



TEXAS HIGHER EDUCATION COORDINATING BOARD

P. O. Box 12788 Austin, Texas 78711

Stuart W. Stedman
CHAIR

Fred Farias III, O.D.
VICE CHAIR

Ricky A. Raven
SECRETARY OF THE BOARD

Levi D. McClenny
STUDENT REPRESENTATIVE

S. Javaid Anwar
Cody C. Campbell
Emma W. Schwartz
R. Sam Torn
Donna N. Williams
Welcome Wilson, Jr.

Harrison Keller, Ph.D.
COMMISSIONER
OF HIGHER EDUCATION

(512) 427-6101
Fax (512) 427-6127

Web site:
<http://www.highered.texas.gov>

December 9, 2020

Dr. Harrison Keller
Commissioner of Higher Education
1200 E. Anderson Lane
Austin, TX 78752

Dear Dr. Keller,

I am attaching the final report on our *Initial Review of Certain Sexual Misconduct Reporting and Compliance Requirements at Institutions of Higher Education*, Report No. THECB-CM-DR-21-032. This report will be presented at the January 2021 Committee on Academic and Workforce Success and the Agency Operations Committee meetings.

We found the following:

- 185 of the 204 institutions of higher education (IHEs) substantially complied with the Senate Bill 212 (SB-212) Chief Executive Officer (CEO) reporting requirements found in Texas Education Code (TEC) Title 3, Subtitle A, Chapter 51, Subchapter E-2, Section 51.258(a).
- The remaining 19 institutions may also be in substantial compliance. Implementation of corrective actions related to website reporting and reconciliation is needed to affirm each institution's commitment to the accuracy of its information. These issues are discussed further in the observations section of this report.

This project is the initial phase, establishing a baseline for more detailed and ongoing assessments of compliance with sexual misconduct reporting and compliance requirements codified in Texas Education Code Chapter 51, Subchapter E-2. The requirements were established in the 86th Legislative Session and became effective on January 1, 2020.

If you have any questions or comments, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Poehl".

Mark A. Poehl, CPA, CIA, CISA, CFE
Assistant Commissioner, Internal Audit and Compliance

EXECUTIVE SUMMARY

We found that 185 of the 204 institutions of higher education (IHEs) substantially complied with the Senate Bill 212 (SB-212) Chief Executive Officer (CEO) reporting requirements found in Texas Education Code (TEC) Title 3, Subtitle A, Chapter 51, Subchapter E-2, Section 51.258(a)¹. While the remaining 19 institutions may also be in substantial compliance, implementation of corrective actions related to website reporting and reconciliation is needed to affirm each institution's commitment to the accuracy of its information. These issues are discussed further in the observations section of this report.

The audit team greatly appreciates the cooperation and assistance provided by Academic Quality & Workforce (AQW) staff members during this review. We look forward to our ongoing collaborative efforts to ensure IHEs' compliance with SB-212.

This report is being included in the AQW report entitled *Report on Certain Incidents of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking at Certain Public and Private/Independent Institutions of Higher Education*.

Please see [Detailed Observations](#) section for additional information.

Review Objective, Scope and Methodologies

Our review objective was limited to reviewing compliance with specific SB-212 reporting requirements of TEC, Section 51.258(a) for the 204 IHEs identified by AQW as required to file a report. We collaborated with AQW staff and agreed that for the initial reporting cycle, our audit scope would be limited to the following criteria as noted below:

- IHE filed the report with the THECB on or before October 31, 2020,
- IHE's report included the CEO certification; and
- IHE posted the report on its website as required.

We further agreed that our role would be to remain neutral in policy matters while providing an objective review regarding the nature and extent of the IHEs' compliance with the reporting requirements.

¹ We considered House Bill 1735 (HB-1735) during this review as well. HB-1735 includes reporting requirements for the THECB that are in Section E-3 of the statute. However, the reporting requirement in this act does not take effect until September 1, 2021. As a result, this review focused on the reporting requirements of SB-212.

We reviewed the information submitted to the THECB and performed testing to address the review objective.

Background

This review was included on the 2021 Compliance Monitoring Plan. The reporting process is centralized in the AQW office under the Director, Private Postsecondary Institutions who also acts as the Title IX Coordinator for Institutions.

The 86th Legislature enacted SB-212, amended TEC, Title 3, Subtitle A, Chapter 51 by adding Subchapter E-2 regarding reporting certain incidents of sexual harassment, sexual assault, dating violence, or stalking at public and private IHEs. Specifically, Section 51.258(a) requires an IHE's chief executive officer (CEO) to certify to the THECB on an annual basis that it is in substantial compliance with this subchapter. Further, TEC, Section 51.258(b) authorizes the THECB to assess an administrative penalty for failure of the IHE to show substantial compliance with the act.

Additionally, TEC, Section 51.258(g) requires the THECB to annually submit its report to the governor, the lieutenant governor, the speaker of the house of representatives and the standing legislative committees with primary jurisdiction over legislation concerning sexual assault at postsecondary education institutions. The report will include a summary of the postsecondary education institutions found not to be in substantial compliance as provided by this section and any penalties assessed under this section during the calendar year preceding the date of the report. The initial report is to be filed not later than January 1, 2021. No penalties were assessed in this review period.

Detailed Observations

Our review found that the majority of IHEs (185 of 204) substantially complied with the CEO reporting requirements and accurately posted reports on their respective websites as noted in Item 1 in the Results Summary. Item 2 reflects other compliance issues as described in the Results Summary on the following page.

Results Summary

Item	Compliance Category	IHE
1.	Substantial Compliance with statutory report submission requirements	185
2.	Website:	
	a) Unable to locate a filed report on the website	10
	b) Discrepancies in information filed with the THECB versus the information posted on the IHE website	3
	c) Posted an editable document on the website	6
	Total	204

As noted in the above summary, we found various reporting issues with the remaining 19 IHEs, including:

- Ten reports were not located on the IHEs' websites.
- Three reports filed with the THECB compared to those posted on the IHE website were discrepant.
- Six reports were posted as Word or PDF documents, all of which could be edited (changed).

Implementation of corrective actions related to website reporting and reconciliation is needed to affirm each institution's commitment to the accuracy of its information.

PERFORMED BY:

Mr. Bobby Lane, CFE, CICA, Compliance Specialist, THECB

CC:

THECB

Board Members

Commissioner's Office

Mr. Rey Rodriguez, Deputy Commissioner and Chief of Staff
Ms. Nicole Bunker-Henderson, General Counsel

Academic Quality Workforce

Mr. Ray Martinez, Deputy Commissioner of Academic Affairs and Workforce Education
Ms. Stacey Silverman, Assistant Commissioner, Academic Quality and Workforce
Ms. Mary Smith, Assistant Deputy Commissioner, Academic Planning and Policy
Ms. Cathie Maeyaert, Director, Private and Postsecondary Institutions/Title IX Coordinator for Institutions

STATUTORY DISTRIBUTION REQUIREMENT

Governor's Office - Budget and Policy Division

Ms. Sarah Hicks, Director

State Auditor's Office

Internal Audit Coordinator

Legislative Budget Board

Mr. Christopher Mattson, Manager

Sunset Advisory Commission

Ms. Jennifer Jones, Executive Director