



Texas Education Code Section 51.3525 Compliance Audit

Audit Report No. R2411 | *August 19, 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 UT Dallas Office of Audit and Consulting Services Office performed an audit to assess UT Dallas’ 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 UT Dallas has complied with the requirements of TEC §51.3525. This included determining whether UT Dallas administration 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, if necessary, to comply with TEC §51.3525.

Conclusion on Compliance with TEC §51.3525: Based on the work we performed; we believe that UT Dallas administration 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
<p>“Does not, except as required by federal law:...</p> <p>(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 [.]”</p>	Complies
<p>“Does not, except as required by federal law:...</p> <p>(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[.]”</p>	Complies
<p>“Does not, except as required by federal law:...</p> <p>(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:</p> <p>(i) includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and</p> <p>(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[.]”</p>	Complies
<p>“(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).”</p>	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 UT Dallas has complied with the requirements of UTS 197.

Based on the work we performed, we believe that UT Dallas 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>High: While management has taken actions to strengthen controls to enhance compliance with the statute, management has not developed risk-based monitoring activities to provide itself reasonable assurance over ongoing compliance. Departments were instructed to come to the University Attorney for legal advice during the period of implementation, and corrective action would be taken when needed. In discussing compliance efforts with various responsible parties tasked with reviews of programs and activities prohibited by TEC §51.3525, they are still working on resolving and clarifying compliance. While work on existing compliance</p>	<p>Institutional Compliance will develop and implement a risk-based monitoring program to support ongoing compliance with TEC §51.3525 and UTS 197. This program will include the following components: annual training programs for employees, self-report and certification forms for key stakeholders, and a system for reporting and addressing non-compliance.</p> <p>Estimated Date of Implementation: January 1, 2025</p> <p>Responsible Party Name and Title:</p>



Observations and Recommendations (by Rating)	Management Action Plans
<p>issues is ongoing, management has not established a risk-based compliance monitoring program to review and confirm ongoing compliance with TEC 51.3525 and UTS 197.</p> <p>The University should designate a responsible party to conduct ongoing monitoring as well as enforcement. The monitoring process could be designed and developed to address key risk areas in the statute including, but not necessarily limited to, faculty, staff, and student hiring; programs and activities such as scholarships; and training.</p>	<p>Sanaz Okhovat, Chief Compliance Officer</p>
<p>High: UT Dallas does not have 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 that the annual certification to the Texas Higher Education Coordinating Board is accurate and complete. Certifications are an effective method to communicate the campus units’ responsibilities, establish their understanding and responsibility, and provide assurance to the president.</p> <p>Management should consider developing a certification process.</p>	<p><i>As noted in the response above, Institutional Compliance will be developing a program to include self-report and certification forms for key stakeholders by January 1, 2025.</i></p>
<p>Medium: UTD policy UTDBP3056, Discipline Dismissal and Grievances Section, does not contain language related to discipline and dismissal of employees as a result of noncompliance with state laws, such as TEC §51.3525 and UT System policies, such as UTS 197. Also, the policy is only for classified employees and does not pertain to administrative and professional employees, or contractors. There is a separate faculty policy, UTDP1049, University Policy on Faculty Conduct, which does give examples of unacceptable conduct, including “Disobeying University rules or Rules and Regulations of the Board of Regents, federal or state laws or regulations.” UTDBP3056 should be updated to include administrative and professional employees and contract employees as well as adding consequences for violating laws and policies.</p>	<p>Revised UTDBP3056 to comply with recommendation to include A&P positions and contract employees and consequences of violating laws and policies.</p> <p>Estimated Date of Implementation: Implemented on August 19, 2024</p> <p>Responsible Party Name and Title: Colleen Dutton, Chief Human Resource Officer and Ellen Ammons, Director of Employee Relations and Talent Development</p>
<p>Medium: Although management has updated faculty and staff hiring and employment practices, we noted the following:</p> <p><u>Office of Human Resources (staff)</u> We found 23 staff jobs posted from January 1, 2024 - May 31, 2024, had a reference to the University being a</p>	<p><u>Office of Human Resources</u> The reference to SEA Change membership has been removed from the UTD profile included in staff job postings. The Employment and Compensation Specialists in HR have been reminded to review all job postings and job descriptions carefully to ensure any prohibited language or job duties are excluded. The Director of</p>



