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## Case of the Month

### University's all-risks insurance policy did not cover losses resulting from the COVID-19 pandemic.

Baylor College of Medicine's business was interrupted and the university experienced other losses during the COVID-19 pandemic. The university brought a claim under its all-risks insurance policy, a policy covering "all risks of direct physical loss of or damage to property." The insurance companies denied the claim. The university filed a lawsuit against the companies alleging breach of contract and other claims.

During trial, the jury considered whether COVID-19 caused direct harm to the university's property. The jury heard testimony regarding the transmission of the virus and the damage it caused due to its adherence to surfaces and its presence in atmosphere, as well as the steps the university had to take to limit transmission. The university argued that the presence of the virus made the university's property less valuable and substantially and fundamentally changed the university's use of its property. The court found in the university's favor and awarded more than \$12 million in damages and attorney's fees. The companies appealed.

The Texas Court of Appeals reviewed the plain meaning of the policy's terms, the Texas Supreme Court's interpretation of "physical injury," and rulings from other U.S. courts interpreting identical or similar language. The court determined that the policy's language required a tangible alteration to or deprivation of the property. The court considered other court opinions and determined that, though COVID-19 may attach to property, it does not cause physical damage to, or loss of, the property. Manual cleaning or disinfectant can remove or disinfect the virus, or it disinfects itself with time. The court of appeals reversed the trial court's judgment. [Lloyd's Syndicate 1967 v. Baylor Coll. of Med.](#), No. 14-22-00925-CV, 2025 WL 309722 (Tex. App.—Houston [14th] Jan. 28, 2025, no pet. h.).

### Why is This Case Significant?

Language in a community college's policy insuring the college against physical loss or damage to property likely will not apply to the college's losses during a pandemic.

## Highlights

[TASB/TACCA Post-Legislative Seminar](#)  
August 4, 2023  
TASB offices

## New on eLaw:

[Executive order FAQ](#)

## 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

### Business and Finance

A federal statute, [18 U.S.C. § 922\(b\)\(1\) and \(c\)\(1\)](#), and related regulations prohibiting federal firearm licensees from selling handguns to 18-to-20-year-old adults violate the U.S. Constitution Second Amendment because 18-to-20-year-olds are among the people protected by the Second Amendment. [Reese v. Bureau of Alcohol, Tobacco, Firearms, and Explosives](#), 127 F.4th 583 (5th Cir. Jan. 30, 2025).

A violation card that grants a person alleged to have violated certain misdemeanor traffic laws access to complete the citation electronically through the use of a QR code or similar method complies with [Texas Transportation Code sections 543.003 and 543.004](#) and related provisions addressing notice of a traffic violation. Tex. Atty' Gen. Op. No. [KP-477](#) (Jan. 22, 2025).

A law enforcement officer may contract directly with a political subdivision to provide private-security services. Tex. Atty' Gen. Op. No. [KP-479](#) (Jan. 27, 2025).

### Personnel

Former university employee, who was terminated by the university for misconduct and who subsequently filed a discrimination charge with the Texas Workforce Commission, failed to provide sufficient evidence to overcome dismissal of his claims the university subjected him to sex discrimination, a hostile work environment, and retaliation in violation of the [Texas Commission on Human Rights Act \(TCHRA\)](#). [Univ. of Tex. at El Paso v. Soriano](#), No. 08-24-00025-CV, 2025 WL 339160 (Tex. App.—El Paso Jan. 28, 2025, no pet. h.) (mem. op.)

University employee, who reported alleged misconduct by other university personnel to management and law enforcement and alleged

the university retaliated against him by denying him a promotion, a salary adjustment, and a raise, among other acts, but who did not file an internal grievance or Equal Employment Opportunity Commission complaint regarding his retaliation claims, failed to provide sufficient evidence to overcome dismissal of his claims of retaliation in violation of the [Texas Whistleblower Act](#) and [Title VII of the Civil Rights Act of 1964](#). [Tex. A&M Univ. Dept. of Transp. Parking Servs. Dept. v. Reeves](#), NO. 15-24-00069-CV, 2025 WL 351638 (Tex. App.—Tex. Jan. 30, 2025, no pet. h.).

Professor, who was the only female appointed to serve on two university campuses until her appointment on one of the campuses was the only appointment non-renewed and who subsequently filed a sex discrimination complaint, provided sufficient evidence to overcome summary judgment on her claim the university discriminated against her on the basis of sex in violation of [Title VII](#) but failed to provide sufficient evidence to overcome summary judgment on her claim of retaliation in violation of Title VII because her supervisor's alleged berating and aggressive behavior at a staff meeting did not transcend a petty slight and was therefore not an adverse employment action. [Athreya v. Tex. A&M Univ.](#), No. 4:23-CV-02478, 2025 WL 307213 (S.D. Tex. Jan. 27, 2025) (mem.).

### Students and Instruction

Chinese former student, who was dismissed from a university program for not meeting academic standards, failed to provide sufficient evidence to overcome summary judgment on her claims that the university discriminated against her based on her national origin and retaliated against her in violation of [Title VI](#) and [Title VII](#) of the Civil Rights Act of 1964. [Lan v. Univ. of Tex. at San Antonio](#), No. 24-50546,

2025 WL 233653 (5th Cir. Jan. 17, 2025) (per curiam).

A person may be liable for defamation if the person provides defamatory material to a third party with the intent or knowledge that the material will be published; if a party bringing a claim of defamation against a person the party alleges was involved in the defamatory publication cannot cite a specific statement made by the person, the party must provide sufficient evidence that the person was the source of the defamatory content to overcome summary judgement. *Roe v. Patterson*, No. 24-0368, 2025 WL 492792 (Tex. Feb. 14, 2025).

