



**The University of Texas at El Paso**  
**Office of Auditing and Consulting Services**  
**TEC §51.3525 Compliance Audit**

500 West University Ave.  
Admin Bldg. #402  
El Paso, Texas 79968  
915-747-5191  
[www.utep.edu](http://www.utep.edu)

**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 Office of Auditing and Consulting Services performed an audit to assess The University of Texas at El Paso’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 El Paso (UTEP) has complied with the requirements of TEC §51.3525. This included determining whether UTEP 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 UTEP 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



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TEC §51.3525 Requirements	Based on Audit Procedures and Management Actions
“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 UTEP has complied with the requirements of UTS 197.

Based on the work we performed, we believe that UTEP 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: Management continues the process of identifying and modifying endowment and scholarship accounts with relevant DEI references. The Office of Institutional Advancement flagged endowments and scholarships that needed further review if scholarship recipient criteria, established prior to the law, appeared to provide special benefits to students based on race, color, or ethnicity.</p> <p>Complete the process of identifying current endowment and scholarship agreements that may need modifications and ensure donor approval is obtained as necessary.</p>	<p>Continue to maintain a dedicated task force within the Office of Institutional Advancement to oversee the review and modification process until complete. Track compliance and report progress to UTEP senior management and the UTEP Office of Auditing and Consulting Services by November 1, 2024.</p>
<p>Medium: Management has taken action to strengthen controls around TEC §51.3525 and UTS 197 compliance, and a formal process to promote ongoing compliance with the law is being fully implemented.</p> <p>Continue the process of implementing additional controls that will ensure ongoing compliance with TEC §51.3525 and UTS 197.</p>	<p>The FY 2025 Annual Compliance Training will include a mandatory module on TEC §51.3525 and UTS 197 requirements. Timely completion of the module will be tracked and escalated in accordance with the Office of Institutional Compliance’s (OIC) already established process by October 31, 2024.</p>
<p>Medium: Management has taken action to support the President’s certification to the chancellor, and a formal process to request and track sub-certifications is being implemented.</p> <p>Ensure sub-certifications from Deans and Vice Presidents are received before the President’s certification to the Chancellor.</p>	<p>Management implemented the recommendation before report issuance.</p>
<p>Medium: The University continues to remove all references to DEI from its websites and social media accounts when identified. Due to the decentralized nature of managing websites and social media content, this process will be ongoing since remaining instances of DEI may lead to non-compliance with state law.</p> <p>Ensure all DEI references are removed from the University’s domain and social media accounts. Perform reviews to ensure ongoing compliance.</p>	<p>The Division of Marketing and Communications will conduct a review of UTEP’s public websites on an annual basis every December. Any corrections made will be reported to UTEP executive leadership. The process will be implemented by December 20, 2024.</p>



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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.

A handwritten signature in blue ink that reads 'Courtney H. Rios'.

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Courtney H. Rios, CPA, CIA, CFE  
Chief Audit Executive



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**Methodology and Scope**

The 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 Office of Auditing 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 June 27, 2024.

**Observation Ratings**

<b>Priority</b>	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.
<b>High</b>	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.
<b>Medium</b>	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.
<b>Low</b>	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



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**REPORT DATE**

August 12, 2024

**REPORT DISTRIBUTION**

**University of Texas System (UT System):**  
System Audit Office

**External:**

Governor's Office of Budget, Planning and Policy  
Legislative Budget Board  
Internal Audit Coordinator, State Auditor's Office

**University of Texas at El Paso:**

Dr. Heather Wilson, President  
Ms. Andrea Cortinas, Vice President and Chief of Staff  
Ms. Priscilla Castillo, Chief Legal Officer  
Ms. Mary Solis, Director/Chief Compliance and Ethics Officer, Office of Institutional Compliance  
Mr. Jake Logan, Vice President for Institutional Advancement  
Mr. Lucas Roebuck, Vice President for Marketing and Communications

**Audit Committee Members:**

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Dr. John Wiebe  
Mr. Mark McGurk  
Mr. Fernando Ortega  
Mr. Daniel Garcia  
Ms. Guadalupe Gomez