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Case of the Month

Community college professor provided sufficient evidence to overcome dismissal of his claim college administrators retaliated against him in violation of the First Amendment for his criticism of a curriculum change.

Dr. Lars Jensen, a math professor at Nevada's Truckee Meadows Community College, expressed concerns that a policy change lowered the math curriculum standards. He claimed a college dean refused to let him speak or distribute a handout on his position at a college math summit and later reprimanded him. Jensen emailed other faculty about his position on the curriculum. The college subsequently gave him an unsatisfactory performance review two years in a row, citing insubordination and performance issues. As a result, the college initiated an investigation and held a disciplinary hearing. Jensen sued the dean and other college administrators in their individual capacities under [42 U.S.C. § 1983](#), claiming they retaliated against him for his speech in violation of the U.S. Constitution [First Amendment](#), among other claims. The administrators filed a motion to dismiss.

The federal district court considered whether Jensen's claims against the administrators showed they violated a clearly established right as required to overcome qualified immunity. The court concluded that his allegations lacked the specificity necessary to establish the right at issue. Because Jensen defined the right too generally, the court granted the administrators' motion. Jensen appealed.

The Ninth Circuit Court of Appeals relied on the test in [Pickering v. Board of Education](#), 391 U.S. 563 (1968), to analyze Jensen's [First Amendment](#) retaliation claim. The court first determined that Jensen's speech was a matter of public concern because, though his comments were not distributed widely, he spoke to the impact lower math standards would have on the community. Second, though Jensen's speech was arguably made pursuant to his duties as an employee, his speech was protected by the First Amendment because he was speaking about scholarship and teaching. Third, Jensen's speech was the motivating factor for the officials' adverse employment actions. Finally, the court found no compelling state interest to justify restricting his speech because Jensen's speech was not disruptive. Because Jensen provided sufficient evidence of a clearly established right to overcome dismissal on grounds of qualified immunity, the Ninth Circuit reversed and remanded the district court's order. [Jensen v. Brown](#), No. 23-2545, 2025 WL 748139 (9th Cir. Mar. 10, 2025).

Why is This Case Significant?

A faculty member may be able to establish that criticism of a curriculum change within the faculty member's area of practice is protected by the First Amendment.

Highlights

[TASB/TACCA Post-Legislative Seminar](#)
August 1, 2025
TASB offices

[Open Meetings Act Training for Community Colleges](#)
online course is 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

Governance

Provisions in Senate Bill 1 from the 87th Legislative Session that address voter assistance oaths, mail-in voting, and canvassing restrictions violate the federal [Americans with Disabilities Act](#) (ADA) and [Section 504 of the Rehabilitation Act](#). [La Unión del Pueblo Entero v. Abbott](#), No. 5:21-CV-0844, 2025 WL 865262 (W.D. Tex. Mar. 14, 2025).

Business and Finance

No private right of action against a user of consumer reports exists under the Fair Credit Reporting Act (FCRA), specifically [15 U.S.C. § 1681m](#). [Doe v. Charter Commc'ns](#), No. 24-50121, 2025 WL 813589 (5th Cir. Mar. 14, 2025).

A taxing unit that files suit to collect delinquent property taxes between February 1 and July 1 the year the tax becomes delinquent may recover attorney's fees pursuant to [Texas Tax Code section 33.48](#) instead of recovering the fees by imposing a [Texas Tax Code section 33.07](#) collection penalty. Tex. Att'y Gen. Op. [KP-0483](#) (Feb. 12, 2025).

Personnel

Black employee, who was terminated after failing to return from federal [Family and Medical Leave Act](#) (FMLA) leave and who alleged he was subject to discriminatory treatment by his manager, failed to provide sufficient evidence to overcome dismissal of his racial discrimination and retaliation claims against the university. [Thornton v. U.T. Sw. Med. Ctr. Sch. of Med.](#), No. 24-10594 (5th Cir. Feb. 26, 2025) (per curiam).

Former professor, who had entered into a settlement agreement with a university for claims stemming from his termination following reports of misconduct by university administrators, failed to provide sufficient evidence to overcome

dismissal of his defamation and libel claims arising from information discovered during the settlement agreement. [Stamps v. Univ. of Tex. Sys.](#), No. 24-50405-CV, 2025 WL 720938 (5th Cir. Mar. 6, 2025) (per curiam).

University professor, who was suspended from serving on faculty committees for her remarks at a faculty meeting and in a related email, failed to provide sufficient evidence to overcome dismissal of her claim that university officials discriminated against her on the basis of the content and viewpoint of her speech and retaliated against her in violation of the U.S. Constitution [First Amendment](#). [Casper v. West](#), No. 4:23-cv-42, 2025 WL 539945 (E.D. Tex. Feb. 18, 2025) (mem.).

Black community college police officer, who was denied promotions by the college after he filed a race discrimination claim with the federal Equal Employment Opportunity Commission and had heard of alleged discriminatory comments made to third parties, failed to provide sufficient evidence to overcome dismissal of his claim that the college subjected him to a hostile work environment in violation of [Title VII of the Civil Rights Act of 1964](#), but provided sufficient evidence to overcome dismissal of his claim of retaliation in violation of [Title VII](#). [Hellman v. Austin Cmty. Coll. Dist.](#), No. 1:23-cv-1436, 2025 WL 548276 (W.D. Tex. Feb. 18, 2025) (adopting in part, rejecting in part the report and recommendation in [Hellman v. Austin Cmty. Coll. Dist. Hellman v. Austin Cmty. Coll. Dist.](#), No. 1:23-CV-01436, 2024 WL 5455870 (W.D. Tex. Dec. 11, 2024).

