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Case of the Month

A governmental entity must require a prime contractor to execute a performance or payment bond under Texas Government Code section 2253.021(a).

Sterling County contracted with a construction company to build a road and required the company to purchase performance and payment bonds consistent with [Texas Government Code section 2253.021\(a\)](#). After the company failed to complete the project, the county sought another company to complete both the bonded portions and an additional phase without requiring an additional bond. The county asked the Texas Attorney General if it could waive the bond requirement under Section 2253.021(a).

The attorney general first considered the phrasing of Section 2253.021(a). Section 2253.021(a) requires a governmental entity that enters into a public works contract to require the prime contractor to execute a performance bond if the contract is valued above \$100,000 and a payment bond if the contract is valued above \$25,000. A *prime contractor* is a person, firm, or corporation that enters into a public work contract with a governmental entity. The attorney general concluded that a county road contract with a prime contractor that meets the value threshold is subject to Section 2253.021(a).

The attorney general then considered whether a county may waive the Section 2253.021(a) requirements. The attorney general determined that the use of the phrase "shall require" indicated the intent that the performance and payment bond be mandatory. The nature and object of each bond, that the performance bond protects the county's interest in completing the project and the payment bond protects those who work on the project, also support the conclusion that they are mandatory. Additionally, the attorney general noted that courts have found similar language to be mandatory. The attorney general concluded that the county could not waive the bond requirement. Tex. Att'y Gen. Op. No. [KP-514](#) (Feb. 5, 2026).

Why is This Case Significant?

A community college that enters into a public works contract, such as the construction or renovation of a building, must require the prime contractor to execute a performance or payment bond if the contract reaches the value thresholds as described by Texas Government Code section 2253.021(a).

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

Inspectors appointed by the Texas Secretary of State to observe election activities are not legally prohibited from taking photographs and videos, and poll watchers are not legally prohibited from observing activities related to mail-in ballots, such as counting the ballots. Tex. Att'y Gen. Op. No. [KP-519](#) (Mar. 2, 2026).

A school district's tax rate election (TRE) flyer constituted political advertising because the reference to the district's mission implied that the passage of the measure would allow the district to continue its mission and the reference to standing with the district implied that a person who supports the district should vote for the TRE. Op. Tex. Ethics Comm'n No. [641](#) (Feb. 11, 2026).

Public funds could not be used to pay for a social media advertisement because the video, which prominently featured a city council member and included phrasing that could be considered advocacy, constituted political advertising. Op. Tex. Ethics Comm'n No. [642](#) (Feb. 11, 2026).

Students and Instruction

Student, whose course grades were assigned incomplete by a community college as an accommodation for her disabilities of attention deficit hyperactivity disorder (ADHD), post-traumatic stress syndrome (PTSD), and generalized anxiety disorder (GAD) but who did not complete the courses before her grades were converted to failing consistent with college policy, failed to provide sufficient evidence to overcome summary judgment on her claims that the college discriminated against her based on her disabilities, failed to accommodate her disabilities, and retaliated against her in

violation of the [Americans with Disabilities Act](#) and [Rehabilitation Act Section 504](#). [Jeudy v. Houston Cmty. Coll.](#), No. 4:23-CV-4758, 2026 WL 675683 (S.D. Tex. Mar. 2, 2026) (mem.).

Former student, who alleged a university did not act on her report of sexual assault and that she was subjected to academic sanctions because of her acute health symptoms, failed to provide sufficient evidence to overcome dismissal of her claims the university acted with deliberate indifference to her reported assault in violation of [Title IX of the Education Amendments of 1972](#) and retaliated against her based on her disability in issuing the sanctions in violation of [Section 504](#). [Abbruzzese v. Stephen F. Austin State Univ.](#), No. 9:25-CV-00018-MJT-CLS, 2026 WL 561129 (E.D. Tex. Feb. 27, 2026) (adopting in part the report and recommendation in [Abbruzzese v. Stephen F. Austin State Univ.](#), No. 9:25-CV-00018-MJT-CLS, 2025 WL 4648418 (E.D. Tex. Nov. 26, 2025)).

Open Records Letter Rulings

This month, the attorney general issued Open Records Letter Rulings¹ based on requests from Texas community colleges related to:

- Information regarding an incident. Tex. Att'y Gen. Op. [OR2026-6056](#) (Feb. 18, 2026), [OR2026-9725](#) (Mar. 11, 2026);
- Information regarding a solicitation. Tex. Att'y Gen. Op. [OR2026-6682](#) (Feb. 20, 2026), [OR2026-7254](#) (Feb. 25, 2026), [OR2026-7415](#) (Feb. 25, 2026), [OR2025-9327](#) (Mar. 9, 2026);

¹ 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.

