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## Case of the Month

### The U.S. Department of Labor acted within its authority when adopting the 2019 Minimum Salary Rule under the Fair Labor Standards Act.

In 2019, the U.S. Department of Labor (DOL) updated the minimum salary required to qualify for the white-collar exemption under the [Fair Labor Standards Act](#) (FLSA), which exempts those employed in an executive, administrative, or professional capacity who earn above the threshold from the FLSA overtime rule. Robert Mayfield, a small business owner, asserted the rule would harm his business by requiring him to devote funds to his managers' salaries instead of performance bonuses. He sued the DOL under the [U.S. Administrative Procedure Act](#) (APA), 5 U.S. Code chapter 5, seeking to halt the new rule and arguing DOL lacks authority to define the exemption by salary. Each party filed a motion for summary judgement. The federal district court found the DOL acted within its authority and granted its motion. Mayfield appealed.

The Fifth Circuit Court of Appeals first reviewed its precedent and determined it did not apply to the arguments before the court. The court then considered the major questions doctrine. For the doctrine to be relevant, the DOL would need to claim it was acting on an issue of great political significance, seek to regulate a significant part of the economy or require billions in spending by private individuals or entities, or seek to act in an area that is within a state's domain. However, the economic and political impact of the rule did not reach the relevant threshold, and the DOL was acting under authority it had long claimed. The court determined the major questions doctrine did not apply to the case.

The Fifth Circuit then focused on whether the rule exceeds the DOL's statutory authority. The court determined that the statutory delegation itself is explicit and does not limit the DOL to further specifying job duties because the terms of the exemption, such as "executive," imply a status for which salary may be a proxy. Also, salary level distinctions are consistent with the FLSA's general structure. The court concluded that the DOL acted within the bounds of its statutory authority and affirmed the lower court's decision. [Mayfield v. U.S. Dep't of Labor](#), No. 23-50724, 2024 WL 4142760 (5th Cir. Sept. 11, 2024)

### Why is This Case Significant?

Though this case does not directly address the 2024 overtime rule, it does inform the litigation. While the validity of the increased salary thresholds under the 2024 rule are still in dispute, this case confirms that DOL has the authority to set a minimum salary requirement. Community colleges should continue to comply with the 2024 overtime rule pending the resolution of the relevant cases.



## From the Courts and the Attorney General

### Governance

[Texas Election Code section 255.004\(b\)](#), which makes it illegal for a person to harm a candidate or influence the election by representing a campaign communication came from a source other than its true source, is not narrowly tailored and places an undue burden on the right to anonymous speech and therefore violates the U.S. Constitution [First Amendment](#). [Ex Parte Stafford](#), No. PD-0210-23, 2024 WL 4031614 (Tex. Crim. App. Sept. 4, 2024).

### Personnel

Former employee, who is Black and who was denied an executive director position at a college, provided sufficient evidence to overcome dismissal of her claims the college discriminated against her based on her race and retaliated against her in violation of Title VII and state law. [Peters-Clark v. Angelina Coll.](#), No. 9:23-CV-100-MJT, 2024 WL 4043504 (E.D. Tex. Sep. 3, 2024) (adopting report and recommendation in [Peters-Clark v. Angelina Coll.](#), No. 9:23-CV-100-MJT, 2024 WL 4052245 (E.D. Tex. Aug. 13, 2024)

### Students and Instruction

Former student with chronic migraine syndrome and major depressive disorder failed to provide sufficient evidence to overcome dismissal of his claims that a university discriminated against him based on his disability in violation of [Section 504 of the Rehabilitation Act of 1974](#).

[Reborn v. Univ. of North Tex.](#), No. 4:23-CV-00613-ALM-AGD, 2024 WL 4269675 (E.D. Tex. Sept. 23, 2024) (adopting report and recommendation in [Reborn v. Univ. of North Tex.](#), No. 4:23-cv-613-ALM-KPJ, 2024 WL 4272937 (E.D. Tex. Aug. 30, 2024).

