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## Case of the Month

**The Texas Whistleblower Act protects employees who report factual information about illegal conduct, not only opinions.**

Abdul Pridgen and Vance Keyes, Fort Worth police officers tasked with investigating an officer's alleged use of excessive force and acts of false arrest and perjury, communicated their findings to the police chief regarding the incident, including their conclusion that the officer should be terminated. The police chief disagreed and temporarily suspended the officer. Later, Pridgen and Keyes were accused of leaking the officer's body camera footage and other confidential files. After being demoted and suspended briefly without pay, Pridgen and Keyes sued Fort Worth under the Texas Whistleblower Act, [Texas Government Code chapter 554](#), alleging the adverse personnel actions were in response to their good faith reports of violations of law. The city filed a summary judgment motion, arguing, among other claims, that, by only sharing their conclusions regarding an incident the chief was already aware of, Pridgen and Keyes did not make a report protected by the Act. The city's motion was denied, and the city appealed.

Contrary to the city's claims, the Texas Fifth Court of Appeals found that the Pridgen and Keyes offered evidence they provided the police chief factual information from their review of the officer's affidavits and the video footage of the event, in addition to their conclusions. The court concluded that the Whistleblower Act does not require that the law enforcement authority receiving the report be unaware of the legal violation at the time of the report. The court concluded that Pridgen and Keyes had provided sufficient evidence of a protected report to overcome summary judgment. The city appealed.

The Texas Supreme Court, after reviewing the wording of the Whistleblower Act, its legislative history, and dictionary definitions, concluded that a report conveyed to an appropriate authority must include factual information to be protected. The authority may be aware of the illegal activity at the time of the report. Turning to the evidence, contrary to the lower courts, the court found Pridgen and Keyes did not expose or corroborate factual information the police chief did not previously have access to, but instead only attempted to persuade the chief to classify the conduct as criminal and terminate the officer. The court concluded their reports were not protected by the Act and reversed the opinion of the appeals court. [City of Fort Worth v. Pridgen](#), No. 20-0700, 2022 WL 1696036 (Tex. May 27, 2022).

### Why is This Case Significant?

The case clarifies that the Texas Whistleblower Act protects reports that include factual information of illegal activity, even if the authority receiving the report is aware of the activity, but not reports that merely include opinions, conclusions, and recommendations regarding the activity.

### Highlights

New online: [Open Meetings Act Basics](#) course

New on eLaw: [Timelines for Budget & Tax Rate Adoption; Overview of Budget & Tax Rate Adoption; Conflicts of Interest: Nepotism](#)

### 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

Lease executed by a workforce development organization was not a contract for goods and services, so the organization's immunity from a breach of contract lawsuit brought by the landlord was not waived by [Texas Local Government Code section 21.152](#). [Big Blue Properties v. Workforce Resource](#), No. 02-21-00135-CV; 2022 WL 1793516 (Tex. App.—Fort Worth June 2, 2022, no pet. h.) (mem. op.).

### Personnel

Former assistant professor of nursing, who claimed her nonrenewal constituted retaliation for her discrimination complaint in violation of [Title VII of the Civil Rights Act of 1964](#), failed to provide evidence the performance issues the university cited as its reason for her nonrenewal were pretext for retaliation. [Vandenberg v. Univ. of St. Thomas](#), No. 20-20620, 2022 WL 2067834 (5th Cir. June 8, 2022).

Veteran employed by a community college was permitted to sue the college for limited injunctive relief under the [Texas Veteran's Employment Preference Act](#) (TVEPA), but not for monetary damages, because the TVEPA waives the college's immunity from suit for certain purposes but not immunity from liability. [Osinski v. Laredo Coll.](#), No. 5:20-CV-189, 2022 WL 1772263 (S.D. Tex. June 1, 2022).

Former employee failed to provide sufficient evidence to support his claims of discrimination, retaliation, and other [Americans with Disabilities Act](#) (ADA) violations, including evidence his

Attention-Deficit/Hyperactive Disorder (ADHD) substantially limited a major life activity and therefore constituted a qualifying disability under the ADA. [Golden v. City of Longview](#), No. 6:20-CV-00620-JDL, 2022 WL 1787088 (E.D. Tex. June 1, 2022) (mem.).

### Students and Instruction

Former nursing student diagnosed with ADHD stated plausible claims under the ADA for failure-to-accommodate and discrimination based on a university's failure to provide select accommodations properly requested from the university's ADA office and her subsequent dismissal from the nursing program. [Pickett v. Texas Tech Univ. Health Sci. Ctr.](#), No. 21-11087, 2022 WL 2154726 (5th Cir. June 15, 2022).

### 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:

- Specified types of information pertaining to a particular trustee election. Tex. Att'y Gen. [OR2022-15124](#) (May 25, 2022);
- Information pertaining to a closed criminal investigation. Tex. Att'y Gen. [OR2022-15469](#) (May 31, 2022); and
- Communications involving named individuals and a specified subject during a specified time. Tex. Att'y Gen. [OR2022-15588](#) (May 31, 2022).

<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

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The Texas State Board of Public Accountancy amended [regulations](#) related to required accounting and business courses.

The Texas Real Estate Commission amended [regulations](#) addressing requirements for education providers, instructors, and courses, implementing statutory changes enacted by the 87th Texas Legislature regarding easement and right-of-way agents.

The Texas Office of Injured Employee Counsel (OIEC) amended the [OIEC Ombudsman](#)

[Program notice](#) that employers, including community colleges, must post where visible to employees.

The Texas Comptroller of Public Accounts adopted a [regulation](#) concerning the Texas Achieving a Better Life Experience (ABLE) program advisory committee.

The Comptroller amended a [regulation](#) addressing excess contributions to the state's higher education savings plans.



## In the News

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The Texas Governor renewed the [disaster proclamation](#) issued for all counties in Texas due to the COVID-19 pandemic.

The Texas Workforce Commission awarded [grants](#) to create and expand early childhood apprenticeship programs, including a new program at Dallas College.

The U.S. Department of Education released [proposed amendments](#) to regulations implementing Title IX of the Education Amendments of 1972, providing a [fact sheet](#) and a [summary](#) of the major provisions proposed for amendment, and requested submission of comments via the [Federal eRulemaking Portal](#).

The U.S. Department of Labor is accepting applications for the third round of its [Strengthening Community Colleges Training grants](#), which provides \$50 million in funding for community colleges to address equity gaps and meet the skills development needs of employers and workers more effectively.