



TEXAS HIGHER EDUCATION COORDINATING BOARD

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March 8, 2022

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

Dr. Keller,

I am attaching the final report of our *Summary Results – Compliance Requirements - Texas Education Code Chapter 51 Subchapters E-2 and E-3*. This information will be presented at the April 27, 2022 Committee on Academic and Workforce Success meeting.

Our review of the 217 institutions of higher education (IHEs) found the following:

- Ten IHEs did not timely file the annual Chief Executive Officer (CEO) Certification as codified in Subchapter E-2 by October 31, 2021 the due date established by the coordinating board.
- Five IHEs were selected for a detailed review and assessment of policies and procedures, and each demonstrated substantial compliance with the 18 compliance requirements codified in Subchapter E-3.

This report contains the review results, compliance requirements, and individual reports as follows:

- Subchapter E-2 results in Tables 1 and 2;
- Subchapter E-3 results in Table 3;
- E-3 compliance requirements in Table 4; and
- Individual reports with recommendations to improve compliance included as Attachments 1 and 2.

The E-2 and E-3 requirements became effective on September 1, 2019.

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

Sincerely,

A handwritten signature in black ink that reads "Mark A. Poehl". The signature is written in a cursive style with a large, stylized 'M' and 'P'.

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

Table 1: E-2 CEO Certifications Not Timely Filed¹

Institution Type/Number	Institution	Date Received by Coordinating Board
Public Universities	None Noted	
Private Universities		
1	Texas Wesleyan University	11/01/2021
2	Huston-Tillotson University	11/09/2021
3	Jacksonville College	11/18/2021
4	Southwestern Christian College	12/02/2021
5	LeTourneau University	12/06/2021
6	Wiley College	03/03/2022
Community Colleges		
7	Alvin Community College	11/17/2021
8	Coastal Bend College	11/17/2021
9	North Central Texas College*	12/07/2021
10	Texas Southmost College*	01/05/2022
* - See the final reports for these IHEs as Attachments 1 and 2.		

¹ Texas Education Code Chapter 51 Subchapter E-2, Sec. 51.258 (a) The chief executive officer of each postsecondary educational institution shall annually certify in writing to the coordinating board that the institution is in substantial compliance with this subchapter. THECB requires the CEO Certification to be filed no later than October 31st each year based on Rule 3.19(a).

Table 2: E-2 CEO Certifications Reviewed²

Institution Type/Number	Institution	Review Results
Public Universities		
1	Texas Woman's University	Timely filed
Private Universities		
2	Our Lady of the Lake University	Timely filed
3	Wayland Baptist University	Timely filed
Community Colleges		
4	North Central Texas College*	Not timely filed
5	Texas Southmost College*	Not timely filed
* - See the final reports for these IHEs as Attachments 1 and 2.		

² Ibid p.3.

Table 3: E-3 Required Compliance Requirements Reviewed³

Institution Type/Number	Institution	Review Results
Public Universities		
1	Texas Woman’s University	No Improvement Recommendations Noted
Private Universities		
2	Our Lady of the Lake University	No Improvement Recommendations Noted
3	Wayland Baptist University	
Community Colleges		
4	North Central Texas College*	No Improvement Recommendations Noted
5	Texas Southmost College*	
* - See the final reports for these IHEs as Attachments 1 and 2. Improvement recommendations for E-2 were made for these institutions as presented in Tables 1 and 2.		

³ See table 4 on page 6 of this report for the Texas Education Code Chapter 51 Subchapter E-3 statutory requirements.