Former law student, who was banned from campus based on a social media post, failed to provide sufficient evidence to overcome dismissal of his claim that a university discriminated against him in violation of the [Americans with Disabilities Act](#) based on his psychiatric disorder. [Stankevich v. Miss. Coll. Sch. of Law](#), No. 24-60087, 2024 WL 4056610 (5th Cir. Sep. 5, 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:

- Information regarding a request for proposal. Att'y Gen. [OR2024-28682](#) (Aug. 16, 2024);
- Information regarding a contract. Tex. Att'y Gen. [OR2024-28986](#) (Aug. 19, 2024);
- An employee's personnel records. Tex. Att'y Gen. [OR2024-29159](#) (Aug. 20, 2024); and
- Information regarding an incident involving the requestor's client. Att'y Gen. [OR2024-30054](#) (Aug. 28, 2024).

<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.



## Recent Regulations and Guidance

The Texas Education Agency (TEA) repealed and adopted [regulations](#) addressing Early College High School (ECHS) and Pathways in Technology Early College High School (P-TECH) programs to update and consolidate the requirements.

TEA adopted a [regulation](#) addressing the Financial Aid for Swift Transfer (FAST) program, in response to statutory changes made by the 88th Legislature.

The Texas Health and Human Resources Commission amended [regulations](#) addressing school-age programs and child care centers to update provisions related to required postings, policies, parents rights, safety, and other standards and adopted, amended, and repealed [regulations](#) addressing child water safety requirements, in response to statutory changes made by the 88th Legislature.

The Texas Department of Transportation repealed, adopted, and amended [regulations](#) addressing signs and outdoor advertising along roads and highways.

The Texas Department of Licensing and Regulation (TDLR) amended and adopted [regulations](#) addressing the requirements for career and technology education programs leading to a residential wireman license or an air conditioning and refrigeration technician certification, in response to statutory changes made by the 88th Legislature.

TDLR amended [regulations](#) addressing athletic trainers to update the definition of *athletic training*, the educational requirements for a license, and standards of conduct, in response to statutory changes made by the 88th Legislature.

The Texas Veterans Commission repealed [regulations](#) addressing the TAPS tuition voucher program, in response to statutory changes made by the 88th Legislature.

The Texas Board of Professional Engineers and Land Surveyors amended [regulations](#) describing the educational requirements for applicants for a surveyor-in-training certificate and licensed professional land surveyors beginning January 31, 2026.

The Texas Real Estate Commission (TREC) amended [regulations](#) addressing changes to certain real estate course approval forms.

TREC amended [regulations](#) to clarify that the Texas Practicum is an experience, not a course, requirement for students seeking a real estate inspector license.

The Texas Commission on Fire Protection adopted [regulations](#) to address rope rescue awareness level/operations level certification and rope rescue technician certification, including education requirements.

The Texas Broadband Development Office amended a [regulation](#) to increase the threshold speed for internet service to qualify as broadband service, in response to statutory changes made by the 88th Legislature.

The U.S. Department of Education amended [regulations](#) addressing the Education Department General Administrative Regulations (EDGAR).

The U.S. Department of Agriculture (USDA) amended [regulations](#) addressing the USDA Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

The U.S. Department of Veterans Affairs (VA) adopted a [regulation](#) addressing the delay of or decrease in payment under VA educational assistance programs.



## In the News

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The U.S. Department of Education delayed the [reporting deadline](#) for the gainful employment and financial transparency regulations from October 1 to January 15.

ED released the framework for testing the [Free Application for Federal Student Aid \(FAFSA\) form](#) and announced it will be fully available December 1.

ED awarded [Hispanic-Serving Institutions \(HSIs\)](#) Houston Community College a Developing Hispanic-Serving Institutions (DHSI) program grant and Dallas College a Hawkins grant.

ED awarded Victoria College a [Gaining Early Awareness and Readiness for Undergraduate Programs \(GEAR UP\) program](#) grant.