



The University of Texas Permian Basin

Texas Education Code §51.3525 Compliance
Audit Report

August 2024

Office of Internal Audit
4901 E. University Boulevard
Odessa, Texas 79762



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 the 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 based on race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution; or
- 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 University of Texas Permian Basin (UTPB) Office of Internal Audit performed an audit to assess UTPB 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 UTPB has complied with the requirements of TEC §51.3525. This included determining whether UTPB has:

- ❖ Closed the DEI office, if it existed, and/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 faculty and 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 function of the institution;
- ❖ 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; and
- ❖ 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 performed, we believe that UTPB 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



TEC §51.3525 Requirements	Based on Audit Procedures and Management Actions
“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 UT Systemwide Policy 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 that are considered important but are not specifically required by statute. The secondary objective of this audit was to provide reasonable assurance that UTPB has complied with the requirements of UTS 197.

Based on the work we performed, we believe that UTPB 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:

Observations and Recommendations (by Rating)	Management Action Plans
High: Ongoing compliance with TEC §51.3525 can be strengthened by expanding communication of its provisions to all employees to ensure they understand the prohibition on performance of DEI duties. Planned compliance training that will include this topic, to be required annually, is not yet in place.	The Office of Compliance is working with Human Resources to develop and implement a new compliance training module specific to TEC §51.3525 by September 30, 2024. The new training will be required for all employees annually.



Observations and Recommendations (by Rating)	Management Action Plans
<p>High: While management has taken actions to strengthen controls to enhance compliance with statute, management has not developed risk-based monitoring activities to provide reasonable assurance of continued compliance. Ongoing monitoring should be designed to address key risk areas in the statute including, but not limited to, staff hiring and employment practices, tracking of related compliance training, and periodic review of programs and activities.</p>	<p>The Office of Compliance is developing a risk-based compliance monitoring plan based on the key prohibitions of TEC §51.3525, to be implemented by September 30, 2024.</p>

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

Dyan G. Hudson, CIA, CISA, CFE, CRMA
Interim Chief Audit Executive



Methodology and Scope

The UTPB Office of Internal Audit 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 our observations and conclusions based on our objectives. The Office of Internal Audit is independent per GAGAS requirements for internal auditors. Procedures included, but were not limited to, interviews with management, review of policies and procedures, hiring practices, financial information, and supporting documentation, controls testing, data analytics, and other work which we deemed necessary to achieve our audit objectives.

The scope of this audit covered activities and actions taken by management prior to July 31, 2024, to address DEI-related:

- Offices and duties that may have been performed elsewhere within UTPB;
- Faculty and 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.

Observation Ratings

Priority	An issue that, if not addressed timely, has a high probability to directly impact achievement of a strategic or important operational objective of UTPB or the UT System as a whole.
High	An issue considered to have a medium to high probability of adverse effects to a significant office or business process or to the University as a whole.
Medium	An issue considered to have a low to medium probability of adverse effects to an office or business process or to the University as a whole.
Low	An issue considered to have minimal probability of adverse effects to an office or business process or to the University as a whole.

Criteria

- Texas Education Code §51.3525, *Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives*
- UT Systemwide Policy 197, *Compliance with State Law Regarding Diversity, Equity, and Inclusion in Institutions of Higher Education*
- UT System Office of General Counsel, *UT System SB 17 Working Guidance*
- Other UTPB institutional policies where applicable

Report Date

August 12, 2024

Report Distribution

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