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Case of the Month

Student organization was not entitled to an injunction prohibiting a university president from denying its planned, on-campus drag show.

Spectrum WT, an LGBTQ+ student organization recognized by West Texas A&M University sought approval to hold a drag show in Legacy Hall, a location offered to students and non-students for a variety of uses, in Spring 2026, despite requests for earlier shows being denied. In February 2025, the Texas A&M System board of regents passed a resolution stating that public drag shows that parody and demean women and involve sexualized, vulgar, or lewd conduct are likely to create or contribute to a hostile environment for women in violation of system policy and Title IX of the Education Amendments of 1972, [20 U.S.C. § 1681](#), and therefore permitting the events at system university campuses is inconsistent with the system's mission and values. The university subsequently adopted procedures that prohibit drag shows specific to the building that houses Legacy Hall. In deciding whether to deny the 2026 drag show, the university president stated he would consider the board's resolution as well as the U.S. President's [Executive Order 14168](#) recognizing only two sexes, male and female, and the Texas Governor's similar [letter](#) sent shortly thereafter to state agencies. Spectrum WT sued the university president, requesting an injunction to permit the 2026 drag show in Legacy Hall.

The federal district court first considered whether the 2026 show is expressive conduct protected by the U.S. Constitution First Amendment, [U.S. Const. amend. 1](#). The court concluded it is likely the 2026 show would be sexually graphic based on evidence, such as the organization's past shows when participants deviated from their expected performances and unrelated events held by the 2026 show's host, as well as the court's determination that drag, by its nature, veers into sexualized content and is not inherently expressive conduct. The court doubted the organization would be able to enforce its prohibition on minors at the show since minors who attend the university are not differentiated from other students. The court also concluded that the organization did not intend to convey a particularized message at the show since the claimed messages, such as support for the LGBTQ community, were too generalized or not evident because the event's performances were not yet planned. Additionally, it is unlikely any message the organization intended to convey would be understood because there were no selected performers for the court to evaluate and the organization's past shows did not obviously convey a message. The court concluded the 2026 show is unlikely to be protected expressive conduct.

The court concluded Legacy Hall is a limited public forum based on the analysis of university policies and procedures. The court then analyzed whether the university president's potential choice not to authorize the show would constitute viewpoint discrimination in violation of the First Amendment. The court pointed to testimony by the president regarding the types of performances he would not authorize consistent with procedure, performances he said would denigrate certain groups, such as blackface or anti-Semitic performances. The president testified to his belief drag shows similarly denigrate women because the "shows caricature and reduce women to nothing more than their sexuality" and violate the university's core value of respect. The court cited the organization's past shows and lack of planning for the 2026 show to support the president's position. The court also noted the president supported the organization's overall message and had not retaliated against the organization or its members by prohibiting the organization or its other events. Further, the court concluded that the university's policies and procedures and their application by the president are consistent with the U.S. Supreme Court opinion in [Christian Legal Society v. Martinez](#), 561 U.S. 661 (2010). Therefore, the court found the president's actions to be viewpoint neutral and reasonable and not a prior restraint on speech. The court declined to issue the injunction. [Spectrum WT v. Wendler](#), No. 2:23-CV-048-Z, 2026 WL 178259 (N.D. Tex. Jan. 17, 2026).¹

Why is This Case Significant?

The court declined to issue an injunction in this ongoing matter and provided extensive analysis to clarify its perspective. The case has been appealed to the Fifth Circuit Court of Appeals.

¹ This case was summarized in the [October 2023](#), [March 2024](#), [September 2025](#), and [December 2025-January 2026](#) Community College Services Legal Update.

Highlights

Has your college scheduled a [Policy Review Session](#)?

Resources

[Texas Higher Education Coordinating Board](#)
[Texas Legislature](#)
[Texas Statutes](#)
[Texas Attorney General](#)
[U.S. Department of Education](#)



From the Courts and the Attorney General

Governance

Certain diversity, equity, and inclusion practices, such as Texas's Historically Underutilized Businesses (HUB) program, [Texas Education Code section 51.810](#), which mandates partnerships between institutions of higher education and particular high schools to target enrollment of Hispanics and Black males, and statutory scholarship and internship programs prioritizing minority students, are unconstitutional because they do not withstand strict scrutiny. Tex. Att'y Gen. Op. No. [KP-505](#) (Jan. 19, 2026).

Personnel

Retired faculty member, who was not granted emeritus status after expressing her views on "woke" ideology to her supervisor and fellow university staff members, provided sufficient evidence to overcome dismissal of her claims the supervisor, in the supervisor's official and individual capacities, retaliated against her on the basis of her speech and, in the supervisor's official capacity, discriminated against her based on her viewpoint in violation of the U.S. Constitution [First Amendment](#), specifically that she spoke as a private citizen on a matter of public concern and the alleged denial of emeritus status constituted an adverse employment action. [Casper v. West](#), No. 4:23-cv-42, 2026 WL 252614 (E.D. Tex. Jan. 30, 2026) (mem.).

