




Alan Stucky – Vice Chancellor & General Counsel

TO: All UNT System and Institution Administrators, Faculty, and Staff

FROM: Alan Stucky, Vice Chancellor & General Counsel 

DATE: November 30, 2023

RE: Texas Education Code §51.3525 (SB 17, 88th Texas Legislative Session, 2023)

I. INTRODUCTION

- A. Texas Education Code §51.3525, which becomes effective January 1, 2024, prohibits public institutions of higher education from:
 - 1. establishing or maintaining a “diversity, equity, and inclusion (DEI) office”;
 - 2. hiring or assigning an employee to perform the duties of a DEI office;
 - 3. contracting with a third party to perform the duties of a DEI office; or
 - 4. engaging in certain activities related to DEI.
- B. The University of North Texas System (UNT System) remains committed to supporting a diverse and inclusive student body, faculty, and staff within its values-based environment, and provides the following guidance to assist UNT System institutions in implementing the new law.
- C. The guidance provided is intended to be broad and it is not anticipated to cover every specific situation implicated by TEC §51.3525. For specific questions please reach out to UNT System Office of General Counsel.

II. WHAT IS PERMITTED

- A. Nothing in TEC §51.3525 alters the requirements of UNT System institutions to comply with federal and state antidiscrimination laws, including Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972 and the Equal Protection Clause of the United States Constitution. All programs and activities must continue to remain open and available to every person in a nondiscriminatory manner.
- B. UNT System institution policies, programs, trainings, and activities may promote and advance equal opportunity, equal access, and inclusion, which is required by federal and state law. Specifically, policies, programs, and activities may encourage an awareness and understanding of different individual experiences and respect for individuals and their respective heritages, beliefs, thoughts, and ideas. They may refer to the UNT System Better Together value: to foster an inclusive environment of respect, belonging, and access for all by developing awareness and understanding of different experiences, respecting diversity of people, beliefs, thoughts, and ideas, and supporting opportunities to remove barriers to equality and inclusion.

- C. TEC §51.3525 does not apply to the following UNT System functions:
1. Academic course instruction;
 2. Scholarly research or creative work by an institution of higher education's students, faculty or other research personnel or the dissemination of that research or work;
 3. An activity of a student organization registered with or recognized by an institution of higher education;
 4. Guest speakers or performers on short-term engagements;
 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;
 6. Data collection; or
 7. Student recruitment and admissions.
- D. UNT System institutions are still permitted to highlight work done in support of first-generation students, low-income students and underserved student populations when applying for grants or as necessary to comply with accreditation standards.

III. WHAT IS PROHIBITED

- A. TEC §51.3525 prohibits UNT System institutions from establishing or maintaining an office, division, or other unit for the purpose of:
1. influencing hiring or employment practices with respect to race, sex, color, or ethnicity, other than using color-blind and sex-neutral hiring processes in accordance with any federal or state antidiscrimination laws;
 2. promoting differential treatment of or providing special benefits to an individual based on the person's race, color, or ethnicity;
 3. promoting policies or procedures 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 purposes of ensuring compliance with any applicable court order or federal or state law; or
 4. conducting trainings, programs, or activities in reference to race, color, ethnicity, gender identity, or sexual orientation, other than policies or procedures approved in writing by the institution's general counsel and the Texas Higher Education Coordinating Board for the sole purposes of ensuring compliance with any applicable court order or federal or state law.
- B. Furthermore, the Board of Regents must certify, on an annual basis, that the UNT System institutions do not, except as required by federal law:
1. have a DEI Office, or an office that provides one or more of the above listed prohibitions;
 2. hire or assign an employee, or contract with a third party to perform any of the above listed prohibitions;

3. 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;
4. give preference 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;
5. require as a condition of enrolling at the institution or performing any institution function any person to participate in diversity, equity, and inclusion training;
 - (a) which includes any training, program or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation; and
 - (b) does not include a training, program, or activity approved in writing by the institution's general counsel and the Texas Higher Education Coordinating Board for the sole purposes of ensuring compliance with any applicable court order or federal or state law.

IV. CONCLUSION

- A. To comply with the requirements of TEC §51.3525, UNT System institutional employees should review the purpose, trainings, programs, and activities of each office, division, or other unit with which they are connected to ensure they are not established for the purpose of and do not conduct any of the prohibited functions of TEC §51.3525.
 1. Upon review, it may be determined that various offices, divisions, or other units, or a training, program, or activity must be eliminated or significantly restructured for compliance with the new law.
 2. In addition, all ongoing and future trainings, programs, and activities must be designed and conducted in accordance with the requirements of TEC §51.3525. Any known issues or questions about such should be brought to the immediate attention of the institution's Chief Compliance Officer and the UNT System Office of General Counsel.