TASB Community College Services

Legal Update

August 2025 Edition

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Case of the Month

University enjoined from eliminating women's sports teams.

Stephen F. Austin State University (SFA) announced the elimination of the women's beach volleyball, bowling, and golf teams after or immediately before the transfer windows for those sports closed, significantly limiting the athletes' options for the following year. The decision also threatened to delay the graduation of those who transferred to a university that would not accept all of their credits.

Several of the athletes joined to file a class action lawsuit against SFA alleging SFA discriminated against them on the basis of sex by depriving them of equal opportunities to participate in intercollegiate athletics in violation of Title IX. They sought a preliminary injunction to preserve their teams and all other women's varsity teams at SFA during the pendency of the case. The athletes argued that the federal district court should rely on the three-part test for equal participation opportunities under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681, described by the U.S. Department of Educations' (ED) 1979 Policy Interpretation and 1996 Policy Guidance. SFA countered that the test should not apply because, consistent with the U.S. Supreme Court decisions *in* *Loper Bright v. Raimondo*, 603 U.S. 369 (2024), and *Kisor v. Wilkie*, 588 U.S. 558 (2019), the court should analyze the plain meaning of both Title IX and its implementing regulations.

The court determined that Title IX clearly covers athletic programs so the central issue was the interpretation of the regulations, implicating *Kisor*. *Kisor* provides that a federal agency has the latitude to interpret its own ambiguous regulations adopted under the regulatory powers granted by Congress. Recognizing that no courts within the Fifth Circuit have applied *Kisor* in the context of equal athletic opportunity, the court looked to out-of-circuit cases. The court concluded that "equal athletic opportunity" is ambiguous and that the 1979 Policy Interpretation and 1996 Policy Guidance are reasonable and entitled to deference as long standing ED policy developed with powers expressly delegated by Congress. The court applied the three-part test to SFA's athletic programs and determined that SFA was not in compliance with any of the prongs. For example, the women's athletic opportunities are not substantially proportionate to overall enrollment. Because the athletes demonstrated a likelihood of success on the merits and the substantial threat of irreparable harm, the court granted the athletes' motion for a preliminary injunction. *Myers v. Stephen F. Austin State Univ.*, No. 9:25-CV-00187, 2025 WL 2254006 (E.D. Tex. Aug. 1, 2025).

Why is This Case Significant?

In an issue of first impression in the Fifth Circuit, the federal district court determined that *Loper Bright* does not apply to the analysis of claims regarding equal athletic opportunities under Title IX because the statute is clear. Instead *Kisor* applies to require courts defer to the agency's interpretation of its rules adopted within the authority granted by Congress.

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From the Courts and the Attorney General

Personnel

Asian former professor, who did not teach a full course load during the academic year and whose request to teach summer courses was denied in favor of Caucasian professors who had taught full course loads, a decision he alleged was in part retaliation for a lawsuit he filed against the university two years prior, failed to provide sufficient evidence to overcome summary judgment on his claims that a university discriminated against him on the basis of his race and retaliated against him in violation of Title VII of the Civil Rights Act of 1964. *Narayanan v. Midwestern State Univ.*, No. 24-10849, 2025 WL 2218880 (5th Cir. Aug. 5, 2025) (per curium).

Students and Instruction

Former student, who was suspended due to his arrest by university police for assault and for carrying a prohibited weapon on campus concealed in his backpack, failed to provide sufficient evidence to overcome dismissal of his claims that the university and university officials falsely arrested and illegally searched him in violation of the U.S. Constitution Fourth Amendment and that the disciplinary process lacked adequate due process in violation of the U.S. Constitution Fourteenth Amendment. *Talley v. Jackson State Univ.*, No. 24-60400, 2025 WL 2222996 (5th Cir. Aug. 5, 2025) (per curium).

Student, who received a zero on an exam while being investigated by a university for alleged plagiarism, failed to provide sufficient evidence to overcome dismissal of her claims that the university did not grant her adequate due process in violation of the Fourteenth Amendment. *Mansoor v. Univ. of Tex. at Austin*, No. 03-23-00519-CV, 2025 WL 2054095 (Tex. App.—Austin July 23, 2025, no pet. h.) (mem. op.).

Former student, who alleged that a community college failed to address his complaints that a professor treated him differently than his classmates, assigned him a zero for a project that was timely turned in, and filed a false claim of harassment against him because he is a gay male, provided sufficient evidence to overcome dismissal of his claim that the college discriminated against him on the basis of his sexual orientation in violation of Title IX of the Education Amendments of 1972 and the Fourteenth Amendment. *Taylor v. Collin Coll.*, No. 4:24-cv-584, 2025 WL 2210728 (E.D. Tex. Aug. 4, 2025) (mem.).

