

MAPP 01.04.01 Diversity, Equity, and Inclusion Initiatives

Section General Administration
Area Legal Affairs
Original 08/02/2024
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TEXAS SOUTHERN UNIVERSITY
MANUAL OF ADMINISTRATIVE
POLICIES AND PROCEDURES

I. PURPOSE AND SCOPE

This policy implements Senate Bill I7, Texas Education Code§ 51.3525, passed by the Texas Legislature during the 2023 term. Texas Southern University ("TSU") 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 Section 51.3525, as applicable to Diversity, Equity, and Inclusion initiatives. This policy does not apply to those items listed in Section 4, including but not limited to statements protected by any Board of Regents' policy pertaining to academic freedom and any TSU policy regarding freedom of expression. Any policy recommended in conflict with these provisions will not apply.

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 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

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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.

III. POLICY

1. The following provisions apply to all offices, divisions, and units (academic and administrative) within TSU, unless excluded under Section 4.

1.1. No person shall be compelled, required, induced, or solicited to provide a DEI Statement, or shall make a DEI Statement on behalf of TSU or its affiliates, including any division, department, or unit, or shall give preferential consideration to another person based on the provision of a DEI Statement. For purposes of this policy, a DEI Statement is any statement relating to DEI, written or otherwise, that is contrary to TSU or university policies or federal or state law, including Title VI, Title VII, Title IX, and/or Texas Education Code Section 51.3525, but does not include statements protected by any Board of Regents' or TSU policy pertaining to freedom of expression and academic freedom. "Preferential consideration" means treating one person more favorably than another, in any respect, because of their inclusion or provision of a DEI statement in materials they provide to the institution.

1.2. No applicant for employment, employee, or participant in any function of TSU shall be given preference on the basis of race, sex, color, ethnicity, or national origin. To "give preference on the basis of" an attribute means to treat one person more favorably than another, in any respect, because of that attribute.

1.3. No training, program or activity that includes content designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation shall be mandatory (i.e., required as a condition before a person can enroll at the university, be employed by the university, or perform any university function) unless it is developed by an attorney and approved in writing by the President, Vice President, Board of Regents, and 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.

1.4. No division, department, or unit (academic or administrative) shall establish or maintain a DEI Office.

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1.5. No division, department, or unit (academic or administrative) shall hire or assign an employee or contract with a third party to perform the duties of a DEI Office.

1.6. No state appropriated funds shall be spent in violation of this policy or the requirements of Section 51.3525 of the Texas Education Code.

IV. POLICY EXCLUSIONS

1. Required by Federal Law. This policy does not prohibit conduct that is required by federal law, even if the conduct falls under Section 3.
2. Protected Statements. This policy does not prohibit statements protected by the Board of Regents' policy on Academic Freedom and the TSU Freedom of Expression Policy.
3. Statements to Grantor or Accrediting Agency.

3.1. This policy does not prohibit a statement highlighting TSU work in supporting first-generation college students, low-income students, or underserved student populations that is submitted for the purpose of applying for a grant or complying with the terms of accreditation by an accrediting agency.

3.2. This policy does not prohibit a statement certifying compliance with state and federal anti-discrimination laws that is submitted for the purpose of applying for a grant or complying with the terms of accreditation by an accrediting agency.

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 (which may include 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 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

4.7. Student recruitment or admissions.

5. Prohibited "DEI trainings" do not include annual equal employment opportunity and Title

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IX compliance trainings, including sexual harassment training, for faculty, staff, and students designed to educate on legal obligations and the university's commitment to treating employees, students, and applicants consistently and fairly without regard to protected classifications, including race, color, sex, sexual orientation, gender identity, pregnancy, religion, national origin, age, disability, genetic information, citizenship status, and veteran status. The trainings identify applicable federal and state laws and university policies, explain definitions, describe employee and student rights and reporting requirements, outline complaint reporting procedures, and emphasize the prohibition on retaliation.

Similarly, prohibited "DEI trainings" do not include trainings required of students, faculty, or staff as a sanction for violating university policies regarding compliance with Title IX, Title VII, and Chapter 21 of the Texas Labor Code or similar federal or state laws, if designed to educate recipients on compliance with university policies.

6. University Investigative Units. The prohibitions in this policy do not apply to university investigative units that must sometimes consider race, color, ethnicity, gender identity, or sexual orientation in reaching determinations on alleged violations of state or federal law and/or institutional policies.
7. Recognized History Events. The prohibitions in this policy do not apply to university activities to participate in state, federal, or other widely recognized history events, including but not limited to Black History Month, Hispanic Heritage Month, Women's History Month, and Pride Month.

V. NONCOMPLIANCE

An employee or contractor of TSU 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. TSU 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. TSU's Audit and Compliance departments shall annually review and submit written findings to the President and Board of Regents concerning the institution's compliance with Section 51.3525 of the Texas Education Code and this policy. The required timing of the annual reviews will be prescribed by the Board of Regents.
3. The Vice President shall, upon confirming the institution's compliance with this policy, submit to the President a certification on behalf of TSU that the institution complies with this policy. The President shall present this certification to the Board of Regents.

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4. TSU may not spend money appropriated to the institution 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 this Section during the preceding state fiscal year. This provision applies beginning with funds appropriated for the fiscal year starting September 1, 2024.

VII. STATE AUDIT FOR COMPLIANCE WITH TEXAS EDUCATION CODE §51.3525(g).

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 TSU 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 §51.3523, 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 to complete the statutorily required biennial study.