



THE UNIVERSITY OF TEXAS AT SAN ANTONIO
OFFICE OF AUDITING AND CONSULTING SERVICES
TEXAS EDUCATION CODE SECTION 51.3525 COMPLIANCE AUDIT
FY 2024

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 University of Texas at San Antonio Office of Auditing and Consulting Services performed an audit to assess the University of Texas at San Antonio’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 of Texas at San Antonio has complied with the requirements of TEC §51.3525. This included determining whether The University of Texas at San Antonio 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 function of the institution.
- ❖ Complied with the prohibition on requiring participation in DEI training as a condition of 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 to comply with TEC §51.3525.



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Conclusion on Compliance with TEC §51.3525: Based on the work we performed, we believe that the University of Texas at San Antonio 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



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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 of Texas at San Antonio has complied with the requirements of UTS 197.

Based on the work we performed, we believe that The University of Texas at San Antonio 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
<p>Medium: UTSA Leadership should finalize the implementation of an ongoing TEC §51.3525 and UTS 197 compliance and monitoring program by educating the university community about the monitoring function, assigning and communicating responsible parties for interpreting compliance questions and ensuring ongoing compliance, and communicating the avenues for reporting noncompliance and the consequences for non-compliance.</p>	<p>Management has developed a detailed monitoring program to address these observations and will complete its comprehensive implementation before December 31, 2024.</p>
<p>Medium: UTSA Leadership should finalize the design of an institution-wide certification process to provide the president with reasonable assurance that all offices, divisions, and units of the University are operating in compliance with TEC §51.3525 and UTS 197 and that the Texas Higher Education Coordinating Board certification from the president to the UT System Chancellor and Board of Regents is reasonably accurate and complete.</p>	<p>By the submission deadline of August 31, 2024, management will submit its Texas Higher Education Coordinating Board certification to the Chancellor and the Board of Regents. The certification will be based upon a robust sub-certification process from leadership across the institution.</p>

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

Paul Tyler, CIA, CFE, CRMA
 Chief Audit Executive



Methodology and Scope

The University of Texas at San Antonio Office of Auditing and Consulting 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 our observations and conclusions based on our objectives. The University of Texas at San Antonio Office of Auditing and Consulting 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.

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 audit scope included activities taken from January 1, 2024, until July 2024.

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 the University 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

- [TEC §51.3525 Responsibilities of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives](#)
- [UTS 197 Compliance with State Law Regarding Diversity, Equity, and Inclusion in Institutions of Higher Education](#)
- [UT System SB 17 Guidance](#)



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REPORT DATE

August 12, 2024

REPORT DISTRIBUTION

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