Table 4: E-3 Compliance Requirements

Item Number	Bill Reference by Section	Policy Compliance Requirements
1	51.282 (a)(1)(A)	A "Definitions" page and details prohibited behavior.
2	51.282 (a)(2)	Board-approved policy.
3	51.282 (b)(1)	Included in student handbook and personnel handbook.
4	51.282 (b)(2)	Dedicated webpage and clearly linked to the IHE homepage.
5	51.282 (c)	Requires each entering freshman or undergraduate transfer students to attend an orientation on the institution's policy.
6	51.282 (d)	Prevention and outreach program that addresses required elements.
7	51.282 (e)(1) and (2)	Protocol addresses counseling resources and must allow course drop.
8	51.282 (f)	Biennial review and governing board approval of policy revisions.
9	51.283	Electronic reporting option for an enrolled student or an IHE employee.
10	51.284	Provides "Amnesty for Students Reporting Certain Incidents".
11	51.285 (a) and (c)	Procedures for documenting a victim request not to investigate and to notify the victim of the IHE's decision whether it will investigate the alleged incident.
12	51.286	A disciplinary process for certain violations.
13	51.287	Protocol for when a student withdraws or graduates with pending disciplinary charges.
14	51.288	Trauma-informed investigation training to each peace officer employed by an IHE.
15	51.289 (1), (2), and (3)	IHE has an MOU with one or more of the following: (1) local law enforcement agencies; (2) sexual harassment, sexual assault, dating violence, or stalking advocacy groups; or (3) hospitals or other medical resource providers.
16	51.290 (1) and (2)	Provides for at least one or more responsible employee, confidential employee, and student advocate. Responsible employee for the purposes of Title IX; (1) Confidential employee to whom enrolled students may speak confidentially; and (2) Student advocate is an enrolled student to whom an enrolled student may speak confidentially.
17	51.291	Addresses confidentiality adheres to these requirements stipulated in this sub-section.
18	51.293	Protocols address equal access for students enrolled at or employees of an IHE who are persons with disabilities.

Attachment 1:



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March 8, 2022

Dr. G. Brent Wallace
Chancellor
North Central Texas College
1525 West California Street
Gainesville, Texas 76240

Dear Dr. Wallace,

I am attaching the final report on our review of the *Compliance Requirements - Texas Education Code Chapter 51 Subchapters E-2 and E-3 at North Central Texas College (NCTC)*. There was one observation related to noncompliance with the requirements contained in Texas Education Code (TEC), Title 3, Subtitle A, Chapter 51, Subchapter E-2. Management's response has been incorporated into the final report.

We recommend the following for NCTC:

- Ensure timely filing of the Chief Executive Officer (CEO) Certification in accordance with Subchapter E-2 and the Texas Higher Education Coordinating Board (coordinating board) due date.

This report contains observations and a recommendation related to our review of the policies available on your website along with information provided in follow up communications. The changes in law made by this act became effective September 1, 2019. The Summary of Results lists the 18 identified E-3 requirements reviewed and results obtained.

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

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

*Compliance Requirements - Texas Education Code Chapter 51 Subchapters E-2 and E-3
at North Central Texas College*
Report No. THECB-CM- 22-030-1
March 2022

AN EQUAL OPPORTUNITY EMPLOYER

EXECUTIVE SUMMARY

We found that NCTC substantially complied with all of the 18 requirements of House Bill 1735 (HB-1735) as codified in Texas Education Code (TEC), Title 3, Subtitle A, Chapter 51, Subchapter E-3.

We noted one item needing improvement as follows:

- Ensure timely filing of the CEO Certification in accordance with Subchapter E-2 and the coordinating board due date.

The audit team greatly appreciates the cooperation and assistance provided by NCTC and Academic Affairs and Workforce Education (AAWE) staff members during this review. We look forward to our ongoing collaborative efforts to ensure NCTC's compliance with Subchapters E-2 and E-3.

Review Objective, Scope, and Methodologies

Our review objectives were limited to reviewing compliance with specific SB-212 and HB-1735 compliance and reporting requirements as codified in TEC, Title 3, Subtitle A, Chapter 51, Subchapters E-2 and E-3 for institutions of higher education (IHEs). We collaborated with AAWE and agreed that our audit scope would be limited to certain criteria as noted in the Summary of Results section in this report.

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 IHE's compliance with the requirements of TEC, Title 3, Subtitle A, Chapter 51, Subchapter E-3.

We reviewed the information submitted to the coordinating board, requested follow up information as needed, and performed limited testing to address the review objectives.

Background

This review was included on the 2022 Compliance Monitoring Plan. Policy guidance and direction is centralized in the AAWE office under the Director of Private Postsecondary Institutions who also acts as the Title IX Coordinator for Institutions.