Former university warehouse employee, who had a phobic anxiety disorder that prevented him from commuting to work and was terminated following an interactive process because he could not fulfill the essential functions of his job, failed to provide sufficient evidence to overcome dismissal of this claims

the university discriminated against him based on his disability, did not reasonably accommodate his disability, and retaliated against him in violation of the [Texas Commission on Human Rights Act](#). [Univ. of Tex. at San Antonio v. Wilkerson](#), No. 13-24-00021-CV, 2026 WL 202566 (Tex. App.—Corpus Christi Jan. 26, 2026, no pet. h.) (mem. op.).

Students and Instruction

Former medical student, who was dismissed by a university medical center for unsatisfactory medical performance, failed to provide sufficient evidence to overcome summary judgment on his claim the university medical center did not provide him adequate due process in violation of the U.S. Constitution [Fourteenth Amendment](#). [Gilani v. Univ. of Tex. Sw. Med. Ctr.](#), No. 25-10451, 2026 WL 252655 (5th Cir. Jan. 30, 2026) (per curiam).

Open Records Letter Rulings

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

- Information regarding an incident involving the requestor's client. Tex. Att'y Gen. Op. [OR2026-1322](#) (Jan. 16, 2026);
- Information regarding a solicitation. Tex. Att'y Gen. Op. [OR2026-1705](#) (Jan. 20, 2026), [OR2026-4836](#) (Feb. 11, 2026);
- Surveillance camera video footage. Tex. Att'y Gen. Op. [OR2026-2412](#) (Jan. 26, 2026);

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.

- Contracts and purchase orders associated with certain services. Tex. Att’y Gen. Op. [OR2026-2431](#) (Jan. 26, 2026);
- Information regarding the requestor. Tex. Att’y Gen. Op. [OR2026-2472](#) (Jan. 27, 2026), [OR2026-4637](#) (Feb. 10, 2026);
- Personnel records connected to the requestor. Tex. Att’y Gen. Op. [OR2026-2789](#) (Jan. 28, 2026);
- Information containing keywords regarding a specific subject matter. Tex. Att’y Gen. Op. [OR2026-3278](#) (Feb. 2, 2026);
- Information regarding a request for proposals. Tex. Att’y Gen. Op. [OR2026-3547](#) (Feb. 3, 2026), [OR2026-4029](#) (Feb. 5, 2026), [OR2026-4118](#) (Feb. 6, 2026), [OR2025-4649](#) (Feb. 10, 2026);
- Agreements and purchase orders for the provision of certain products. Tex. Att’y Gen. Op. [OR2026-3557](#) (Feb. 3, 2026);
- Information regarding an internal investigation involving a certain person. Tex. Att’y Gen. Op. [OR2026-3567](#) (Feb. 3, 2026);
- Information regarding an incident involving the requestor. Tex. Att’y Gen. Op. [OR2026-3652](#) (Feb. 4, 2026);
- Contracts for certain types of services with corresponding purchase orders. Tex. Att’y Gen. Op. [OR2026-3661](#) (Feb. 4, 2026);
- An offense report. Tex. Att’y Gen. Op. [OR2026-3720](#) (Feb. 4, 2026);
- Information protected by common-law privacy. Tex. Att’y Gen. Op. [OR2026-3729](#) (Feb. 4, 2026);
- Law enforcement records. Tex. Att’y Gen. Op. [OR2026-3856](#) (Feb. 5, 2026);
- Certain agreements. Tex. Att’y Gen. Op. [OR2026-3982](#) (Feb. 5, 2026);
- Information regarding an incident. Tex. Att’y Gen. Op. [OR2026-5252](#) (Feb. 12, 2026);
- A body-worn camera recording. Tex. Att’y Gen. Op. [OR2026-5319](#) (Feb. 12, 2026);
- A bid tabulation. Tex. Att’y Gen. Op. [OR2025-5437](#) (Feb. 13, 2026);
- Information regarding certain solicitations. Tex. Att’y Gen. Op. [OR2026-5493](#) (Feb. 13, 2026); and
- Law enforcement records concerning a child. Tex. Att’y Gen. Op. [OR2026-5681](#) (Feb. 13, 2026).



Recent Regulations and Guidance

The Texas Higher Education Coordinating Board (THECB) amended a [regulation](#) addressing the Lower-Division Academic Course Guide Manual Advisory Committee to clarify that the committee makes recommendations to the commissioner of higher education.

THECB amended [regulations](#) addressing the Workforce Education Course Manual Advisory Committee to update and clarify the purpose and the meeting and reporting requirements of the committee.