Former student, who was dismissed by a medical school for poor academic performance despite the accommodations granted for her generalized anxiety and obsessive compulsive disorder, failed to provide sufficient evidence to overcome summary judgment on her claims that the medical school discriminated against her on the basis of her race in violation of Title VI of the Civil Rights Act of 1964 and discriminated against her on the basis of, and failed to accommodate, her disabilities in violation of the Americans with Disabilities Act. *Jackson v. Univ. of Tex. Southwestern Med. Ctr. Sch. of Medicine*, No. 3:24-CV-0495-X, 2025 WL 2107997 (N.D. Tex. July 28, 2025) (mem.).

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Open Records Letter Rulings

This month, the attorney general issued Open Records Letter Rulings[1] based on requests from Texas community colleges related to:

- Information regarding a request for proposals. Tex. Att'y Gen. Op. OR2025-24851 (July 17, 2025), OR2025-26594 (July 29, 2025), OR2025-28098 (Aug. 7, 2025), OR2025-29055 (Aug. 13, 2025);
- Information regarding complaints involving the requestor. Tex. Att'y Gen. Op. OR2025-25095 (July 18, 2025);
- Communications regarding the reorganization of a community college's departments. Tex. Att'y Gen. Op. OR2025-25258 (July 21, 2025);
- Information regarding certain contracts. Tex. Att'y Gen. Op. OR2025-25813 (July 23, 2025);
- Awarded proposals from a solicitation. Tex. Att'y Gen. Op. OR2025-26436 (July 28, 2025);
- Communications regarding individuals and topics and records regarding interviews and an investigation. Tex. Att'y Gen. Op. OR2025-26664 (July 30, 2025);
- Information regarding the requestor's grievance. Tex. Att'y Gen. Op. OR2025-26695 (July 30, 2025);
- Information regarding an agreement with a third party. Tex. Att'y Gen. Op. OR2025-26720 (July 30, 2025);
- Surveillance videos. Tex. Att'y Gen. Op. OR2025-26877 (July 31, 2025);
- Bid tabulation and documents considered in association with a request for proposals. Tex. Att'y Gen. Op. OR2025-27342 (Aug. 1, 2025);
- Former employee's paystubs and employment records. Tex. Att'y Gen. Op. OR2025-27539 (Aug. 4, 2025);
- Information regarding billboard advertising expenditures. Tex. Att'y Gen. Op. OR2025-28153 (Aug. 7, 2025);
- Information regarding a solicitation. Tex. Att'y Gen. Op. OR2025-28769 (Aug. 12, 2025); and
- Information regarding a contract. Tex. Att'y Gen. Op. OR2025-29258 (Aug. 14, 2025).

Recent Regulations and Guidance

The Texas Higher Education Coordinating Board (THECB) proposed the review of regulations addressing the Lower-Division Academic Course Guide Manual Advisory Committee.

THECB amended regulations to extend the duration of the Apply Texas Advisory Committee and the Financial Aid Advisory Committee.

THECB adopted regulations to create the Program of Study Advisory Committee and its related task groups.

THECB repealed, adopted, and amended regulations addressing the approval process for a career and technical education certificate and special requirements for commercial driver's license training programs.

[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.

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THECB repealed general regulations impacting community colleges, such as provisions addressing religious holy days and student performance, that were superseded by rules adopted in July 2024.

THECB repealed regulations addressing college role, mission, and purpose statements.

THECB repealed regulations addressing partnerships between community colleges and secondary schools that were superseded by rules adopted in July 2024.

THECB repealed, adopted, and amended regulations addressing formula funding and tuition and fees.

THECB repealed regulations addressing programs of study advisory committees that were to be abolished January 1, 2020.

The Texas Commission on Licensing and Regulation (TCLR) amended a regulation addressing the required credits for a college electrical career and technical education program.

TCLR repealed, adopted, and amended regulations addressing barbering and cosmetology education programs and curriculum requirements.

The Texas Education Agency repealed and adopted regulations addressing educator standards that inform teacher training and professional development.

The Texas Commission on Law Enforcement (TCOLE) amended a regulation addressing the procedures for a law enforcement agency chief administrator to seek a Class A or B Waiver.

TCOLE amended a regulation addressing the appointment of a peace officer or telecommunicator.

In the News

The President issued an executive order addressing college sports.

The President issued a memorandum addressing higher education admissions and an associated fact sheet.

The U.S. Department of Education rescinded guidance permitting Federal Work Study (FWS) programs to pay students to engage in certain partisan and nonpartisan political activities.

The U.S. Department of Justice announced that it will not defend the constitutionality of the Hispanic-serving institutions (HSI) grant program in ongoing litigation seeking to end the HSI designation.

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