The 86th Legislature enacted HB-1735, amending Texas Education Code (TEC), Title 3, Subtitle A, Chapter 51, by adding Subchapters E-2 and E-3 requiring each postsecondary education institution to provide the Chief Executive Officer certification to the coordinating board and to adopt a policy on sexual harassment, sexual assault, dating violence, and stalking applicable to each student enrolled at and each employ of the institution. Further, Section 51.292(a) states: "If the coordinating board determines that a postsecondary education institution is not in substantial compliance with this subchapter, the coordinating board may assess an administrative penalty against the institution in an amount not to

*Compliance Requirements - Texas Education Code Chapter 51 Subchapters E-2 and E-3
at North Central Texas College* 2
Report No. THECB-CM-DR-22-030-1
March 2022

exceed \$2 million. In determining the amount of the penalty, the coordinating board shall consider the nature of the violation and the number of students enrolled at the institution.”

Additionally, Section 51.292(f) states: “The coordinating board shall annually submit 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 educational institutions a report regarding compliance with this subchapter, including a summary of the postsecondary educational institutions found not to be in substantial compliance as provided by this section and any penalties assessed under this section during the preceding year”. No penalties were assessed of NCTC in this review period.

Observations:

The coordinating board set October 31st each year as the deadline for submitting the CEO Certification. Our review found that NCTC did not submit the CEO Certification by the deadline. Rather, NCTC submitted the CEO Certification on December 7, 2021 during this review. Our review also found that NCTC substantially complied with the 18 HB-1735 (E-3) compliance requirements.

Recommendation:

Ensure timely filing of the CEO Certification in accordance with Subchapter E-2 and the coordinating board due date of October 31st each year.

Management Response:

We have developed the following process together with our Title IX Coordinator, Dr. Roxanne Del Rio, to ensure timely filing of the CEO Certification in accordance with Subchapter E-2 and the coordinating board due date:

The Title IX Coordinator will prepare the CEO certification Report October. I will present to the Board of Regents. After the Board of Regents review, I will sign the Certification Letter and the Title IX Coordinator will forward to the THECB by October 31, 2022.

If the Board of regents does not meet in month October, I will sign Certification form and send it to the Title IX Coordinator to submit to the THECB with a note "Pending Board of Regents Review" date: xxx, x, xxxx. Once the Board of Regents approves report, the Title IX Coordinator will resubmit.

Implementation Date:

Immediately.

Responsible Party(ies):

Dr. Roxanne Del Rio, Title IX Coordinator.

*Compliance Requirements - Texas Education Code Chapter 51 Subchapters E-2 and E-3
at North Central Texas College* 4
Report No. THECB-CM-DR-22-030-1
March 2022

PERFORMED BY:

Mr. Bobby Lane, CFE, CICA, Compliance Specialist
Ms. Elizabeth Steele, Compliance Specialist

cc:

THECB

Board Members

Commissioner's Office

Dr. Harrison Keller, Commissioner of Higher Education
Mr. Rey Rodriguez, Deputy Commissioner and Chief of Staff
Ms. Nichole Bunker-Henderson, General Counsel

Academic Affairs and Workforce Education

Dr. Ray Martinez, Deputy Commissioner, Academic Affairs and Workforce Education
Dr. Tina Jackson, Assistant Commissioner, Workforce Education
Ms. Cathie Maeyaert, Director, Private and Postsecondary Institutions/Title IX
Coordinator-Institutions

North Central Community College

Ms. Karla Metzler, Chair, Board of Regents
Dr. Roxanne Del Rio, Title IX Coordinator

