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## Case of the Month

### University was not required to disclose certain student discipline records under the PIA or seek a Texas Attorney General decision before withholding the records.

The Austin American-Statesman submitted a [Texas Public Information Act](#) (PIA), Texas Government Code chapter 552, request to the University of Texas at Austin for the final results of certain student disciplinary hearings involving sex offenses consistent with a [Family Educational Rights and Privacy Act](#) (FERPA), 20 U.S.C. § 1232g, provision permitting disclosure. The university withheld the information, stating FERPA did not require release, without first seeking a decision from the Texas Attorney General's office (OAG). The Statesman sued the university to compel release. The Statesman and the university filed summary judgment motions. The trial court granted the Statesman's motion and denied the university's. The university appealed.

The Eighth Court of Appeals determined that the university was required by the PIA to seek an OAG decision before withholding the information, and therefore the information was presumed public absent a compelling reason to withhold it. The court considered Texas Government Code section 552.114(b) and determined that, while the provision includes language making student records confidential under the PIA, it also includes an exception permitting the disclosure of education records authorized for release by FERPA or other federal law. The court concluded that the Section 552.114(b) did not give the university discretion on release; therefore, the university did not have a compelling reason to withhold the records without an OAG decision. The court of appeals upheld the lower court's decision, and the university appealed.

The Texas Supreme Court examined Section 552.114(b) and related Texas Government Code section 552.026, which states that the PIA does not require release of education records except in conformity with FERPA. The court determined that, because FERPA permits, but does not require, the release, the university, under Section 552.026, may, at its discretion, release the records. The court also concluded that the university was not required to first seek an OAG decision because Section 552.026 is not included in the list of statutes subject to the PIA OAG decision request requirements. Further, the court cited Section 552.114 provisions permitting redaction of student record information without an OAG decision, and OAG policy not to review education records submitted with a request for a decision consistent with a U.S. Department of Education guidance as providing additional context in the university's favor. The Texas Supreme Court reversed the appeals court's decision, deciding for the university. [Univ. of Tex. at Austin v. Gatehouse Media Tex. Holdings II, Inc.](#), No. 23-0023, 2024 WL 5249449 (Tex. Dec. 31, 2024).

### Why is This Case Significant?

The Texas Supreme Court clarified that the PIA does not require the disclosure of student records except in conformity with FERPA. A community college has the discretion to determine if it will release information authorized for release under FERPA without first seeking an attorney general decision.



## From the Courts and the Attorney General

### Personnel

Iranian former professor, whose contract was shortened then nonrenewed by a university due to budgetary constraints and changing teaching needs, failed to provide sufficient evidence to overcome summary judgment on her claims that the university treated her less favorably than her Indian male colleague and therefore subjected her to sex and race discrimination and retaliation in violation of [Title VII of the Civil Rights Act of 1964](#). [Shahrashoob v. Texas A&M Univ.](#), No. 23-20618, 2025 WL 47503 (5th Cir. Jan. 8, 2025).

University employee, who interviewed but was not selected for an open position at the university while she had unrelated age discrimination complaints pending, failed to provide sufficient evidence to overcome dismissal of her claims that the university's selection of a younger, but more qualified, candidate constituted age discrimination and retaliation for her prior claims in violation of [Texas Commission on Human Rights Act](#) (TCHRA). [Tex. Tech Univ. Health Sciences Ctr.—El Paso v. Flores](#), No. 22-0940, 2024 WL 5249446 (Tex. Dec. 31, 2024).

Program chair, who reported to university officials and the university compliance office that a campus dean was discriminating against female faculty on the basis of their sex and who was shortly thereafter removed from his position for allegedly showing lack of support for the dean's vision in instances following the discrimination reports, provided sufficient evidence to overcome summary judgment on his claim that the university retaliated against him in violation of [Title VII](#). [Ura v. Texas A&M Univ.](#), No. 4:23-cv-2934, 2025 WL 27730 (S.D. Tex. Jan. 3, 2025).

