers distinguished the receipt of votes from the act of voting, only establishing the date on which votes must be cast. The Court reversed the judgment of the Fifth Circuit and remanded the case for further proceedings. [Watson v. Republican Nat'l Comm.](#), No. 24-1260, 2026 WL 1855462 (June 29, 2026).

Why is This Case Significant?

The U.S. Supreme Court affirmed the ability of the states to enact laws permitting the acceptance of ballots received after election day, such as [Texas Election Code section 86.007\(a\)\(2\)](#), which permits the acceptance of mail-in ballots if a ballot is postmarked by 7:00 p.m. on election day and received no later than 5:00 p.m. on the following day. Section 86.007(a)(2) applies to community college board, bond, and tax rate elections.

Law enforcement's acquisition of cell phone location data within a particular area or geofence constitutes a search subject to the Fourth Amendment.

After a credit union in Virginia was robbed, local police applied for a geofence warrant directed to Google, which would require Google to turn over data regarding cell phones located within a particular area of the credit union (the "geofence") around the time of the robbery. The magistrate issued the warrant, police identified Okello Chatrue as a suspect based on his cell phone location data, and a grand jury ultimately charged Chatrue with robbery and firearms offenses. Though the District Court found that the warrant was violative of the U.S. Constitution Fourth Amendment, [U.S. Const. amend IV](#), the court denied Chatrue's motion to suppress the evidence obtained from the geofence warrant based on the good faith exception to the Exclusionary Rule. Chatrue pled guilty but retained his right to appeal the evidentiary decision. Chatrue was sentenced and appealed.

A panel of the U.S. Fourth Circuit Court of Appeals upheld the denial of Chatrue's suppression motion, holding that Chatrue could not reasonably expect multiple hours of cell phone location data, which he voluntarily allowed Google to have, could be kept private. On Chatrue's petition, the court granted a rehearing en banc. The court was evenly divided on the issue of whether a search occurred; however, because a majority thought that the good faith exception applied, the court affirmed, and Chatrue appealed.

The U.S. Supreme Court considered the history and purpose of the Fourth Amendment in addressing Chatrue's claims. The Court determined that the Fourth Amendment was designed to place limits on police surveillance, and while early decisions equated physical intrusion to a search, the Court has since recognized that the Fourth Amendment protects the reasonable expectations of privacy of people, rather than places. The Court found the rationale underlying [Carpenter v. United States](#), 585 U.S. 296 (2018), which held that certain access by law enforcement to cell-site location information (CSLI) constitutes a search, also applied to the location history data at issue in *Chatrue*.

Lastly, the Court rejected the argument that no search occurred because of the relatively small amount of information that was obtained from Google, reasoning that the Fourth Amendment is not triggered only after a certain quality or quantity of information has been accessed by the government, as well as the argument that Chatrue voluntarily gave Google his location data, emphasizing the pervasive nature of cell phone usage and the personal nature of the records at issue. The Court vacated the judgment of the Fourth Circuit and remanded the case for further proceedings. [Chatrue v. U.S.](#), No. 25-112, 2026 WL 1855568 (June 29, 2026).

Why is This Case Significant?

The U.S. Supreme Court's extension of *Carpenter*, which held that a person has a reasonable expectation of privacy in their CSLI, to cell phone location data, places limits on the investigative techniques that can be employed by law enforcement agencies and suggests that other types of data that are stored by third parties may be constitutionally protected.



From the Courts and the Attorney General

Governance

The U.S. Constitution [Fourteenth Amendment](#) guarantees citizenship to children born within the United States, regardless of the immigration status of their parents, with few exceptions.

[Trump v. Barbara](#), No. 25-365, 2026 WL 1870543 (June 30, 2026).

Business and Finance

Patent licensee, who alleged that a cancer center unlawfully terminated its exclusive patent license and subsequently sold the patents to a medical center, failed to provide sufficient evidence to overcome dismissal of its claim that the cancer center's actions constituted a taking in violation of the U.S. Constitution [Fifth Amendment](#) Takings Clause. [Bd. of Regents of Univ. of Tex. Sys. v. Gensetix, Inc.](#), No. 15-25-00011-CV, 2026 WL 1752423 (Tex. App.—15th Dist. June 18, 2026, no pet. h.) (mem. op.).

Community college that contracted with a self-insured risk pool ("the fund") for property insurance coverage and whose property was subsequently damaged by wind and hail, provided sufficient evidence to overcome dismissal of its claims that the contract contained provisions that were void and waived by the fund because the defenses were raised as part of the college's breach of contract claim and were therefore subject to the immunity waiver under [Texas Local Government Code section 271.152](#). [Tex. Ass'n of Sch. Bds. Risk Mgmt. Fund v. Sw. Tex. Junior Coll.](#), No. 15-25-00115-CV, 2026 WL 1911630 (Tex. App.—15th Dist. July 2, 2026, no pet. h.) (mem. op.).