- Information regarding a request for qualifications. Tex. Att'y Gen. Op. [OR2026-6685](#) (Feb. 20, 2026);
- Information regarding an incident involving the requestor. Tex. Att'y Gen. Op. [OR2026-6807](#) (Feb. 23, 2026);
- Contract information regarding remote proctoring software. Tex. Att'y Gen. Op. [OR2026-7272](#) (Feb. 25, 2026);
- A solicitation. Tex. Att'y Gen. Op. [OR2026-7282](#) (Feb. 25, 2026);
- Information regarding a request for proposals. Tex. Att'y Gen. Op. [OR2026-7383](#) (Feb. 25, 2026), [OR2026-7548](#) (Feb. 26, 2026), [OR2026-7556](#) (Feb. 26, 2026), [OR2026-7841](#) (Feb. 27, 2026);
- Motor vehicle record information. Tex. Att'y Gen. Op. [OR2026-7520](#) (Feb. 26, 2026);
- Information regarding an incident. Tex. Att'y Gen. Op. [OR2026-8827](#) (Mar. 5, 2026);
- Information regarding a janitorial services contract. Tex. Att'y Gen. Op. [OR2026-9852](#) (Mar. 11, 2026);
- Surveillance video camera footage. Tex. Att'y Gen. Op. [OR2026-10075](#) (Mar. 11, 2026);
- Surveillance camera footage regarding an incident. Tex. Att'y Gen. Op. [OR2025-10228](#) (Mar. 12, 2026);
- Certain disciplinary records pertaining to sworn officers. Tex. Att'y Gen. Op. [OR2026-10267](#) (Mar. 12, 2026); and
- Information regarding a marketing campaign. Tex. Att'y Gen. Op. [OR2026-10302](#) (Mar. 12, 2026).



Recent Regulations and Guidance

The Texas Department of Information Resources (DIR) amended a [regulation](#) addressing the data maturity assessment to remove references to applicability of the rule to community colleges, in response to statutory changes made by the 89th Legislature.

DIR adopted [regulations](#) addressing an artificial intelligence code of ethics and risk management for heightened security AI systems, in response to statutory changes made by the 89th Legislature. The regulations only apply to colleges to the extent they address information security consistent with the limitations found in Texas Government Code section 2054.0075.

The Texas Ethics Commission repealed and adopted [regulations](#) addressing campaign contributions and spending and the associated campaign finance reports.

The Texas Ethics Commission amended a [regulation](#) addressing the correction or amendment of an 8 day pre-election report.

The Texas Comptroller amended [regulations](#) addressing the broadband development map and the broadband development program, in response to statutory changes made by the 89th Legislature.

The Texas Historical Preservation Commission amended [regulations](#) addressing the Texas Historic Preservation Tax Credit Program to address the eligibility of public institutions of higher education, including community colleges, to participate in the program, in response to statutory changes made by the 89th Legislature.

The State Board of Dental Examiners amended a [regulation](#) addressing dental hygiene faculty licensure to describe the identification documents required to obtain a license.

The Texas Appraiser Licensing and Certification Board amended [regulations](#) addressing the courses required for licensure, the education of appraiser trainees and supervisory appraisers, and the approval of continuing education providers.

The Texas Behavioral Health Executive Council amended a [regulation](#) addressing eligibility for a social worker license based on criminal history, in response to statutory changes made by the 89th Legislature.

The State Board of Dental Examiners amended a [regulation](#) addressing the education of dental assistants.

The Texas Juvenile Justice Department amended a [regulation](#) addressing the criminal history that would disqualify an applicant for certification or a juvenile justice position, in response to statutory changes made by the 89th Legislature.

The U.S. Department of Education amended a [regulation](#) addressing the Public Service Loan Forgiveness program to correct an error.

The federal General Services Administration (GSA) repealed and adopted [regulations](#) addressing the prohibition on age discrimination in programs and activities receiving funds from the GSA for clarity and better organization.



In the News

The President issued an [executive order](#), Addressing DEI Discrimination by Federal Contractors.

The U.S. Department of Education and U.S. Department of Treasury announced the [Federal Student Assistance Partnership](#) to transition to the Department of Treasury the operational responsibility for collecting defaulted federal student loans as well as to enable operational support from the Department of Treasury for efforts to return borrowers to repayment and for other student loan debt.