Texas Association of Community Colleges

Mr. Jacob Fraire, President and CEO

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

Summary of Results

Item Number	Bill Reference by Section	Policy Compliance Requirements	Compliance Assessment
1	51.282 (a)(1)(A)	A "Definitions" page and details prohibited behavior.	No Improvement Recommendations Noted
2	51.282 (a)(2)	Board-approved policy.	
3	51.282 (b)(1)	Included in student handbook and personnel handbook.	
4	51.282 (b)(2)	Dedicated webpage and clearly linked to the IHE homepage.	
5	51.282 (c)	Requires each entering freshman or undergraduate transfer students to attend an orientation on the institution's policy.	
6	51.282 (d)	Prevention and outreach program that addresses required elements.	
7	51.282 (e)(1) and (2)	Protocol addresses counseling resources and must allow course drop.	
8	51.282 (f)	Biennial review and governing board approval of policy revisions.	
9	51.283	Electronic reporting option for an enrolled student or an IHE employee.	
10	51.284	Provides "Amnesty for Students Reporting Certain Incidents".	
11	51.285 (a) and (c)	Procedures for documenting a victim request not to investigate and to notify the victim of the IHE's decision whether it will investigate the alleged incident.	
12	51.286	A disciplinary process for certain violations.	
13	51.287	Protocol for when a student withdraws or graduates with pending disciplinary charges.	

Item Number	Bill Reference by Section	Policy Compliance Requirements	Compliance Assessment
14	51.288	Trauma-informed investigation training to each peace officer employed by an IHE.	No Improvement Recommendations Noted
15	51.289 (1), (2), and (3)	IHE has an MOU with one or more of the following: (1) local law enforcement agencies; (2) sexual harassment, sexual assault, dating violence, or stalking advocacy groups; or (3) hospitals or other medical resource providers.	
16	51.290 (1) and (2)	Provides for at least one or more responsible employee, confidential employee, and student advocate. Responsible employee for the purposes of Title IX; (1) Confidential employee to whom enrolled students may speak confidentially; and (2) Student advocate is an enrolled student to whom an enrolled student may speak confidentially.	
17	51.291	Addresses confidentiality adheres to these requirements stipulated in this sub-section.	
18	51.293	Protocols address equal access for students enrolled at or employees of an IHE who are persons with disabilities.	

Attachment 2



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March 8, 2022

Dr. Jesus Roberto Rodriguez
President
Texas Southmost College
80 Fort Brown
Brownsville, Texas 78520

Dear Dr. Rodriguez,

I am attaching the final report on our review of the *Compliance Requirements - Texas Education Code Chapter 51 Subchapters E-2 and E-3 at Texas Southmost College (TSC)*. There was one observation related to noncompliance with the requirements contained in Texas Education Code (TEC), Title 3, Subtitle A, Chapter 51, Subchapter E-2. Management's response has been incorporated into the final report.

We recommend the following for TSC:

- Ensure timely filing of the Chief Executive Officer (CEO) Certification in accordance with Subchapter E-2 and the Texas Higher Education Coordinating Board (coordinating board) due date.

This report contains observations and a recommendation related to our review of the policies available on your website along with information provided in follow up communications. The changes in law made by this act became effective September 1, 2019. The Summary of Results lists the 18 identified E-3 requirements reviewed and results obtained.

A handwritten signature in cursive script that reads "Mark A. Poehl".

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

*Compliance Requirements - Texas Education Code Chapter 51 Subchapters E-2 and E-3
at Texas Southmost College*
Report No. THECB-CM- 22-030-3
March 2022

1

AN EQUAL OPPORTUNITY EMPLOYER

EXECUTIVE SUMMARY

We found that TSC substantially complied with all of the 18 requirements of House Bill 1735 (HB-1735) as codified in Texas Education Code (TEC), Title 3, Subtitle A, Chapter 51, Subchapter E-3.

We noted one item needing improvement as follows:

- Ensure timely filing of the CEO Certification in accordance with Subchapter E-2 and the coordinating board due date.

The audit team greatly appreciates the cooperation and assistance provided by TSC and Academic Affairs and Workforce Education (AAWE) staff members during this review. We look forward to our ongoing collaborative efforts to ensure TSC's compliance with Subchapters E-2 and E-3.

Review Objective, Scope, and Methodologies

Our review objectives were limited to reviewing compliance with specific SB-212 and HB-1735 compliance and reporting requirements as codified in TEC, Title 3, Subtitle A, Chapter 51, Subchapters E-2 and E-3 for institutions of higher education (IHEs). We collaborated with AAWE and agreed that our audit scope would be limited to certain criteria as noted in the Summary of Results section in this report.

