



# TEXAS HIGHER EDUCATION COORDINATING BOARD

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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.

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

## 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 86<sup>th</sup> 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

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 31<sup>st</sup> 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 31<sup>st</sup> 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**

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Ms. Elizabeth Balderrama, MBA, MEd, Executive Director of Human Resources

**Texas Association of Community Colleges**

Mr. Jacob Fraire, President and CEO

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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.	