Former community college peace officer, who was terminated following two formal investigations, the first for lying and the second based on a sexual harassment complaint brought by a witness in the first investigation

whose statement had been challenged by the officer, failed to provide sufficient evidence to overcome

dismissal of his claim that the college retaliated against him in violation of the [TCHRA](#) for challenging the witness. [Houston Cmty. Coll. v. Arellano](#), No. 14-24-00491-CV, 2024 WL 5250498 (Tex. App.—Houston [14th] Dec. 31, 2024, no pet. h.) (mem. op.).

Former community college librarian, who was terminated and replaced by a younger employee, failed to provide sufficient evidence to overcome summary judgment on her claim the college discriminated against her based on her age and retaliated against her in violation of the [TCHRA](#). [South Tex. Coll. v. Garcia](#), No. 13-23-00594-CV, 2024 WL 5198840 (Tex. App.—Corpus Christi Dec. 23, 2024, no pet. h.) (mem. op.).

Black former executive assistant, who was denied pregnancy accommodations granted to other employees who were not Black and later resigned in lieu of termination the day she returned from leave, provided sufficient evidence to overcome dismissal of her claims that a university retaliated against her in violation of the federal [Family Medical Leave Act](#) (FMLA) based on her FMLA accommodation request and subjected her to race discrimination in violation of [Title VII](#). [Burton v. Univ. of Houston](#), No. 4:24-cv-576, 2025 WL 92960 (S.D. Tex. Jan. 14, 2025).

White former professor and project manager, who was terminated by a university following the investigation of a complaint that he sexually harassed a colleague, provided sufficient evidence to overcome dismissal of his claims that the university and university officials discriminated against him on the basis of his

race and sex in violation of [Title VII](#) during the investigation and by terminating him. [Brauckmiller v. Univ. of Tex. San Antonio](#), No. SA-23-CV-01182-XR, 2024 WL 5265296 (W.D. Tex. Dec. 20, 2024) (adopting in part the report and recommendation in [Brauckmiller v. Univ. of Tex. San Antonio](#), No. SA-23-CV-01182-XR, 2024 WL 5036571 (W.D. Tex. Nov. 22, 2024)).

Former facility foreman, who was terminated by a university for unexcused absences after his request to take [FMLA](#) leave to care for a woman he alleged to be his common law wife was denied, failed to provide sufficient evidence to overcome dismissal of his claims of FMLA interference and discrimination. [Roncone v. Univ. of Tex. Southwestern Med. Ctr.](#), No. 3:23-CV-2526-L, 2024 WL 4965260 (N.D. Tex. Dec. 2, 2024) (adopting the report and recommendation in [Roncone v. Univ. of Tex. Southwestern Med. Ctr.](#), No. 3:23-cv-2526-L, 2024 WL 4958263 (N.D. Tex. Nov. 18, 2024)).

### Students and Instruction

Former student, who was dismissed from a university program for not meeting academic standards despite receiving her requested accommodations for her ADHD, failed to provide sufficient evidence to overcome summary judgment on her claims that the university and university officials failed to accommodate her disability in violation of the [Americans with Disabilities Act](#) (ADA) and

[Section 504 of the Rehabilitation Act](#) and did not provide due process in violation of [42 U.S.C. § 1983](#). [Pickett v Tex. Tech Univ. Health Sciences Ctr.](#), No. 24-10304, 2024 WL 4973300 (5th Cir. Dec. 4, 2024) (per curiam).

### Open Records Letter Rulings

This month, the attorney general issued Open Records Letter Rulings<sup>1</sup> based on requests from Texas community colleges related to:

- Law enforcement information. Att’y Gen. OR2024-38889 (Nov. 15, 2024), OR2024-40306 (Dec. 3, 2024);
- Information regarding a contract. Att’y Gen. OR2024-39211 (Nov. 18, 2024);
- A contract. Att’y Gen. OR2024-39827 (Nov. 25, 2024);
- Information regarding funding sources and budget expenditures. Att’y Gen. OR2024-40626 (Dec. 5, 2024);
- Information regarding requests for proposals. Att’y Gen. OR2024-41878 (Dec. 16, 2024);
- Awarded proposals from a solicitation. Att’y Gen. OR2024-41983 (Dec. 17, 2024);
- Vendor proposals submitted in response to a request for proposals. Att’y Gen. OR2024-42052 (Dec. 17, 2024); and
- Information regarding a bid. Att’y Gen. OR2024-42345 (Dec. 19, 2024).

