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Case of the Month

Black doctoral student failed to provide sufficient evidence to overcome dismissal of his claims that university officials retaliated against him in violation of the First Amendment and discriminated against him and violated his due process rights in violation of the Fourteenth Amendment.

Ehiremen Bennard Eriakha, a Black student of African national origin, was enrolled in a doctorate program at the University of Mississippi. The degree required that each student study under a faculty mentor and complete an “Abilities Transcript” to track individual progress towards completion of the program. After starting the program, Eriakha was appointed a co-mentor despite Eriakha’s objections. In response, Eriakha refused to complete his transcript or participate in in-person progress meetings, despite warnings that he would be demoted to provisional-enrollment status and lose his research assistantship should he continue to do so. Eriakha sued, alleging that university officials retaliated against him by assigning a co-mentor and downgrading his student status because of his complaints in violation of the U.S. Constitution [First Amendment](#) and discriminated against him on the basis of race and national origin and failed to provide adequate due process in violation of the U.S. Constitution [Fourteenth Amendment](#).

The federal district court first found that Eriakha failed to prove that his verbal objections to the co-mentorship arrangement were protected speech, and reasoned that even if they were, he did not establish a causal link between his speech and the downgrade in status, which was required to substantiate his First Amendment retaliation claim. Further, the court held that Eriakha did not point to any person outside of his protected class who was treated differently nor did he have a property interest in continued enrollment in his post-graduate program; therefore, the court dismissed his Fourteenth Amendment discrimination and due process claims. Eriakha appealed.

The Fifth Circuit Court of Appeals found that Eriakha did not allege a plausible First Amendment retaliation claim because the alleged retaliatory act – assigning him a co-mentor – occurred prior to any complaints that he made about the mentorship structure, and agreed with the district court that there was no link between his speech and his downgrade in status. Further, the court emphasized that Eriakha did not state any facts that linked his race or national origin to the university officials’ decisions to support his Fourteenth Amendment discrimination claim, and he had neither a property interest in continuing in the program, nor did the procedure by which he was downgraded to provisional status depart from academic norms, which was required to show a procedural due process violation. The Fifth Circuit affirmed the dismissal of all claims.

[Eriakha v. Univ. of Miss.](#), No. 26-60007, 2026 WL 2651073 (5th Cir. Sept. 9, 2026).

Why is This Case Significant?

A community college’s written policies regarding student conduct can help the college overcome claims of retaliation in violation of the First Amendment by establishing notice and legitimate reasons for the student’s change in status.

Highlights

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

Coming soon: the Community College Legal and Policy Resource Library.

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

The U.S. Postal Service (USPS) was enjoined from implementing certain sections of its final rule, [Ballot Mail for Federal Elections](#), which was promulgated in response to the president's [Executive Order 14399](#), and would have imposed new envelope markings, barcodes, and design requirements for ballots, in advance of the November 2026 elections. [U.S. Postal Serv. v. California](#), No. 26A305, 2026 WL 2687160 (U.S. Sept. 14, 2026).

A Texas commissioners court's general power under Texas Constitution article 5, section 18, to redraw precinct lines does not include the power to change the lines applicable to an election after the election has begun. [In re Rose](#), No. 14-26-00839-CV, 2026 WL 2446644 (Tex. App.—Houston [14th Dist.] Aug. 20, 2026), *mand. conditionally granted*, [In re Rose](#), No. 26-0916, 2026 WL 2672098 (Tex. Sept. 11, 2026) (per curiam).

Business and Finance

Community college that contracted with a self-insured risk pool for property coverage and whose property was subsequently damaged by wind and hail, leading to a dispute regarding the compensation owed to the college by the risk pool, provided sufficient evidence that its affirmative defenses, namely waiver, voidness, and unconscionability, 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. 15-25-00134-CV, 2026 WL 2482425 (Tex. App.—15th Dist. Aug. 25, 2026, no pet. h.) (mem. op.).

Personnel

Former digital communications and web manager whose request to work fully remotely was denied by a community college failed to provide sufficient evidence to overcome summary judgment on her claim that the college failed to accommodate her disability in violation of the federal [Americans with Disabilities Act](#). [Himebaugh v. Galveston Coll.](#), No. 3:24-CV-197, 2026 WL 2465225 (S.D. Tex. Aug. 18, 2026).