Community college professors failed to provide sufficient evidence to overcome dismissal of their [Fourteenth Amendment](#) due process claim because they could not show loss of tenure or non-renewal of contract as tangible harms, and

failed to overcome dismissal of their [First Amendment](#) retaliation claim because their speech did not address a public concern. *Frisella v. Dallas Coll.*, No. 3:24-CV-0469, 2025 WL 755224 (N.D. Tex. Mar. 10, 2025) (mem.).¹

Students and Instruction

Black student, who was dismissed from a medical school for not meeting academic standards, failed to provide sufficient evidence to overcome summary judgment on his claim the school discriminated against him based on his race in violation of [Title VI of the Civil Rights Act](#). *Gilani v. U.T. Southwestern Med. Ctr.*, No. 3:21-CV-1461, 2025 WL 607388 (N.D. Tex. Feb. 24, 2025) (mem. op.).

Open Records Letter Rulings

This month, the attorney general issued Open Records Letter Rulings² based on requests from Texas community colleges related to:

- Information regarding a solicitation. Tex. Att’y Gen. Op. [OR2025-5674](#) (Feb. 19, 2025), [OR2025-7045](#) (Feb. 28, 2025);
- A statement of work. Tex. Att’y Gen. Op. [OR2025-7280](#) (Mar. 3, 2025);
- Information regarding a request for proposals. Tex. Att’y Gen. Op. [OR2025-7281](#) (Mar. 3, 2025);
- Information regarding the requestor’s client. Tex. Att’y Gen. Op. [OR2025-7517](#) (Mar. 5, 2025);
- Information regarding an investigation. Tex. Att’y Gen. Op. [OR2025-8004](#) (Mar. 10, 2025);
- Information regarding a school, including certain insurance, enrollment, employee, and facilities information. Tex. Att’y Gen. Op. [OR2025-8234](#) (Mar. 11, 2025); and
- Information regarding specific properties during a defined time period. Tex. Att’y Gen. Op. [OR2025-8360](#) (Mar. 12, 2025).



Recent Regulations and Guidance

The Texas Department of Insurance Division of Workers’ Compensation (DWC) amended a [regulation](#) to correct the addresses and websites of the DWC and the Office of Injured Employee Counsel.

The State Board for Educator Certification amended [regulations](#) addressing educator preparation programs to clarify the clinical teaching and other program requirements and related definitions.

The State Board of Dental Examiners amended a [regulation](#) regarding continuing education (CE) requirements applicable to registered dental assistants to update the CE deadline.

¹ This case was summarized in the [October 2024](#) Community Colleges Legal Update.

² 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.



Policy Spotlight

Community college employees and students, as well as citizens, have the right to petition the board of trustees for redress of grievances under [Texas Constitution article I, section 27](#). Community college boards should regularly review their grievance policies to ensure consistency in implementation, compliance with current state and federal laws, and utilization of best practices. Colleges that subscribe to TASB Community College Services' policy services will find grievance policies at policies DGBA (employees), FLD (students), and GB (members of the public).

Courts applying the Texas Constitution provision to educational entities differ as to whether the board of trustees simply listening to presentations during the public comment section of a board meeting, without giving some level of consideration, is sufficient. For practical reasons, including the fulfillment of its role in community college governance and limiting lawsuits, the board may need to maintain control and oversight of grievance matters. Allowing grievances to be heard before the board ensures that the people at the center of the complaint are not the same people who have authority to

dispose of the matter, such as when a complaint involves the college's chief executive officer. Further, board involvement may avoid potential due process concerns, conflict of interest allegations, or abuse of authority complaints.

For these reasons, TASB Community College Services recommends that a community college's grievance process permit appeals to the board. The board of trustees has discretion as to how it hears the grievance, absent special circumstances. For example, the board may hear from the person bringing the grievance for a period that meets or exceeds the time that would be granted the person during public comment. The board may also hear from the administration or choose to consider only the grievance record. For further discussion about the grievance process, see [Community College Grievance Process](#) on TASB College [eLaw](#).

If you have any questions on behalf of your member college, email colleges@tasb.org or call 800.580.1488 to speak with your college's policy consultant or another TASB Community College Services attorney.



In the News

The Texas Higher Education Coordinating Board issued a [memorandum](#) addressing community college finance for the 2025 fiscal year (FY25), including the updated supplemental request, funding formula model, and district runs, as well as a dynamic adjustment notification.

The President issued executive orders³ applicable to federal agencies, including a [mandate to close the U.S. Department of Education](#) (ED) to the extent permitted by law and an [order](#) limiting organizations that qualify for the Public Service Loan Forgiveness (PSLF) program.

As a follow up to its February 14th [Dear Colleague letter](#)⁴, the ED Office of Civil Rights (OCR), issued a [Frequently Asked Questions](#) document clarifying how OCR will enforce [Title VI of the Civil Rights Act of 1964](#) following [Students for Fair Admissions, Inc. v. President & Fellows of Harvard College](#), 600 U.S. 181 (2023).⁵

Dr. Robert Garza, president of Alamo Colleges Palo Alto College, received the [Baldridge Foundation Award for Leadership Excellence](#).

³ See [Executive Orders Affecting Community Colleges](#) on TASB eLaw.

⁴ The Dear Colleague letter was summarized in the [February 2025](#) Community College Services Legal update.

⁵ This case was summarized in the [July 2023](#) Community College Services Legal update.