Personnel

Former professor, who resigned her full-time community college faculty position in response to alleged retaliation for her service as a faculty advocate in various roles and whose request to teach online courses as an adjunct was not fulfilled, provided sufficient evidence to

overcome summary judgment on her claim that the college retaliated against her in violation of [Title VII of the Civil Rights Act of 1964](#), including evidence that the college's reason for failing to assign her adjunct classes was pretextual. [Day v. Dallas Coll.](#), No. 3:24-CV-1259-N, 2026 WL 1960926 (N.D. Tex. July 6, 2026) (mem. op.).

Students and Instruction

Community college, two advocacy groups, and a student group failed to provide sufficient evidence to support their motion to intervene post-judgment to challenge a final order permanently enjoining the State of Texas from enforcing [Texas Education Code sections 54.051\(m\) and 54.052\(a\)](#) to grant residents who are not lawfully present in the country resident tuition. [U.S. v. Tex.](#), No. 25-10898, 2026 WL 1983151 (5th Cir. July 9, 2026).¹

Open Records Letter Rulings

This month, the attorney general issued Open Records Letter Rulings² based on requests from Texas community colleges related to:

- Surveillance video recordings. Tex. Att'y Gen. Op. [OR2026-25689](#) (June 17, 2026), Tex. Att'y Gen. Op. [OR2026-28860](#) (July 9, 2026);
- Communications and complaints regarding the board of trustees. Tex. Att'y Gen. Op. [OR2026-25900](#) (June 18, 2026);
- A contract. Tex. Att'y Gen. Op. [OR2026-26247](#) (June 22, 2026);
- Information regarding a scholarship program. Tex. Att'y Gen. Op. [OR2026-26259](#) (June 22, 2026);
- Information regarding a solicitation. Tex. Att'y Gen. Op. [OR2026-26490](#) (June 23, 2026), Tex. Att'y Gen. Op. [OR2026-28216](#) (July 6, 2026), Tex. Att'y Gen. Op. [OR2026-](#)

¹ This case was previously summarized in the [September 2025](#) TASB Community College Services Legal Update.

² Open record letter rulings are limited to the particular records at issue and the facts as presented to the attorney general. These rulings must not be relied upon as a previous determination regarding any other records or any other circumstances.

- [28226](#) (July 6, 2026), Tex. Att'y Gen. Op. [OR2026-29157](#) (July 13, 2026), Tex. Att'y Gen. Op. [OR2026-29470](#) (July 14, 2026), Tex. Att'y Gen. Op. [OR2026-29548](#) (July 14, 2026), Tex. Att'y Gen. Op. [OR2026-29558](#) (July 14, 2026);
- Information regarding certain contracts. Tex. Att'y Gen. Op. [OR2026-26537](#) (June 25, 2026);
- Certain documents. Tex. Att'y Gen. Op. [OR2026-26579](#) (June 25, 2026);
- Information regarding specified topics and policies. Tex. Att'y Gen. Op. [OR2026-26975](#) (June 26, 2026);
- Information regarding a job position. Tex. Att'y Gen. Op. [OR2026-27109](#) (June 29, 2026);
- Information regarding a bid solicitation. Tex. Att'y Gen. Op. [OR2026-27245](#) (June 29, 2026);
- A report. Tex. Att'y Gen. Op. [OR2026-27286](#) (June 29, 2026);
- Information regarding a request for proposals. Tex. Att'y Gen. Op. [OR2026-27427](#) (June 30, 2026), Tex. Att'y Gen. Op. [OR2026-28234](#) (July 6, 2026), Tex. Att'y Gen. Op. [OR2026-28463](#) (July 7, 2026);
- Information related to competition or bidding. Tex. Att'y Gen. Op. [OR2026-27661](#) (July 1, 2026), Tex. Att'y Gen. Op. [OR2026-28976](#) (July 10, 2026);
- Information regarding an incident. Tex. Att'y Gen. Op. [OR2026-27689](#) (July 1, 2026);
- Records related to investigations involving the requestor during the requestor's tenure with the college's police department. Tex. Att'y Gen. Op. [OR2026-27741](#) (July 1, 2026);
- Information pertaining to a contract. Tex. Att'y Gen. Op. [OR2026-27837](#) (July 2, 2026);
- Information related to the detection, investigation, or prosecution of a crime. Tex. Att'y Gen. Op. [OR2026-28764](#) (July 9, 2026);
- Dates of birth. Tex. Att'y Gen. Op. [OR2026-28835](#) (July 9, 2026);
- Information regarding the requestor and certain named employees. Tex. Att'y Gen. Op. [OR2026-28856](#) (July 9, 2026);
- Communications involving a named individual during a certain time period. Tex. Att'y Gen. Op. [OR2026-28942](#) (July 10, 2026);
- Information regarding the requestor and specified complaints and policies. Tex. Att'y Gen. Op. [OR2026-29064](#) (July 10, 2026);
- Information regarding a named individual. Tex. Att'y Gen. Op. [OR2026-29163](#) (July 13, 2026), Tex. Att'y Gen. Op. [OR2026-29174](#) (July 13, 2026);
- Contracts, agreements, and invoices. Tex. Att'y Gen. Op. [OR2026-29211](#) (July 13, 2026);
- Information regarding an employment position. Tex. Att'y Gen. Op. [OR2026-29222](#) (July 13, 2026);
- Information regarding the requestor. Tex. Att'y Gen. Op. [OR2026-29324](#) (July 13, 2026); and
- Information regarding a specified complaint. Tex. Att'y Gen. Op. [OR2026-29502](#) (July 14, 2026).



