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Case of the Month

Student and student groups likely to succeed on claims that certain Senate Bill 2972 provisions are unconstitutional.

The University of Texas at Austin and University of Texas at Dallas adopted policies in response to Senate Bill 2972 passed during the 89th Texas Legislative Session to amend [Texas Education Code section 51.9315](#) to address student protests of the conflict between Israel and Palestine. The bill requires institutions of higher education to adopt policies that ban expressive activities on campus between the hours of 10:00 p.m. and 8:00 a.m. (overnight expression ban). Additional end of term bans prohibit, during the last two weeks of a semester or term, engaging in expressive activities by (1) inviting outside speakers to speak on campus, (2) using a device that amplifies sound, and (3) using drums or other percussive instruments in common outdoor areas.

A student and student groups, including a Christian fellowship group, student newspaper, and musical performance groups, filed suit against the UT Board of Regents and university officials to enjoin enforcement of the law, alleging the bans would prohibit group activities often held after 10:00 p.m., such as worship meetings, interviews of off-campus sources, and rehearsals and performances, and violate the U.S. Constitution [First Amendment](#). University officials argued that students' First Amendment rights would not be violated because the planned activities likely would not be considered disruptive, and the government has a strong interest in providing a learning environment free from disruptions.

The federal district court considered whether the overnight expression and end-of-term bans violated the First Amendment and determined that, because the bans rely on the statute's definition of *expressive activities* and apply only to non-commercial speech, they are content-based restrictions subject to a strict scrutiny standard of review. The court also found there were less restrictive means of maintaining a disruption-free learning environment, such as enforcing university policies and city ordinances regulating noise and specifying measurable limitations on noise levels. While UT Austin adopted a narrower version of the overnight expression ban that includes parameters for an expressive activity's location and sound levels, the policy still excludes commercial speech. The policy also is ambiguous because it grants university officials and law enforcement discretion to decide what is disruptive, creating a risk that authorities might apply the bans to content they find personally objectionable. The court enjoined and prohibited university officials from enforcing the statute and bans. [Fellowship of Christian Univ. Students at the Univ. of Tex. at Dallas v. Eltife](#), No. 1:25-cv-01411, 2025 WL 2924228 (W.D. Tex. Oct. 14, 2025).

Why is This Case Significant?

Though the preliminary injunction issued in this case has limited application, the opinion informs the analysis of the constitutionality of Senate Bill 2972 and Texas Education Code section 51.9315. Community colleges should closely monitor this case and consult with their attorneys for guidance.

Highlights

Join us at the [TACCA Conference](#) at TASB on Jan. 22-23, 2026.

[Update 50](#) to the Community College Policy Reference Manual is now available.

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

Biotech company that developed a proprietary compound the company alleged was impermissibly disclosed in a paper published by university medical center personnel operating under a valid research agreement with a third party that was not authorized to provide the compound to the researchers, failed to provide sufficient evidence to overcome dismissal of its claim that use of the compound constituted a taking under [Texas Constitution article I, section 17\(a\)](#). *Curadev v. Univ. of Tex. Sw. Med. Ctr.*, No. 15-25-00004-CV, 2025 WL 2414661 (Tex. App.—Austin Aug. 21, 2025, no pet.).

Personnel

Former assistant professor at a university medical school, who filed complaints of sex discrimination against her supervisor with the university and shortly thereafter was terminated by the university on the supervisor's recommendation, provided sufficient evidence to overcome dismissal of her claims that the university retaliated against her in violation of both [Title VII](#) and the [Texas Commission on Human Rights Act \(TCHRA\)](#). *Ingram v. State of Tex.-Tex. Tech Univ. Health Sci. Ctr.*, No. EP-24-CV-378-KC, 2025 WL 2700025 (W.D. Tex. Sept. 23, 2025).

Asian former associate vice president of a technical institute who filed a grievance for racial discrimination, and then was terminated for failing to timely inform his Black supervisor about a car accident involving an institute driving instructor, even though his Hispanic colleague also failed to inform the supervisor of the accident and failed to insure the driver of the vehicle but was not terminated, provided sufficient evidence to overcome summary judgment on his claims of racial discrimination and retaliation by the institute under [Title VII of the Civil Rights Act of 1964](#). *Pfang v. Lamar Inst. of Tech.*, No. 1:23-CV-93, 2025 WL 2734658 (E.D. Tex. Sept. 24, 2025).

Male former community college employee who, while his complaint of sex discrimination by colleagues was pending with the college, participated in a conversation with a female colleague that both employees secretly recorded in violation of college policy, and was subsequently terminated for doing so while she was terminated for the same reason much later after he filed a complaint with the federal Equal Employment Opportunity Commission, provided sufficient evidence to overcome dismissal of his claims the college discriminated against him based on his sex and retaliated against him because of his complaint in violation of the [TCHRA](#). *Tarrant Cnty. Coll. Dist. v. Chavez*, No. 02-25-00176-CV, 2025 WL 2884214 (Tex. App.—Fort Worth Oct. 9, 2025, no pet. h.).