Students and Instruction

Former student, who alleged that a community college failed to address his complaints that a professor treated him differently than his classmates, assigned him a zero for a project that was timely completed, and filed a false claim of harassment against him because he is gay, failed to provide sufficient evidence to overcome summary judgment on his claim that the college discriminated against him on the basis of his sexual orientation in violation of [Title IX of the Education Amendments of 1972](#) and the U.S. Constitution [Fourteenth Amendment](#). [Taylor v. Collin Coll.](#), No. 26-40012, 2026 WL 2665676 (5th Cir. Sept. 10, 2026) (per curiam).¹

The U.S. Department of Homeland Security (DHS) was preliminarily enjoined from implementing a [Final Rule](#), which replaced the duration of status framework for F-1 international students and J-1 exchange visitors, including international researchers, professors, and instructors, with fixed admission periods of no more than four years. [Presidents' All. on Higher Educ. & Immigration v. U.S. Dep't of Homeland Sec.](#), No. CV 26-13799-FDS, 2026 WL 2690098 (D. Mass. Sept. 14, 2026).²

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

² The Department of Homeland Security's Final Rule was previously summarized in the [August 2026](#) TASB Community College Services Legal Update.

The National Collegiate Athletic Association's (NCAA) request to dissolve a temporary injunction that prohibited the NCAA from enforcing its Five Year Rule against a student-athlete on the grounds that the Rule violated the [Texas Free Enterprise and Antitrust Act of 1983](#) was granted. [Nat'l Collegiate Athletic Ass'n. v. Hicks](#), No. 11-25-00382-CV, 2026 WL 2574852 (Tex. App.—Eastland Aug. 31, 2026, no pet. h.).

Community and Governmental Relations

Texas Senate Bill 12, which was signed into law during the 88th legislative session and prohibits sexually-oriented performances by imposing various civil and criminal penalties, is an unconstitutional restriction on speech in violation of the [First Amendment](#) and the [Fourteenth Amendment](#). [Extragrams LLC v. Paxton](#), No. CV H-23-2847, 2026 WL 2632792 (S.D. Tex. Aug. 26, 2026).

Open Records Letter Rulings

This month, the attorney general issued Open Records Letter Rulings³ based on requests from Texas community colleges related to:

- Information regarding a vendor's contracts. Tex. Att'y Gen. [OR2026-36282](#) (Aug. 19, 2026);
- Personnel records regarding named individuals. Tex. Att'y Gen. [OR2026-36371](#) (Aug. 19, 2026);
- Information regarding a vendor. Tex. Att'y Gen. [OR2026-37045](#) (Aug. 21, 2026), [OR2026-39954](#) (Sept. 10, 2026);
- All documents regarding certain solicitations. Tex. Att'y Gen. [OR2026-37400](#) (Aug. 24, 2026);
- Information regarding a basketball game. Tex. Att'y Gen. [OR2026-37582](#) (Aug. 25, 2026);
- Information regarding a complaint. Tex. Att'y Gen. [OR2026-37682](#) (Aug. 25, 2026);

[OR2026-38853](#) (Sept. 2, 2026), [OR2026-39094](#) (Sept. 3, 2026);

- Information regarding an incident. Tex. Att'y Gen. [OR2026-37684](#) (Aug. 25, 2026), [OR2026-40109](#) (Sept. 11, 2026);
- Contracts with certain vendors. Tex. Att'y Gen. [OR2026-37706](#) (Aug. 25, 2026);
- Information regarding agreements and payments with certain companies. Tex. Att'y Gen. [OR2026-38182](#) (Aug. 28, 2026);
- Information regarding the requestor. Tex. Att'y Gen. [OR2026-38201](#) (Aug. 28, 2026);
- Information regarding arrests, citations, and criminal charges made by or referred to the college's police department. Tex. Att'y Gen. [OR2026-38465](#) (Aug. 31, 2026);
- Information regarding certain business entities. Tex. Att'y Gen. [OR2026-38550](#) (Sept. 1, 2026);
- A police report. Tex. Att'y Gen. [OR2026-38599](#) (Sept. 1, 2026);
- Information regarding certain vendors. Tex. Att'y Gen. [OR2026-38875](#) (Sept. 2, 2026), [OR2026-39372](#) (Sept. 4, 2026);
- Information regarding certain employees. Tex. Att'y Gen. [OR2026-38884](#) (Sept. 2, 2026);
- Information regarding a certain program and the requestor. Tex. Att'y Gen. [OR2026-38914](#) (Sept. 2, 2026);
- Information regarding a completed investigation. Tex. Att'y Gen. [OR2026-38935](#) (Sept. 2, 2026);
- Information regarding certain solicitations. Tex. Att'y Gen. [OR2026-38940](#) (Sept. 2, 2026);
- Information regarding certain contracts. Tex. Att'y Gen. [OR2026-38941](#) (Sept. 2, 2026), [OR2026-39339](#) (Sept. 4, 2026);

³ 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.