Recent Regulations and Guidance

The Texas Department of Information Resources transferred [regulations](#) addressing information security standards to Texas Cyber

Command in response to statutory changes made by the 89th legislature.

The Texas Department of Licensing and Regulation adopted and amended [regulations](#) addressing the accelerated journeyman electrician program and the residential wireman program.

The Texas Department of Family and Protective Services amended [regulations](#) addressing eligibility for the tuition and fee waiver program for certain former foster care youth in response to statutory changes made by the 89th legislature.

The U.S. Department of Education amended [regulations](#) addressing the direct loan program under [Title IV of the Higher Education Act of 1965](#), including revisions to program eligibility requirements for institutions.

The U.S. Department of Agriculture amended [regulations](#) addressing disparate-impact liability under [Title VI of the Civil Rights Act of 1964](#) in response to [Executive Order 14281](#).

The U.S. Department of Homeland Security amended [regulations](#) addressing disparate-impact liability under [Title VI](#).

The U.S. Centers for Medicare and Medicaid Services corrected [regulations](#) originally published on June 3, 2026, addressing the community engagement requirement for certain individuals to qualify for Medicaid.

The U.S. Equal Employment Opportunity Commission rescinded [regulations](#) addressing affirmative action under [Title VII of the Civil Rights Act of 1964](#).



Policy Spotlight

The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC), the accrediting body for community colleges across the state, recently announced that it is changing its name for marketing purposes to The Commission on Colleges and Universities, effective Sept. 1, 2026.

According to a [statement](#) issued by the organization, it will continue to accredit institutions under the name SACSCOC, while the name The Commission on Colleges and Universities, as well as The Commission, will be utilized in branding, marketing and communications materials, and on the organization's website.

Community colleges that subscribe to TASB Community College Services' Community College Policy Reference Manual may find references to SACSCOC in certain legal frameworks, including EBB, EFBB, and GK. Because these legal frameworks are recitations of law and regulations, the references will continue to reflect the organization's name as it appears in the cited law or rule.

Community colleges that subscribe to TASB Community College Services' policy updating services will find a reference to SACSCOC in local policy GK. Because the accrediting body will continue to accredit institutions under the name SACSCOC, and SACSCOC is the name of the organization as approved by the U.S. Department of Education, Community College Services recommends that colleges retain the reference to SACSCOC in the policy. If your college wishes to add additional information acknowledging the organization's new name, your college's policy consultant can provide a draft incorporating a reference to The Commission on Colleges and Schools.

If you have any questions on behalf of your member college, email colleges@tasb.org or call 800.580.1488 to speak with your college's policy consultant or another TASB Community College Services attorney.



In the News

The governor announced the [award](#) of Texas Invests in Meaningful Employment (TIME) and Texas Reskilling and Upskilling through Education (TRUE) Pathways Design and Planning grants to the following community colleges: Alamo Colleges District, Amarillo College, Cisco College, Hill College, McLennan Community College, Navarro College, North Central Texas College, Northeast Texas Community College, Panola College, San Jacinto College, South Texas College, and Tarrant County College.

The U.S. Department of Education (ED) announced that federal [student loan](#) borrowers who are enrolled in auto pay by Sept. 30, 2026, will be eligible for a one percent interest rate reduction through June 30, 2028.

ED released a [fact sheet](#) summarizing the provisions of the federal Working Families Tax Cut Act that went into effect on July 1, 2026, including Workforce Pell and changes to federal student loan repayment.³

ED held its first [Higher Education Fraud Summit](#) on July 7, 2026.

³ The Act was previously summarized in the [July 2025](#) TASB Community College Services Legal Update.