### 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 solicitation. Tex. Att'y Gen. Op. [OR2025-199](#) (Jan. 6, 2025), [OR2025-697](#) (Jan. 8, 2025).
- Information regarding an investigation, personnel records, and certain employment records. Tex. Att'y Gen. Op. [OR2025-477](#) (Jan 8, 2025);
- Law enforcement records. Tex. Att'y Gen. Op. [OR 2025-000711](#) (Jan. 10, 2025), [OR 2025-725](#) (Jan. 10, 2025), [OR 2025-001310](#) (Jan. 15, 2025), [OR 2025-002053](#) (Jan. 17, 2025).

- Information regarding the requestor. Tex. Att'y Gen. Op. [OR2025-1195](#) (Jan. 13, 2025);
- Information regarding a solicitation. Tex. Att'y Gen. Op. [OR2025-1412](#) (Jan. 14, 2025);
- Information regarding certain proposals and contracts. Tex. Att'y Gen. Op. [OR2025-3244](#) (Jan. 29, 2025);
- A contract. Tex. Att'y Gen. Op. [OR2025-3638](#) (Jan. 31, 2025);
- Information regarding a contract with certain vendors. Tex. Att'y Gen. Op. [OR2025-3826](#) (Feb. 4, 2025);
- Information regarding a vendor. Tex. Att'y Gen. Op. [OR2025-4642](#) (Feb. 10, 2025);
- Information regarding a bid. Tex. Att'y Gen. Op. [OR2025-4653](#) (Feb. 10, 2025);
- Information regarding a request for proposals. Tex. Att'y Gen. Op. [OR2025-4572](#) (Feb. 10, 2025);
- Information regarding the requestor, meetings, and an investigation. Tex. Att'y Gen. Op. [OR2025-5174](#) (Feb. 13, 2025); and
- Proposals and evaluative materials pertaining to a bid. Tex. Att'y Gen. Op. [OR2025-5336](#) (Feb. 14, 2025).



## Recent Regulations and Guidance

The Texas Higher Education Coordinating Board (THECB) repealed [regulations](#) addressing several advisory committees that were set to be abolished, including the Community and Technical College Leadership Council, the Undergraduate Education Advisory

Committee, the Texas Application for State Financial Aid Advisory Committee, the Title IX Training Advisory Committee, and the Study and Report on Core Curriculum Advisory Committee.

<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.

THECB repealed a [regulation](#) addressing the common calendar.

THECB amended a [regulation](#) addressing limitations on the number of courses a student may drop to provide clarity and address appeals of decisions regarding exemptions from the rule's requirements.

THECB repealed [regulations](#) addressing certificate and associate degree programs, workforce continuing education courses, and distance education programs that were superseded by program approval rules adopted by THECB last summer.

THECB repealed a [regulation](#) addressing THECB's dissemination of information regarding financial aid programs that was deemed unnecessary.

THECB amended [regulations](#) addressing the provision of matching scholarships to keep students in the state to conform with other program rules.

THECB amended and adopted [regulations](#) addressing the Texas College Work-Study Program, the Texas Armed Services Scholarship Program, and the Texas First Scholarship to align rule language and terminology and enhance clarity and navigability.

The Texas Comptroller amended a [regulation](#) to update the names of the rendition forms businesses must submit for property tax purposes.

The U.S. Department of Education amended [regulations](#) to provide inflation adjustments to certain civil penalties.

The U.S. Department of Veterans Affairs amended [regulations](#) addressing educational assistance provided under the Post 9/11 GI Bill, the [Post-9/11 Veterans Educational Assistance Improvements Act of 2010](#).



## In the News

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The President issued [executive orders](#) directing the actions of federal agencies on a number of topics, including diversity, equity, and inclusion; gender identity; antisemitism; and immigration. The orders also eliminated prior executive orders and agency guidance addressing sex discrimination and Hispanic-serving institutions, among other matters. Though executive orders apply to federal agencies, not community colleges, the manner in which the agencies carry out the orders' directives may impact the colleges.

The President proclaimed February 2025 [Career and Technical Education Month](#).

The U.S. Department of Education, Office for Civil Rights, issued a [Dear Colleague letter](#) addressing race-conscious education programming and racial discrimination under [Title VI of the Civil Rights Act of 1964](#), the U.S. Constitution Equal Protection Clause, and related laws, including the agency's interpretation of the U.S. Supreme Court decision in [Students for Fair Admissions, Inc. v. President & Fellows of Harvard College](#), 600 U.S. 181 (2023).<sup>2</sup> The letter directs educational institutions, including community colleges, to take actions to ensure compliance with federal civil rights laws by February 28, 2025. A lawsuit<sup>3</sup> has been filed challenging the letter.

The Texas governor issued proclamation [41-4167](#) prohibiting the instillation and use of the RedNote and Lemon8 social media applications on a device owned or leased by a Texas local government, including a community college, under [Texas Government Code section 620.005](#).

The [89th Texas Legislative Session](#) began January 14, 2025. The bill filing deadline is March 14, 2025.

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<sup>2</sup> This case was summarized in the [July 2023](#) Community College Services Legal Update.

<sup>3</sup> [American Federation of Teachers v. U.S. Dept. of Educ.](#), No. 1:25-cv-00628 (D. Maryland, filed Feb. 25, 2025).