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<p>charter member of SEA (STEMM Equity Achievement) Change. Upon review of their website at https://seachange.aaas.org/, their front page says: "SEA Change aims to advance institutional transformation in support of diversity, equity, and inclusion, especially in colleges and universities." This statement was also noted in the student hiring postings. UTD's membership in this organization is not prohibited by TEC §51.3525 as long as UTD does not engage in any prohibited DEI programming, training, or activities. However, job applicants may not understand this. Management should review and consider whether to revise or delete.</p> <p>One of the 23 staff jobs posted also noted "Commitment to diversity, equity, and inclusion principles." This should be removed.</p> <p><u>Career Center (student workers)</u> In reviewing student hiring, we found one of the responsibilities noted in the job description for the SUAAB Events Chair(s) 2024-2025 stated: "Follow and promote the SUAAB key pillars: Innovation, Inclusion, Creativity, Adaptability, Diversity, Immersion, Community, and Accessibility." Also, another job description posted after January 1, 2024, for an Administrative Office Support (AOS) position stated that the employee supports the Employe Engagement Director in cultivating a culture of equity and inclusion for all UT Dallas faculty, staff, students, and visitors. Although student activities are not subject to TEC §51.3525, employees, including those in positions that support student activities, must comply with TEC §51.3525 and may not engage in prohibited DEI activities. The job descriptions should be revised.</p>	<p>Employment and Compensation, and the Employment Manager will continue to monitor. The error made on the one posting has been corrected.</p> <p>Estimated Date of Implementation: Implemented July 17, 2024.</p> <p>Responsible Party Name and Title: Colleen Dutton, Chief Human Resources Officer and Celeste Burnett, Director of Employment and Compensation</p> <p><u>Career Center</u> The job postings identified in the audit have been edited to remove any reference to DEI activities and the departments that submitted them have been notified that this language may not be included in future Handshake job postings.</p> <p>The following wording has been added to the Handshake job approval process followed by the Student <i>"Employment team:</i> <i>Texas law prohibits institutions of higher education from hiring or assigning employees to perform DEI duties. Although student activities are not subject to TEC §51.3525, employees, including those in positions that support student activities, must comply with TEC §51.3525 and may not engage in prohibited DEI activities. Job postings that include a description or duties related to diversity, equity, or inclusion activities must be revised to remove that language before they are posted."</i></p> <p>The following wording has been added to the SE website on the page for on-campus and off-campus employers creating job postings: <i>"Please note: Texas law prohibits institutions of higher education from hiring or assigning employees to perform DEI duties. Although student activities are not subject to TEC §51.3525, employees, including those in positions that support student activities, must comply with TEC §51.3525 and may not engage in prohibited DEI activities."</i></p>



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	<p>Date of Implementation: July 10, 2024</p> <p>Responsible Party Name and Title: Hannah Azmi, Assistant Director of Student Employment and Bethany AuHoy, Director of University Career Center</p>
<p>Medium: UT Dallas relies on the UT System guidance and website and does not have its own website or other guidance available to faculty, staff, and students related to compliance with TEC §51.3525 and UTS 197 as other universities do. Without guidance, faculty, staff, and students may not pursue programs or activities consistent with the University’s mission and permitted by statute or may pursue programs or activities that may not be permitted by statute. In addition, faculty, staff, and students may not be aware if or how University resources might be available to support permissible programs and activities. Guidance would also help employees know what to do if they suspect noncompliance and how to report it.</p> <p>In addition, there is no compliance training specific to TEC §51.3525. This is not required by statute. However, other institutions have implemented compliance training for TEC §51.3525 to ensure that all employees are aware of the law and their responsibilities. Management should consider whether additional compliance training specific to TEC §51.3525 would be beneficial.</p>	<p>Institutional Compliance (IC) will review/develop a module for possible inclusion in Annual Compliance Education.</p> <p>Estimated Date of Implementation: If approved, February 1, 2025, with launch of annual training.</p> <p>Responsible Party Name and Title: Marco Mendoza, Assistant Vice President, Institutional Compliance</p>
<p>Medium: As noted in the last five annual audits related to the Purchasing and Contracting Policies Compliance Assessment (TEC §51.9337), the Standards of Conduct Guide is not available on the Institutional Compliance website: https://institutional-compliance.utdallas.edu/compliance/resources/standard-of-conduct/. The site states that it is being updated and will be reposted soon.</p> <p>The UTD Standards of Conduct Guide website states¹, "The purpose of the Standards of Conduct Guide is to emphasize the necessity for and the responsibility of all employees at UT Dallas to be aware of how to perform their duties and responsibilities in compliance with applicable provisions of federal and state laws, regulations and policies, and with the policies, rules and regulations of the Board of Regents of The UT System and UT Dallas. Section 2113.014 of the Texas Government</p>	<p>The Standards of Conduct Guide Standards of Conduct Guide is undergoing a comprehensive update to reflect current federal and state laws, regulations, and policies. This update process has been more extensive than initially anticipated. However, we prioritize its completion and immediate reposting on the Institutional Compliance website. The revised guide will include information regarding TEC §51.3525, similar to other institutions.</p> <p>Estimated Date of Implementation: We have set a definitive timeline for completing the updates and publishing the Standards of Conduct Guide. The updated guide will be available on the website by September 1, 2024.</p> <p>Responsible Party Name and Title: Sanaz Okhovat, Chief Compliance Officer</p>

