

# Texas Administrative Law 2021 Case Law Update

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# Agency Authority

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## ***Vergo Patio Gardens, Inc. v. R.R. Comm'n of Tex.***

03-19-00070-CV, 2021 WL 476656 (Tex. App.—Austin Feb. 10, 2021, no pet.)

- Agency: Railroad Commission of Texas
- Statutes/Regulations:
  - 16 TEX. ADMIN. CODE § 1.123 / Tex. R. Civ. P. 11
- Issue:
  - Does an ALJ have authority to require a hearing after the parties have filed a valid settlement agreement?
- Holding:
  - TRCP Rule 11 settlement agreements are construed under the rules of a contract. If they contain the essential elements to informally dispose of the matter (in writing, signed by the parties, filed in the administrative proceeding) and are complete within themselves such that only a “purely ministerial act” of the ALJ is required, then they are binding.
  - ALJ acted arbitrarily and capriciously in an abuse of discretion by requiring a hearing.

## ***Hartzell v. S. O.***

613 S.W.3d 244 (Tex. App.—Austin 2020, pet. filed)

- Agency: University of Texas at Austin
- Statutes/Regulations:
  - TEX. EDUCATION CODE § 65.31
- Issue:
  - Does a state university have the authority to revoke a degree?
- Holding:
  - TEC § 65.31 authorizes the University’s Board to award degrees, but the statute gives no express grant of authority to revoke degrees. Such a power could not be implied because agency powers claimed to authorize governmental interference with property rights are construed narrowly.
  - A state officer’s *ultra vires* actions are an exception to sovereign immunity and here the Board had no authority to revoke the degree.

## Agency Interpretation of Statutes & Rules

### *Hegar v. El Paso Elec. Co.*

03-18-00790-CV, 2021 WL 851892 (Tex. App.—Austin Mar. 5, 2021, no pet.)

- Agency: Texas Comptroller of Public Accounts
- Statutes/Regulations:
  - TEX. TAX CODE § § 111.104(c)(2), 151.051, 151.318(a)(4)
  - 34 TEX. ADMIN. CODE § 1.11
- Issue:
  - Do customer and substation electric meters “relate to” step-down transformers such that the manufacturing exemption to sales tax applies?
- Holding:
  - Yes: “related to” is not defined in the statute and is not ambiguous, so it is given its plain and common meaning which is very broad in ordinary usage. The meters need not directly measure the output of the transformer itself; it is sufficient that there is a substantial relation between the meters and the transformer because they are designed as a system.

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