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 IHE's compliance with the requirements of TEC, Title 3, Subtitle A, Chapter 51, Subchapter E-3.

We reviewed the information submitted to the coordinating board, requested follow up information as needed, and performed limited testing to address the review objectives.

Background

This review was included on the 2022 Compliance Monitoring Plan. Policy guidance and direction is centralized in the AAWE office under the Director of Private Postsecondary Institutions who also acts as the Title IX Coordinator for Institutions.

The 86th Legislature enacted HB-1735, amending Texas Education Code (TEC), Title 3, Subtitle A, Chapter 51, by adding Subchapters E-2 and E-3 requiring each postsecondary education institution to provide the Chief Executive Officer certification to the coordinating board and to adopt a policy on sexual harassment, sexual assault, dating violence, and stalking applicable to each student enrolled at and each employ of the institution. Further, Section 51.292(a) states: "If the coordinating board determines that a postsecondary education institution is not in substantial compliance with this subchapter, the coordinating board may assess an administrative penalty against the institution in an amount not to

*Compliance Requirements - Texas Education Code Chapter 51 Subchapters E-2 and E-3
at Texas Southmost College* 2
Report No. THECB-CM-DR-22-030-3
March 2022

exceed \$2 million. In determining the amount of the penalty, the coordinating board shall consider the nature of the violation and the number of students enrolled at the institution.”

Additionally, Section 51.292(f) states: “The coordinating board shall annually submit 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 educational institutions a report regarding compliance with this subchapter, including a summary of the postsecondary educational institutions found not to be in substantial compliance as provided by this section and any penalties assessed under this section during the preceding year”. No penalties were assessed of TSC in this review period.

Observations:

The coordinating board set October 31st each year as the deadline for submitting the CEO Certification. Our review found that TSC did not submit the CEO Certification by the deadline. Rather, TSC submitted the CEO Certification on January 4, 2022 during this review. Our review also found that TSC substantially complied with the 18 HB-1735 (E-3) compliance requirements.

Recommendation:

Ensure timely filing of the CEO Certification in accordance with Subchapter E-2 and the coordinating board due date of October 31st each year.

Management Response:

TSC has established and implemented measures to ensure that the filing requirements of the report are met and completed in a timely manner. TSC staff has entered the requirements and the deadlines for the CEO Certification report into a report manager software, Contract Safe that will ensure that alerts and reminders are sent to the Title IX Coordinator prior to the Coordinating Board established annual deadline of October 31st.

Once the Title IX Coordinator prepares the report, it is sent to the CEO. The CEO presents the report to the Board of Trustees at its September board meeting for review and acceptance. Once accepted by the Board of Trustees, the CEO signs the certification, and the Title IX Coordinator ensures that the report is posted on the TSC website and submitted to THECB as required.

Implementation Date:

This plan was established and implemented in December of 2021.

Responsible Party(ies):

Ms. Elizabeth Balderrama, Executive Director of Human Resources and Title IX Coordinator, is responsible for submitting the report to the CEO, Dr. Jesus Rodriguez, President of TSC, and she is also responsible for publishing and distributing the report as required. Martha Casanova, Coordinator of Records and Contract Management, is the software administrator and has entered in the report, responsible party and deadlines.

PERFORMED BY:

Mr. Bobby Lane, CFE, CICA, Compliance Specialist
Ms. Elizabeth Steele, Compliance Specialist

cc:

THECB**Board Members****Commissioner's Office**

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

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Dr. Tina Jackson, Assistant Commissioner, Workforce Education
Ms. Cathie Maeyaert, Director, Private and Postsecondary Institutions/Title IX
Coordinator-Institutions

Texas Southmost College

Mr. Ruben Herrera, J.D., Chair, Board of Trustees
Ms. Elizabeth Balderrama, MBA, MEd, Executive Director of Human Resources

Texas Association of Community Colleges

Mr. Jacob Fraire, President and CEO

STATUTORY DISTRIBUTION REQUIREMENT**Governor's Office - Budget and Policy Division**

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PERFORMED BY:

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Institutions

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