- [OR2026-40212](#) (Sept. 11, 2026), [OR2026-40757](#) (Sept. 15, 2026);
- Information regarding competition or bidding. Tex. Att’y Gen. [OR2026-39147](#) (Sept. 3, 2026), [OR2026-39374](#) (Sept. 4, 2026), [OR2026-39478](#) (Sept. 8, 2026), [OR2026-40442](#) (Sept. 14, 2026);
- Contracts regarding certain services. Tex. Att’y Gen. [OR2026-39180](#) (Sept. 3, 2026);
- Information regarding the requestor and certain incidents. Tex. Att’y Gen. [OR2026-39680](#) (Sept. 9, 2026);
- Surveillance footage of an incident. Tex. Att’y Gen. [OR2026-39690](#) (Sept. 9, 2026);
- Certain protocols. Tex. Att’y Gen. [OR2026-39970](#) (Sept. 10, 2026); and
- Information regarding the college’s insurance policies. Tex. Att’y Gen. [OR2026-40344](#) (Sept. 14, 2026).



Recent Regulations and Guidance

The Texas Higher Education Coordinating Board (THECB) corrected a [regulation](#) addressing student eligibility to enroll in dual credit courses originally published on Aug. 7, 2026.

The Texas Education Agency (TEA) amended and adopted [regulations](#) addressing misconduct of educators and providers of education services under contract in public schools, such as when colleges contract with school districts and other educational entities to provide instruction to elementary and secondary students on the entity’s campus, to implement the requirements of Senate Bill (SB) 571, passed by the 89th legislature.

The Texas Commission on Law Enforcement (TCOLE) amended a [regulation](#) addressing the requirements for the creation and continued operation of a law enforcement agency in response to statutory changes made by the 88th and 89th legislatures.

TCOLE amended a [regulation](#) addressing the responsibilities of elected or appointed chief administrators of law enforcement agencies in response to statutory changes made by the 89th legislature.

TCOLE amended a [regulation](#) addressing continuing education requirements for TCOLE license holders in response to statutory changes made by the 88th and 89th legislatures.

The Texas Department of Licensing and Regulation (TDLR) amended a [regulation](#) addressing the eligibility requirements for an individual to take the certified technician examination for Air Conditioning and Refrigeration Contractors.

The Texas State Board of Dental Examiners amended a [regulation](#) addressing dental hygiene faculty licensure requirements.

The Texas Medical Board (TMB) amended a [regulation](#) addressing educational requirements for non-certified radiologic technicians.

The Texas Real Estate Commission (TREC) amended a [regulation](#) addressing requirements for real estate education providers and real estate continuing education providers.

TREC amended a [regulation](#) addressing continuing education requirements for real estate license renewal.

The Texas Historical Commission amended [regulations](#) addressing the Texas Historic Preservation Tax Program.

The Texas Forensic Science Commission amended a [regulation](#) addressing the waiver of certain minimum education or coursework requirements for licensure as a firearms or toolmarks technician.

The Texas Workforce Commission (TWC) adopted the review of [regulations](#) addressing the self-sufficiency fund.

TWC adopted the review of [regulations](#) addressing vocational rehabilitation services.

The Texas Ethics Commission (TEC) adopted the review of [regulations](#) addressing political and legislative advertising, lobbyist registration and activity reporting requirements, and the

disclosure of interested parties in certain transactions.

The National Foundation on the Arts and Humanities amended [regulations](#) addressing [Title VI of the Civil Rights Act of 1964](#) to eliminate references to disparate impact liability in response to [Executive Order 14281](#).



In the News

The governor announced the selection of members to serve on the Texas Higher Education Coordinating Board's (THECB) working group to develop a statewide framework for [three-year bachelor's degree pathways](#), including representatives from Lone Star College System, Tyler Junior College, South Texas College, and Grayson College.

The governor announced the award of three [Jobs and Education for Texans \(JET\) grants](#) to Austin Community College, Hearne Independent School District (ISD) in partnership with Blinn College, and Lometa ISD in partnership with Central Texas College.

The governor announced the award of four [JET grants](#), including to Cisco College and Ranger College.

The governor and THECB announced the award of [Open Educational Resource \(OER\) grants](#) to nine institutions of higher education, including Alamo College, Collin College, El Paso Community College, Lee College, and North Central Texas College.

THECB announced that [Free College Application Week](#) will be Oct. 12-18, 2026.

The Texas Education Agency (TEA) is accepting [applications](#) from community colleges to operate open-enrollment charter schools through Nov. 12, 2026.

TEA is accepting [applications](#) from colleges to operate adult education charter schools through Oct. 29, 2026.

The U.S. Department of Education's Office of Federal Student Aid announced that the [2027-2028 Free Application for Federal Student Aid \(FAFSA\) form](#) will be available by Oct. 1, 2026.