

**The University of Texas**  
**Rio Grande Valley**<sup>TM</sup>

***Texas Education Code § 51.3525 Compliance Audit***

**Report No. 24-AEN-55**

**August 12, 2024**

**Office of Audits & Consulting 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 University of Texas Rio Grande Valley (UTRGV) Office of Audits & Consulting Services performed an audit to assess The University of Texas Rio Grande Valley’s compliance with TEC §51.3525 and UTS 197.

## Objective

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

- ❖ Closed DEI office(s) if any 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 UTRGV has achieved compliance with the requirements of 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[.]”	<b>Complies</b>
“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[.]”	<b>Complies</b>
“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 [.]”	<b>Complies</b>
“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[.]”	<b>Complies</b>

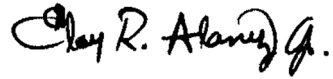
TEC §51.3525 Requirements	Based on Audit Procedures and Management Actions
<p>“Does not, except as required by federal law: ...            (E) require as a condition of enrolling at the institution or performing any institution function any person to participate in diversity, equity, and inclusion training, 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[.]”</p>	<p><b>Complies</b></p>
<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>	<p><b>Complies</b></p>

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 UTRGV has complied with the requirements of UTS 197.

Based on the work we performed, we believe that UTRGV 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: UTRGV management has not fully developed or incorporated specialized TEC §51.3525 into its portfolio of compliance training requirements to ensure appropriate members of the institution understand key requirements.</p> <p>UTRGV management should develop specialized TEC §51.3525 training to ensure appropriate members of the institution understand key requirements of the law in accordance with UTS Policy 197.</p>	<p>The Office of Institutional Compliance will develop, assign, and track completion of online training related to the prohibitions and exceptions to TEC §51.3525 for all employees. This training will include the identification of the points of contact that should be consulted regarding TEC §51.3525 and UTS 197 compliance questions.</p> <p>Implementation date: July 15, 2024</p>
<p>Medium: UTRGV management has not yet implemented ongoing controls to evaluate ongoing compliance with TEC §51.3525 and UTS Policy 197.</p> <p>UTRGV management should develop ongoing monitoring controls to evaluate ongoing compliance with TEC §51.3525 and UTS Policy 197.</p>	<p>The Office of Institutional Compliance will develop and implement a formal monitoring activity plan as well as a process to report results of such monitoring to the president and leadership.</p> <p>Implementation date: December 1, 2024</p>
<p>Medium: UTRGV management has not implemented an ongoing, documented certification process of compliance to provide assurances to the president regarding accuracy and completeness of annual certification(s) in accordance with UTS Policy 197.</p> <p>UTRGV management should implement a certification process to provide the president with reasonable assurance that all offices, divisions, and units of UTRGV are operating in compliance with TEC §51.3525 and the certification from the president to the UT System Chancellor is accurate and complete.</p>	<p>The training delivered by the Office of Institutional Compliance will include a mechanism to allow each employee taking the training to certify compliance with TEC §51.3525 and UTS 197. The results of the individual certifications will be reported to the UTRGV President to allow him to provide certification to the UT System Board of Regents and any other agencies requiring such compliance certification.</p> <p>Implementation date: August 16, 2024</p>

We will follow up on management action plans to determine their implementation status. Follow up will help enhance accountability and ensure that timely action is taken to address the observations in this report. We appreciate the courtesy and cooperation from management and departments.



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Eloy Alaniz, CPA, CIA, CISA  
Chief Audit Officer

**Risk Classifications and Definitions**

<b>Priority</b>	High probability of occurrence that would significantly impact UT System and/or UT Rio Grande Valley. Reported to UT System Audit, Compliance, and Risk Management Committee (ACRMC). Priority findings reported to the ACRMC are defined as <i>“an issue identified by an internal audit that, if not addressed timely, could directly impact achievement of a strategic or important operational objective of a UT institution or the UT System as a whole.”</i>
<b>High</b>	Risks are considered substantially undesirable and pose a significant level of exposure to UT Rio Grande Valley operations. Without appropriate controls, the risk will happen on a consistent basis. Immediate action is required by management in order to address the noted concern and reduce exposure to the organization.
<b>Medium</b>	Risks are considered undesirable and could moderately expose UT Rio Grande Valley. Without appropriate controls, the risk will occur some of the time. Action is needed by management in order to address the noted concern and reduce the risk exposure to a more desirable level.
<b>Low</b>	Low probability of various risk factors occurring. Even with no controls, the exposure to UT Rio Grande Valley will be minimal. Action should be taken by management to address the noted concern and reduce risk exposure to the organization.

## **Criteria, Methodology & Scope**

### **Criteria**

- ❖ Texas Education Code (TEC) Section 51.3525 – Responsibility of Governing Boards Regarding Diversity, Equity, and Inclusion Initiatives.
- ❖ The University of Texas System (UTS) Policy 197 – Compliance with State Laws Regarding Diversity, Equity, and Inclusion in Institutions of Higher Education.
- ❖ The University of Texas System Administration Senate Bill 17 Guidance

### **Methodology**

The Office of Audits & Consulting Services conducted this audit in conformance with the Institute of Internal Auditor’s International Standards for the Professional Practice of Internal Auditing. Additionally, we conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for findings and conclusions based on our audit objectives. The Office of Audits and Consulting Services is independent per both standards for internal auditors. These standards are also required by the Texas Internal Auditing Act.

### **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 this audit included activities taken from January 1, 2024, until July. 2024.



## **Report Distribution & Audit Team**

### **Report Distribution**

UTRGV Internal Audit Committee  
UT System Audit Office  
Governor's Office - Budget and Policy  
State Auditor's Office  
Legislative Budget Board

### **Audit Team**

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