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Case of the Month

Professor denied tenure failed to provide sufficient evidence to overcome summary judgment on his Title VII discrimination claims.

Armando Ibanez, a Mexican-American employed as an assistant professor of communications/radio-television-film with Texas A&M University-Kingsville, was required to meet certain requirements to receive tenure and a promotion. Ibanez's tenure application included a portfolio with a significant number of creative works. However, the university denied his application, stating he did not meet the minimum requirement of two scholarly or creative works because he only completed one juried film. Ibanez sued the university alleging that the denial of tenure and a promotion constituted discrimination on the basis of his race and national origin in violation of [Title VII of the Civil Rights Act of 1964](#), 42 U.S.C. § 2000e-2. The university filed a motion for summary judgment.

The district court considered witnesses presented by Ibanez. An expert on evaluating the work of academic filmmakers testified that the standard applied was inappropriate and that his work was satisfactory. Another longtime professor at the university testified to the tenure requirements being waived or lessened for certain Euro-American professors. Despite the testimony of the witnesses, the district court granted the university's motion. Ibanez appealed.

The Fifth Circuit Court of Appeals, noting that tenure decisions are unique employment actions with special considerations that are entitled to more court deference than employment decisions in other contexts, considered whether Ibanez established he was qualified for tenure. Ibanez was, at a minimum, to create two juried works. Though not expressly defined, Ibanez and the university referred to juried works as those selected for presentation. Ibanez could only show one such work. Further, though department faculty found him qualified for tenure, other relevant decisionmakers at the university, such as the department chair, college dean, and provost, did not. The court concluded Ibanez did not establish he was qualified. Even if he was, the court concluded that the circumstances surrounding the decision did not produce an inference of discrimination. The university followed its policies and procedures regarding the grant of tenure, properly crediting Ibanez for his juried work and considering the opinions of the relevant tenure decisionmakers. The Fifth Circuit upheld the lower court's decision. [Ibanez v. Tex. A&M Univ. Kingsville](#), 118 F.4th 677 (5th Cir. Oct. 8, 2024).

Why is This Case Significant?

The Fifth Circuit Court of Appeals reaffirmed the enhanced deference granted community colleges in tenure decisions. Colleges that grant tenure should review relevant policies and procedures to ensure they conform with needs of the college and apply them consistently in decision making.



From the Courts and the Attorney General

Personnel

White former department chair, who resigned after being demoted and replaced by a Hispanic female, his pay decreased, and his research restricted, failed to provide sufficient evidence to overcome dismissal of his claims that university discriminated against him on the basis of his race and gender in violation of [Title VII of the Civil Rights Act of 1964](#) and [42 U.S.C. § 1981](#). [Goodkin v. Univ. of Tex. Rio Grande Valley](#), No. 1:24-CV-024, 2024 WL 4229311 (S.D. Tex. Sept. 18, 2024).

Former tenured electrical engineering professor failed to provide sufficient evidence to overcome dismissal of his claims that a university and university officials violated his U.S. Constitution [Fourteenth Amendment](#) due process rights during his termination proceedings and that a motivation for his termination was retaliation against him for his op-ed on the state of electrical engineering education in violation of his U.S. Constitution [First Amendment](#) free speech rights; however, he provided sufficient evidence to overcome dismissal of his claim the university retaliated against him in violation of the federal [Family Medical Leave Act](#) (FMLA) based on his FMLA accommodation request. [Smith v. Univ. of Tex. at San Antonio](#), No. SA-23-CV-538-OLG, 2024 WL 4256444 (W.D. Tex. Sept. 18, 2024) (adopting report and recommendation in [Smith v. Univ. of Tex. at San Antonio](#), No. SA-23-CV-538-OLG, 2024 WL 4256461 (W.D. Tex. Aug. 21, 2024)).

Professors, whose contractual relationships with a community college were restructured from three-year rolling contracts to one-year contracts that automatically renew absent

college action, failed to provide sufficient evidence to overcome dismissal of their claims that the college deprived them of their property in violation of the U.S. Constitution [Fourteenth Amendment](#) Due Process Clause, chilled their speech in violation of the U.S. Constitution [First Amendment](#) and Fourteenth Amendment, breached their contracts, and caused mental anguish; specifically, they failed to show an injury sufficient to support standing. [Frisella v. Dallas College](#), No. 3:24-CV-0469-D, 2024 WL 4448675 (N.D. Tex. Oct. 8, 2024) (mem.).

Black former employee, who was terminated by a university for alleged performance issues, failed to provide sufficient evidence to overcome summary judgment on her claims that she was discriminated against on the basis of her race and color and was retaliated against in violation of [Title VII](#). [Mitchell v. Univ. of Houston](#), No. H-23-0837, 2024 WL 4438663 (S.D. Tex. Oct. 7, 2024) (mem.).

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 certain agreements. Tex. Att'y Gen. [OR2024-32594](#) (Sept. 18, 2024);
- Information regarding a complaint. Att'y Gen [OR2024-33025](#) (Sept. 20, 2024);
- Information regarding a vendor. Tex. Att'y Gen. [OR2024-33580](#) (Sept. 25, 2024); and
- Information regarding a solicitation. Att'y Gen. [OR2024-34711](#) (Oct. 7, 2024).

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.



Recent Regulations and Guidance

The Texas Workforce Commission (TWC) amended [regulations](#) addressing the Jobs and Education for Texans (JET) Grant Program to align terminology with statute and reflect updated program practices.

TWC amended and repealed [regulations](#) addressing the Workforce Innovation and Opportunity Act to conform with federal program requirements and remove outdated provisions.

The Texas Education Agency repealed, adopted, and amended [regulations](#) addressing open-enrollment charter schools, including community college charters.

The Texas State Board of Public Accountancy adopted and amended [regulations](#) addressing financial aid for accounting students, including the Examination Fee Financial Aid Program and the Accounting Students Scholarship Program.

The Texas State Board of Public Accountancy amended a [regulation](#) addressing a required ethics course for accounting students.

The Texas Comptroller amended a [regulation](#) addressing applications for property tax exemptions.

The comptroller amended [regulations](#) addressing appraisal review board determinations.

The U.S. Office of Management and Budget amended [regulations](#) addressing the Guidance for Federal Financial Assistance to correct errors in the guidance.

The U.S. Department of Health and Human Services (HHS) repealed and adopted [regulations](#) addressing the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.



In the News

The U.S. Department of Education (ED) successfully completed the first stage of testing the 2025-26 [Free Application for Federal Student Aid \(FAFSA\) form](#), aided by several organizations and institutions of higher education, including Dallas College and South Texas College.

ED granted additional [Public Service Loan Forgiveness program](#) relief.

The U.S. Department of Labor awarded [Susan Harwood Training Grants](#) to Del Mar College, El Paso Community College, and South Texas College to promote workplace safety, health training, and education.