Students and Instruction

Student who was arrested by campus police after an altercation with a university groundskeeper, which the student attributed to acute psychosis but was unknown by the university, and who was charged by the district attorney for resisting arrest and subsequently suspended by the university, then ultimately readmitted, failed to provide sufficient evidence to overcome dismissal of his claim that the university discriminated against him in violation of the federal [Americans with Disabilities Act](#) and [Rehabilitation Act Section 504](#). *Baddourah v. Univ. of Tex. at Tyler*, No. 6:24-cv-00498, 2025 WL 2718495 (E.D. Tex. Sept. 24, 2025) (adopting report and recommendations of magistrate judge *Baddourah v. Univ. of Tex. At Tyler*, No. 6:24-CV-00498-JCB-JDL, 2025 WL 2993767 (E.D. Tex. July 3, 2025)).

Open Records Letter Rulings

This month, the attorney general issued Open Records Letter Rulings¹ based on requests from Texas community colleges related to:

- Contracts regarding services. Tex. Att'y Gen. Op. [OR2025-33882](#) (Sept. 19, 2025);
- Information regarding a request for proposals number. Tex. Att'y Gen. Op. [OR2025-33974](#) (Sept. 19, 2025);
- Information regarding the requestor. Tex. Att'y Gen. Op. [OR2025-34292](#) (Sept. 23, 2025);
- Information regarding a solicitation. Tex. Att'y Gen. Op. [OR2025-34338](#) (Sept. 23, 2025); Tex. Att'y Gen. Op. [OR2025-34806](#) (Sept. 26, 2025); Tex. Att'y Gen. Op. [OR2025-35375](#) (Oct. 1, 2025);
- Information regarding a course. Tex. Att'y Gen. Op. [OR2025-34484](#) (Sept. 24, 2025); Tex. Att'y Gen. Op. [OR2025-35877](#) (Oct. 6, 2025);
- Specified contracts. Tex. Att'y Gen. Op. [OR2025-34553](#) (Sept. 24, 2025);
- Personnel records pertaining to the requestor. Tex. Att'y Gen. Op. [OR2025-35414](#) (Oct. 1, 2025);
- Information regarding certain agreements with named entities. Tex. Att'y Gen. Op. [OR2025-36133](#) (Oct. 7, 2025);
- Information regarding an entity and communications sent to and from named individuals pertaining to an entity. Tex. Att'y Gen. Op. [OR2025-36402](#) (Oct. 8, 2025);
- Information regarding a request for proposals. Tex. Att'y Gen. Op. [OR2025-36750](#) (Oct. 10, 2025);
- Information regarding certain contracts. Tex. Att'y Gen. Op. [OR2025-36757](#) (Oct. 10, 2025).



Recent Regulations and Guidance

The Texas Higher Education Coordinating Board (THECB) proposed review of [regulations](#) regarding a person's right to have THECB correct information collected and stored by the board.

THECB proposed review of [regulations](#) governing the Workforce Education Course Manual Advisory Committee.

THECB proposed review of [regulations](#) governing the Teach for Texas Loan Repayment Assistance Program, Nursing Facility Loan Repayment Assistance Program, and Math and Science Scholars Loan Repayment Assistance Program.

The Texas State Board of Public Accountancy (TSBPA) amended [regulations](#), in response to statutory changes made by the 89th Texas legislature, creating a new certification option that TSBPA refers to as "Pathway B," which allows applicants to qualify for the certified public accountant (CPA) examination and certification with 120 semester hours of college credit and two years of work experience, in addition to the original option, referred to as "Pathway A," which requires 150 semester hours and one year of work experience for exam and certification eligibility.

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.

The TSBPA amended [regulations](#) specifying the number of semester hours of accounting and business courses that community colleges must offer applicants who have completed a baccalaureate degree, including a three semester hour ethics course that must be completed for certification.

The TSBPA amended [regulations](#) specifying the option to complete coursework at a community college and courses ineligible for the 120 semester hour requirement.

The TSBPA amended [regulations](#) clarifying the content of the three semester hour ethics course, which may be taken at a college.

The TSBPA amended [regulations](#) clarifying the qualifications for CPA certification candidates under Pathway A.

The TSBPA amended [regulations](#) specifying that faculty members providing instruction in

accounting courses are not considered to be practicing public accountants and are exempt from continuing professional education requirements.

The Texas Real Estate Commission (TREC) amended [regulations](#) to update or correct reference numbering on promulgated forms, including the Non-Realty Items Addendum and Notice to Prospective Buyers regarding properties located in a utility district.

TREC amended [regulations](#) to reflect the option for users, including education providers and instructors, to submit criminal history evaluation letters and fitness determinations through TREC's new online license management system, rather than by providing paper forms.



In the News

The governor's office announced the [appointment](#) of Brandon L. Simmons as the director of the Office of the Ombudsman, established as part of [Senate Bill 37](#) passed during the 89th Texas Legislature to investigate complaints against higher education institutions.

The U.S. Department of Education announced the availability of the newly updated 2026-2027 [Free Application for Federal Student Aid \(FAFSA\) form](#).

U.S. Citizenship and Immigration Services, in response to recent restrictions on nonimmigrant workers under the H-1B visa program, announced that new applicants must submit at the time of application [proof of payment](#) via pay.gov of the \$100,000 fee or evidence supporting an exception from the fee requirement from the U.S. Secretary of Homeland Security.