

# **Stephen F. Austin State University**

## **Diversity, Equity, and Inclusion (TEC §51.3525) Audit**

**As of May 31, 2024**

**Audit Report 24-103**



## **Department of Audit Services**

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## **BACKGROUND**

The 88th Texas State Legislature passed, and the Texas Governor signed into law, Senate Bill 17, which amended Section 1, Subchapter G, Chapter 51 of the *Texas Education Code* by adding Section 51.3525, "Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives" (TEC §51.3525). TEC §51.3525 requires the Board of Regents of The University of Texas (UT) System, as summarized below, to ensure that each unit of each UT institution does not, except as required by federal law:

- Establish or maintain a diversity, equity, and inclusion (DEI) office;
- Hire or assign an employee of the institution or contract with a third party to perform the duties of a DEI office;
- Compel, require, induce, or solicit any person to provide a DEI statement or give preferential consideration to any person based on the provision of a DEI statement;
- Give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution; and
- Require, as a condition of enrolling at the institution or performing any institution function, any person to participate in DEI training, which includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation.

The Stephen F. Austin State University (SFA or University) Department of Audit Services performed an audit to assess the University's compliance with TEC §51.3525.

## **OBJECTIVE**

The primary objective of this engagement was to provide the president and executive leadership reasonable assurance as to whether the University has complied with the requirements of TEC §51.3525. This included determining whether the University has:

- Closed the DEI office or made appropriate changes to offices, divisions, or other units that were previously responsible for DEI initiatives.
- Complied with the restriction on hiring or assigning employees to perform DEI duties.
- Updated staff hiring and employment practices to remove requirements for DEI statements and to not provide preferential treatment based on race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any institutional function.
- Complied with the prohibition on requiring participation in DEI training as a condition of enrolling at the institution or performing any institutional function.
- Discontinued programs and activities which promote differential treatment of, or provide special benefits to, individuals based on race, color, or ethnicity.
- Developed or updated disciplinary policies and procedures, if necessary, to comply with TEC §51.3525.



**CONCLUSION ON COMPLIANCE WITH TEC §51.3525**

Based on the work we performed, we believe that the University has achieved compliance with TEC §51.3525:

TEC §51.3525 Requirements	Based on Audit Procedures and Management Actions
“Does not, except as required by federal law: (A) establish or maintain a diversity, equity, and inclusion office[.]”	Complies
“Does not, except as required by federal law:… (B) hire or assign an employee of the institution or contract with a third party to perform the duties of a diversity, equity, and inclusion office[.]”	Complies
“Does not, except as required by federal law:… (C) compel, require, induce, or solicit any person to provide a diversity, equity, and inclusion statement or give preferential consideration to any person based on the provision of a diversity, equity, and inclusion statement [.]”	Complies
“Does not, except as required by federal law:… (D) give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution[.]”	Complies
“Does not, except as required by federal law:… (E) require as a condition of enrolling at the institution or performing any institution function any person to participate in diversity, equity, and inclusion training, which: (i) includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and (ii) does not include a training, program, or activity developed by an attorney and approved in writing by the institution's general counsel and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law[.]”	Complies
“(2) adopts policies and procedures for appropriately disciplining, including by termination, an employee or contractor of the institution who engages in conduct in violation of Subdivision (1).”	Complies

In fall 2023, UT System implemented UTS 197 *Compliance with State Law Regarding Diversity, Equity, and Inclusion in Institutions of Higher Education* (UTS 197) to help achieve and enable ongoing compliance with TEC§51.3525. UTS 197 includes activities which are considered important but are not specifically required by statute. The secondary objective of this audit was to provide reasonable assurance that the University has complied with the requirements of UTS 197.

Based on the work we performed, we believe that the University has achieved significant compliance with the key requirements of UTS 197. However, while not specifically required by statute, we have identified opportunities, as described below, to help ensure ongoing compliance with TEC§51.3525:

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Observations and Recommendations (by Rating)	Management Action Plans
<p>Medium: The University administers some scholarships that include unallowable qualifiers.</p> <p>Management should strengthen procedures to ensure scholarships that have unallowable qualifiers are not administered by University employees.</p>	<p>Unallowable qualifiers will be removed from the University's electronic scholarship application. Any scholarship gift agreements that have any unallowable qualifiers in the endowment fund title or description, will be inaccessible in the scholarship software, until the gift agreement is amended or if the living benefactor desires the unallowable qualifiers not be removed, the fund will be transferred to UT Foundation for management. This will be completed by September 30, 2024.</p>
<p>Medium: The University has not developed a monitoring plan to ensure ongoing compliance with TEC §51.3525 and UTS 197.</p> <p>The University should develop a formal monitoring plan to ensure ongoing compliance with TEC §51.3525.</p>	<p>The University will establish a formal monitoring plan by December 31, 2024.</p>
<p>Medium: The University has not developed a formal certification process to provide the president with reasonable assurance that all offices and departments of the University are operating in compliance with TEC §51.3525.</p> <p>Management should develop and implement a formal certification process to ensure ongoing compliance with TEC §51.3525.</p>	<p>The University will establish and implement a formal certification process by December 31, 2024.</p>
<p>Medium: The University does not specifically address disciplinary actions for conduct in violation of TEC §51.3525 for Administrative and Professional employees in policy or procedure.</p> <p>Management should more clearly define disciplinary actions relating to non-compliance with TEC §51.3525 for Administrative and Professional employees in University policy or procedure.</p>	<p>The University will review and take appropriate steps to modify HOP 03-201 as appropriate by December 31, 2024.</p>
<p>Medium: The University had not removed several unallowable DEI references from its website and social media accounts.</p> <p>Management should review the DEI references identified and, if appropriate, remove or archive them from the University's website and/or social media accounts. In addition, management should review the identified syllabi and take appropriate action for those syllabi for future semesters.</p>	<p>Management has removed references to DEI which are in violation of TEC §51.3525 and/or UTS 197. The Division of Academic Affairs will review course syllabi to ensure they do not contain references to DEI which are in violation of TEC §51.3525 and/or UTS 197. This will be completed by August 31, 2024.</p>
<p>Low: References in wayfinding signage, murals, and posters to unallowable DEI activities were present in locations on campus.</p>	<p>Departments have been directed to remove</p>