THECB amended a [regulation](#) to update the general criteria for program approval. THECB amended a [regulation](#) addressing the planning notification for a new degree program to require that the proposed location of the program be included in the notification.

THECB adopted [regulations](#) addressing the requirements for study abroad foreign language credit offered as part of a bachelor’s degree program.

THECB repealed and adopted [regulations](#) addressing the vaccination against bacterial meningitis for entering students.

THECB amended [regulations](#) addressing the approval, review, and revision of a community college's core curriculum.

THECB adopted and amended [regulations](#) addressing the requirements for acceptance as a transfer student by a college and the responsibilities of a transfer liaison.

THECB adopted a [regulation](#) requiring a college to notify THECB of changes to the college's accreditation status.

THECB repealed and adopted [regulations](#) addressing the Texas First Early High School Completion Program.

THECB repealed and adopted [regulations](#) addressing the refund of tuition and fees by community colleges.

THECB amended [regulations](#) addressing the community college finance program, specifically the base and performance tier methodology for fiscal year 2026.

THECB repealed [regulations](#) determined to be out-of-date, including those addressing the determination of resident status that were superseded by rules adopted in October 2025, or unnecessary, including those addressing the Individual Development Account Information Program.

THECB amended [regulations](#) addressing student financial aid programs to add definitions and clarify the application of the provisions.

THECB amended [regulations](#) addressing the Texas Educational Opportunity Grant Program to address program and funding eligibility.

THECB amended [regulations](#) addressing certain repayment programs, such as the Nursing Faculty Loan Repayment Assistance

Program and Math and Science Scholars Loan Repayment Assistance Program.

THECB adopted the review of [regulations](#) addressing the right to correct incorrect information collected by THECB.

The Texas Health and Human Services Commission amended [regulations](#) addressing youth camps to address safety concerns and emergency preparedness and response, in response to statutory changes made by the 89th Legislature.

The Texas Department of Insurance (TDI) adopted and amended [regulations](#) to update the building standards for property the Texas Windstorm Insurance Association insures.

TDI amended [regulations](#) addressing out-of-network provider disclosures and the claim dispute resolution process to apply the provisions to higher education health benefit plans, in response to statutory changes made by the 89th Legislature.

TDI amended [regulations](#) addressing the publication of emergency medical service (EMS) rates and payments by the Employee Retirement System of Texas Group Benefits Program to out-of-network EMS providers.

The Texas Commission on Environmental Quality (TCEQ) amended [regulations](#) addressing the tax exemption for pollution control property.

TCEQ amended [regulations](#) addressing a tax rate adjustment program that allows a community college to spend maintenance and operations funds for pollution control.

The Texas Comptroller amended a [regulation](#) addressing the state employee charitable campaign for clarity.



Policy Spotlight

Spring is approaching fast, the time when many community colleges decide whether to retain certain contract employees the following academic year after their current contract terms expire. Colleges may structure their contracts in one of two ways: the contracts may automatically renew unless the board of trustees affirmatively votes to nonrenew a contract, or they may end upon the completion of the contract term. In the latter case, the board would need to issue new contracts for the next year.

To ensure that contract employees are given proper notice, community college boards should ensure that the college's practice is appropriately reflected in the employee contracts as well as the college's policies. Colleges that subscribe to TASB Community College Services' policy services will find nonrenewal of contracts addressed in local policy DMAB.

Both options have benefits and drawbacks. For example, while requiring the board to affirmatively vote to nonrenew an employee's contract involves more extensive procedure, it ensures that nonrenewal is given an appropriate level of consideration and deliberation. The structure may be a recruiting tool because it conveys to employees a sense of continuity in their position because their contracts will automatically renew absent board action. By contrast, allowing employees' contracts to automatically expire at the end of the contract term simplifies the administration of the contracts.

No matter which process a community college decides to adopt in policy, the college should ensure that the practice is reflected consistently throughout the policy manual. Other local policies, such as policies related to employment practices and term contracts, may reference contract practices or the nonrenewal process, and inconsistent information can create confusion among employees and provide grounds for disputes. Note: TASB Community College Services recommends that the decision to renew or nonrenew a contract remains with the board as part of the board's oversight authority and consistent with case law.

Additionally, the community college's nonrenewal policy should provide an appeals process that allows employees whose contracts are not renewed to grieve the decision before the board, a process separate from any hearing held before the decision is made. An appeals process helps guarantee that employees may exercise their right to submit grievances to the board related to the nonrenewal, as provided for faculty by [Texas Education Code section 51.960](#) and all employees by [Texas Constitution Article 1, Section 27](#).

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 U.S. Secretary of Education and Secretary of Labor proclaimed February as [National Career and Technical Education Month](#).

The U.S. Department of Education issued [guidance](#) reminding institutions of higher education to support borrowers through student loan repayment.