## Recent Regulations and Guidance

The Texas Veterans Commission amended [regulations](#) addressing the Hazlewood Act tuition and fee exemption and the Veteran Education Excellence Recognition Award (VEERA) Network.

The Teacher Retirement System of Texas repealed and adopted [regulations](#) addressing contested cases.

<sup>1</sup> 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.

The Texas State Board for Educator Certification amended [regulations](#) addressing the accountability system for educator preparation (ASEP) programs for clarity, to provide technical updates, and to update the ASEP manual.

The Texas Department of Licensing and Regulation (TDLR) amended a [regulation](#) addressing criminal history background checks on applicants for various licenses regulated by TDLR, in response to statutory changes made by the 88th Legislature.

TDLR repealed, adopted, and amended [regulations](#) addressing driver and traffic safety education, in response to statutory changes made by the 87th Legislature.

The Texas Department of Insurance (TDI) amended [regulations](#) addressing the all-payor claims database, including adding references to self-insurance by governmental units.

TDI repealed and amended [regulations](#) addressing pharmaceutical benefits under the workers' compensation program.

The Texas Comptroller repealed and amended [regulations](#) addressing the electronic delivery of communications between property owners and tax officials, in response to statutory changes made by the 88th Legislature.

The comptroller amended [regulations](#) to address updates to the Manual for the Appraisal of Agricultural Land and the Manual for the Appraisal of Timberland.

Congress amended the Higher Education Act of 1965 (HEA), through the [Stop Campus Hazing Act](#), to require institutions of higher education, including community colleges, to disclose hazing incidents through a campus hazing transparency report and to update related provisions.

Congress amended the HEA, through the [FAFSA Deadline Act](#), to establish an earlier processing cycle for the Free Application for Federal Student Aid (FAFSA).

Congress amended the Affordable Care Act (ACA), through the [Employer Reporting Improvement Act](#), to codify select provisions in the ACA regulations addressing electronic delivery and the content of Form 1095 and to update provisions regarding the assessment of ACA penalties.

Congress amended the ACA, through the [Paperwork Burden Reduction Act](#), to provide an alternative method for furnishing Form 1095 to employees.

The U.S. Department of Education (ED) amended [regulations](#) addressing distance education and student financial aid.

ED amended [regulations](#) addressing income-driven repayment of student financial aid to correct a technical error.

ED amended [regulations](#) addressing income-contingent repayment plans available to student loan borrowers to address the final enrollment date.

The U.S. Department of Homeland Security (DHS) amended [regulations](#) addressing the H-1B and F-1 programs.

DHS amended [regulations](#) addressing the Homeland Security Acquisition Regulation to remove redundant provisions.

The U.S. Copyright Royalty Board amended a [regulation](#) addressing the royalty rate certain college radio stations must pay to use of select musical compositions.

The U.S. Consumer Financial Protection Bureau (CFPB) adopted a [regulation](#) addressing CFPB's supervisory authority under the Consumer Financial Protection Act to address larger participants of a market for general-use digital consumer payment applications, including those offering certain education loans.



## In the News

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The President proclaimed January 2025 [National Mentoring Month](#).

The Texas governor issued executive order [GA-48](#) and the related proclamation [41-4152](#) on the hardening of state government. Community colleges should contact local counsel to discuss applicability of the order.

The governor issued executive order [GA-49](#) addressing the protection of critical infrastructure, including through the Texas Department of Emergency Management's creation of a task force surveying the vulnerabilities of the state and local government and critical infrastructure with the goal of recommending relevant policies and best practices to address the vulnerabilities.