

MAPP 01.04.01 Diversity, Equity, and Inclusion Initiatives

Section General Administration
Area Legal Affairs
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I. PURPOSE AND SCOPE

This policy implements Senate Bill 17, enacted by the 88th Texas Legislature, Regular Session (2023), and codified by Texas Education Code § 51.3525. The University is committed to compliance with applicable federal and state laws, including Title VI of the Civil Rights Act of 1964 (“Title VI”), Title VII of the Civil Rights Act of 1964 (“Title VII”), Title IX of the Education Amendments Act of 1972 (“Title IX”), and Texas Education Code § 51.3525, as applicable to diversity, equity, and inclusion initiatives.

This policy is subject to the exceptions and exclusions set forth in Texas Education Code § 51.3525 and Section IV of this policy, including protections applicable to academic freedom and freedom of expression.

II. DEFINITIONS

1. **DEI:** Diversity, Equity, and Inclusion, as defined by SB 17, means engaging in any of the following activities:
 - 1.1. Influencing hiring or employment practices with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
 - 1.2. Promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;
 - 1.3. Promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, except as expressly authorized by OGC and in accordance with federal or state law; or
 - 1.4. Conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than those expressly authorized by OGC in accordance with federal or state law.
2. **DEI OFFICE:** An office, division, or other unit of an institution of higher education established for the purpose of:
 - (1) influencing hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal

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antidiscrimination laws;

(2) promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity;

(3) promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures 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, state, or federal law; or

(4) conducting trainings, programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities 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, state, or federal law.

3. **SPECIAL BENEFIT:** A term, condition, opportunity, or privilege that is unavailable, or substantially better than what is available, or provided to others.

4. **PREFERENTIAL CONSIDERATION:** Treating one person more favorably than another, in any respect, because of the inclusion or provision of a DEI Statement in materials provided to the University.

III. POLICY

1.1. No person shall be compelled, required, induced, or solicited to provide a DEI Statement.

1.2. No person shall make a DEI Statement on behalf of the University or any of its divisions, departments, offices, or units.

1.3. No person shall give preferential consideration to another person based on the provision of a DEI Statement.

1.4. No applicant for employment, employee, or participant in any University function shall be given preference on the basis of race, sex, color, ethnicity, or national origin.

1.5. No training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation shall be required as a condition of enrolling at the University or performing any University function unless the training, program, or activity is developed by an attorney and approved in writing by the General Counsel and the Texas Higher Education Coordinating Board for the sole

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purpose of ensuring compliance with any applicable court order or state or federal law.

1.6. No division, department, office, or unit of the University, whether academic or administrative, shall establish or maintain a DEI Office.

1.7. No division, department, office, or unit of the University shall hire or assign an employee or contract with a third party to perform the duties of a DEI Office.

1.8. No state-appropriated funds shall be spent in violation of this policy or Texas Education Code § 51.3525.

IV. POLICY EXCLUSIONS

1. **Required by Federal Law.** This policy does not prohibit conduct that is required by federal law, even if the conduct otherwise falls within the prohibitions of Section III.

2. **Protected Statements.** This policy does not prohibit statements protected by the Board of Regents' policy on Academic Freedom or the University Freedom of Expression Policy.

3. **Statements to Grantor or Accrediting Agency.** This policy does not prohibit a statement made in connection with a grant application or accreditation requirement that highlights the University's work in supporting first-generation college students, low-income students, or underserved student populations. This policy also does not prohibit a statement certifying compliance with state or federal anti-discrimination laws when made in connection with a grant application or accreditation requirement.

4. **Other Exclusions.** This policy does not apply to any of the following:

4.1. Academic course instruction;

4.2. Scholarly research or creative work by students, faculty, or other research personnel, including staff, or the dissemination of that research or work;

4.3. An activity of a registered student organization;

4.4. Guest speakers or performers on short-term engagements;

4.5. A policy, practice, procedure, program, or activity designed to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity;

4.6. Data collection; or

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4.7. Student recruitment or admissions.

5. Compliance Training. This policy does not prohibit equal employment opportunity, Title VII, Title IX, sexual harassment, or other compliance training that is required or permitted by applicable state or federal law and conducted in accordance with Texas Education Code § 51.3525. Such training may address applicable legal requirements, University policies, employee and student rights and responsibilities, reporting and complaint procedures, and prohibitions against retaliation.

Training required of a student, faculty member, or staff member as a sanction for violating University policy may also be provided when authorized by applicable law and consistent with Texas Education Code § 51.3525.

6. University Investigative Functions. This policy does not prohibit authorized University investigative functions from considering legally relevant information, including race, color, ethnicity, sex, gender identity, or sexual orientation, when necessary to investigate or determine alleged violations of applicable state or federal law or University policy, provided that such activities are conducted in accordance with Texas Education Code § 51.3525 and other applicable law

V. NONCOMPLIANCE

An employee or contractor of the University who violates this policy is subject to disciplinary action, up to and including termination of employment or contract, as applicable.

VI. INSTITUTIONAL COMPLIANCE AND CERTIFICATION

1. The University shall annually provide training concerning the requirements of Texas Education Code §51.3525, this policy, and permitted and prohibited activities. All training developed under this policy shall identify one or more points of contact to resolve questions and concerns.
2. Each Vice President and Department Head shall annually certify compliance with this policy within their respective areas of responsibility and submit the certification to the Office of Compliance. The Office of Compliance shall use the certifications, together with its annual compliance review, to support the University's institutional compliance determination and the Board of Regents' annual certification.
3. The Office of Compliance shall annually review the University's compliance with Texas Education Code Chapter 51B and this policy and submit written findings

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and supporting documentation to the President and Office of General Counsel. The Office of Compliance shall submit its findings not fewer than ninety (90) days before the annual August 31 certification deadline to provide sufficient time for administrative review and implementation of any recommended actions. Following administrative review, the Administration shall submit the University's institutional compliance determination and supporting documentation to the Board of Regents in support of the Board's statutory certification required by Texas Education Code § 51B.301(a).

4. Following receipt and review of the Office of Compliance's written findings, the President shall present the University's compliance findings and supporting documentation to the Board of Regents for purposes of the Board's annual certification required by Texas Education Code § 51.3525(e).
5. Pursuant to Texas Education Code § 51.3525(e), the University may not spend money appropriated to the University for a state fiscal year until the Board of Regents submits to the Legislature and the Texas Higher Education Coordinating Board a report certifying the Board's compliance with § 51.3525 during the preceding state fiscal year.

VII. STATE AUDIT COMPLIANCE

1. Upon receiving notice from the state auditor of an audit of the institution under Texas Education Code §51.3525, the University shall promptly notify the Internal Auditing Department, Vice President, and General Counsel of the pending audit.
2. The University is required to cooperate with the state auditor conducting the statutory audit.
3. If the University receives an audit finding of a violation under Texas Education Code §51.3525, it must resolve the violation no later than 180 days. If the violation is not cured, the University shall be ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.
4. The University shall coordinate with the Texas Higher Education Coordinating Board in connection with the statutorily required biennial study pursuant to Texas Education Code § 51.3525(j).