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Observations and Recommendations (by Rating)	Management Action Plans
<p>Management should review all physical spaces on campus to ensure unallowable DEI references are removed.</p>	<p>unallowable DEI references by August 31, 2024.</p>
<p>Low: Two SFA-managed DEI social media accounts, although dormant, were active.</p> <p>Management should take appropriate action to deactivate the accounts.</p>	<p>The two SFA-managed DEI social media accounts have been deactivated.</p> <p>No further audit follow-up is required.</p>
<p>Low: Instances of possible DEI-funding were noted.</p> <ul style="list-style-type: none"> <li>• Budgeted funds not expended prior to January 1, 2024, in DEI accounts had not been reallocated.</li> <li>• Expenditures totaling \$865.67 in DEI accounts subsequent to January 1, 2024.</li> <li>• DEI accounts were active in Banner, and therefore, could be used for expending funds.</li> <li>• A dining services program master services agreement made July 1, 2021 with Compass Group USA, Inc. through its Chartwells Division, includes an annual donation of \$5,000 to a University Diversity Fund.</li> </ul> <p>Management should review DEI accounts to ensure budgeted funds are reallocated, expenditures are appropriately recorded, and DEI accounts are deactivated to prevent utilization. In addition, management should review and document the purpose and appropriate use of the annual Chartwells donation.</p>	<p>Budgeted funds which represented savings have been reallocated in the FY25 Budget; expenditures were not for DEI activities and have been reclassified to the appropriate expenditure account; DEI accounts have been set to “no data entry” in the Banner system; and a memorandum of understanding has been executed that changes the annual contribution from diversity to student success.</p> <p>No further audit follow-up is required.</p>

We will follow up on action plans in this report to determine the implementation status. Follow-up will help ensure that timely action is taken to address the observations in this report.

Jane Ann Bridges, CPA, CIA, CFE  
 Chief Audit Executive  
 Stephen F. Austin State University

## **METHODOLOGY AND SCOPE**

SFA Department of Audit Services conducted this engagement in accordance with the *International Standards for the Professional Practice of Internal Auditing* and *Generally Accepted Government Auditing Standards* (GAGAS). Those standards require that we plan and perform the engagement to obtain sufficient, appropriate evidence to provide a reasonable basis for our observations and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for observations and conclusions based on our objectives. The SFA Department of Audit Services is independent per GAGAS requirements for internal auditors.

The procedures we performed included, but were not limited to, interviews with management, reviewing policies and procedures, reviewing hiring practices, reviewing financial information, obtaining and reviewing supporting documentation, testing controls, data analytics, and other work which we deemed necessary to achieve our audit objective.

## **SCOPE**

The scope of this audit covered activities management undertook to address DEI-related:

- Offices and duties that may have been performed elsewhere within the institution;
- Staff hiring and employment practices and DEI statements;
- Training;
- Programs and activities;
- Applicable policies and procedures;
- Internal controls and monitoring;
- External facing web pages and social media accounts that may have referenced active DEI activities; and
- Funding.

The scope of the audit included activities taken from January 1, 2024, until May 31, 2024.

## **OBSERVATION RATINGS**

Rating	Description
Low	The audit observation does not present significant risks or issues that could negatively impact the University in the area/program/function audited. Action is needed to address the audit observation.
Medium	The audit observation presents risks or issues that if not addressed could moderately impact the University in the area/program/function audited. Action is needed to address the audit observation and reduce risks to a more desirable level.
High	The audit observation presents risks or issues that if not addressed could substantially impact the University in the area/program/function audited. Prompt action is needed to address the audit observation and reduce risks to a more desirable level.
Priority	The audit observation presents risks or issues that if not addressed could critically impact the University in the area/program/function audited. Immediate action is needed to address the audit observation and reduce risks to a more desirable level.



**CRITERIA**

- Texas Education Code §51.3525, Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives;
- University of Texas System Policy 197, Compliance with State Law Regarding Diversity, Equity, and Inclusion in Institutions of Higher Education;
- University of Texas System Senate Bill 17 Guidance;
- Other key institutional policies where applicable.

**REPORT DATE**

August 12, 2024

**REPORT DISTRIBUTION**

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