¹ <https://institutional-compliance.utdallas.edu/compliance/resources/standard-of-conduct/>



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<p><u>Code</u> requires UT Dallas to give this information to all new employees. The information covers the standards of conduct required of all state employees."</p> <p>Other institutions have included information regarding TEC §51.3525 in their guides, and it would be beneficial to include this in the updated UTD Standards of Conduct Guide.</p>	
<p>Medium</p> <p><u>Websites</u></p> <p>Web Services uses a software tool that will perform keyword searches for websites; however, they do not have full access or staffing to update all websites on the UTD domain, which limits their monitoring capabilities. For example, the Office of Information Technology (OIT) provides personal websites that reside on the main domain that are offered to employees, and there are numerous research sites and research labs that Web Services does not have access to update. OIT provides assistance on how to set up a personal website, but there is no guidance related to acceptable use and compliance with applicable university, UT System, and State policies and laws.</p> <p><u>Social Media</u></p> <p>The University uses a software tool to monitor institutional social media; however, there is currently no software available on the market that will monitor <i>all</i> social media, such as images and temporary stories, to their knowledge.</p> <p>The University lacks personnel and resources to conduct increased monitoring due to the number of social media accounts that would require monitoring. The social media team does meet monthly with employees responsible for social media. Guidance for social media monitoring has been provided to the responsible social media teams across campus, but it does not contain information related to compliance with state laws and system policies.</p>	<p><u>Websites</u></p> <p>The University of Texas at Dallas (UTD) regards these sites as personal in nature and does not control or endorse their content. They are not associated with University administration. Because of this, The Office of Information Technology (OIT), University Web Services (UWS) and other administrative entities do not provide oversight for the personal content on these pages. OIT will work with stakeholders to explore discontinuing personal website services and sunset the existing personal sites. Staffing and cost for this initiative will be dependent on an audit of the existing environment.</p> <p>OIT will provide a recommendation to leadership on the discontinuation/migration of existing personal sites by the end of FY25.</p> <p>Estimated Date of Implementation: August 31, 2025</p> <p>Responsible Party Name and Title: Frank Feagans, Vice President and Chief Information Officer</p> <p><u>Social Media</u></p> <ul style="list-style-type: none"> • We will continue to review social media management services/providers and assess new technologies or services that would allow greater monitoring capabilities. • We will continue to review and update the online social media directory. • We will continue to update the guidelines for social media operators on campus. • We will continue to manage and add to our list of social media operators on campus. • We will continue to maintain the Teams group of social media operators on campus and host regular meetings with them and share any new information.



Observations and Recommendations (by Rating)	Management Action Plans
	<ul style="list-style-type: none">• We will meet periodically with the University attorneys to ensure continued compliance with the law. <p>Estimated date of Implementation: December 31, 2024</p> <p>Responsible Party Name and Title: Katherine Morales, Associate Vice President for Communications, Media Relations</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.

DocuSigned by:

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Toni Stephens, CPA, CIA, CRMA
Chief Audit Executive



Methodology and Scope

The UT Dallas Office of Audit 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 UT Dallas Office of Audit and Consulting Services is independent per GAGAS requirements for internal auditors. The procedures we performed included, but were not limited, 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 scope of the audit 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
- UTS 197
- UT System SB 17 Guidance
- Other key institutional policies where applicable



Distribution

Members and ex-officio members of the UT Dallas Institutional Audit Committee

Persons Responsible for Implementing Recommendations:

- Frank Feagans, Vice President and Chief Information Officer
- Colleen Dutton, Chief Human Resource Officer
- Sanaz Okhovat, Chief Compliance Officer
- Katherine Morales, Associate VP Communications, Media Relations
- Marco Mendoza, Assistant Vice President, Institutional Compliance
- Ellen Ammons, Director of Employee Relations and Talent Development
- Celeste Burnett, Director of Employment and Compensation
- Bethany AuHoy, Director of University Career Center
- Hannah Azmi, Assistant Director of Student Employment

Other Interested Parties

- Chad Thomas, Senior Associate Vice President of Student Affairs
- Joe Wilson, Senior Director, Web Services
- Stephanie McCane, Senior Director, Information Technology

External Parties

- The University of Texas System Audit Office
- Legislative Budget Board
- Governor's Office
- State Auditor's Office

Engagement Team

- Ms. Toni Stephens, CPA, CIA, CRMA, Chief Audit Executive
- Mr. Rob Hopkins, CFE, Audit Manager
- Mr. Luis Carrera, CPA, CIA, CISA, IT Audit Manager