

**Report on Compliance with
Reporting Certain Incidents of
Sexual Harassment, Sexual
Assault, Dating Violence, or
Stalking at Public and
Private/Independent
Institutions of Higher Education**

**A Report to the Texas Legislature Per Texas
Education Code, Title 3, Subtitle A, Chapter 51,
Subchapters E-2 and E-3**

April 2023

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Texas Higher Education Coordinating Board



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Agency Mission

The mission of the Texas Higher Education Coordinating Board (THECB) is to serve as a resource, partner, and advocate for Texas higher education, resulting in a globally competitive workforce that positions Texas as an international leader.

Agency Vision

The THECB will be recognized as an international leader in developing and implementing innovative higher education policy to accomplish our mission.

Agency Philosophy

The THECB will promote access to and success in quality higher education across the state with the conviction that access and success without quality is mediocrity and that quality without access and success is unacceptable.

The THECB's core values are:

Accountability: We hold ourselves responsible for our actions and welcome every opportunity to educate stakeholders about our policies, decisions, and aspirations.

Efficiency: We accomplish our work using resources in the most effective manner.

Collaboration: We develop partnerships that result in student success and a highly qualified, globally competent workforce.

Excellence: We strive for excellence in all our endeavors.

The Texas Higher Education Coordinating Board does not discriminate on the basis of race, color, national origin, gender, religion, age or disability in employment or the provision of services.

Please cite this report as follows: Texas Higher Education Coordinating Board. (2023). Report on Compliance with Reporting Certain Incidents of Sexual Harassment, Sexual Assault, Dating Violence, or Stalking at Public and Private/Independent Institutions of Higher Education. Austin, TX.

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Executive Summary

Senate Bill (SB) 212 and House Bill (HB) 1735, passed by the 86th Texas Legislature, codified as Texas Education Code (TEC), Chapter 51, Subchapters E-2 and E-3, respectively, amended certain sections of TEC, Chapter 51, and enacted several measures to: (1) improve the reporting of certain incidents of sexual harassment, sexual assault, dating violence, and stalking (collectively referred to in this report as “sexual misconduct”) at public and private/independent institutions of higher education; and (2) enhance institutional policies and employee training regarding the reporting of such incidents.

Included in SB 212 and HB 1735 were directives that the Texas Higher Education Coordinating Board (THECB or Coordinating Board): (1) convene an advisory committee to develop recommended rules; (2) form a training advisory committee to develop recommended training for persons required to report certain incidents of sexual misconduct; (3) monitor institutions for compliance and assess penalties as necessary; and (4) submit required reports regarding compliance with the legislation.

Before the first annual report to the Legislature in January 2021, the THECB satisfied these directives by:

- developing and adopting reporting rules through negotiated rulemaking;
- developing recommended training for persons required to report certain incidents of sexual misconduct through a training advisory committee;
- creating a website to contain: (1) the training developed for certain postsecondary employees, (2) sample report templates offered as examples for purposes of complying with reporting requirements, and (3) an approved Chief Executive Officer (CEO) Certification Form for CEOs to certify annually by Oct. 31;
- collecting and reviewing initial CEO Certification Forms required by October 31, 2020; and
- monitoring compliance and preparing the report submitted to the Legislature in January 2021. The initial report covered required institutional compliance with Subchapter E-2 as of the January 1, 2020, effective date.

After the initial January 2021 report to the Legislature, the THECB has continued to satisfy these directives by:

- updating report templates to allow institutions to clearly identify institution locations and reporting periods;
- continuing to monitor institutional compliance with Subchapter E-2;
- monitoring institutional compliance with Subchapter E-3; and
- preparing this report to the Legislature covering required institutional compliance with Subchapters E-2 and E-3.

For Academic Year 2021-2022, in November 2022 through February 2023, the THECB’s Assistant Commissioner for Internal Audit and Compliance and staff conducted the review of

compliance required by Subchapter E-2. The following summarizes institutions' compliance with the directives of Subchapter E-2:

- 217 postsecondary educational institutions (PEIs) were identified and required to provide CEO certifications. These institutions included systems and individual locations.
- 10 PEIs did not timely file the annual CEO Certification Form, as codified in TEC, Subchapter E-2, by the deadline. The THECB staff worked with each institution to ensure the forms were submitted. All 217 PEIs have now submitted forms.

For Academic Year (AY) 2021-2022, in September 2022 through February 2023, the THECB's Assistant Commissioner for Internal Audit and Compliance and staff conducted the review of compliance required by Subchapter E-3. The following summarizes institutions' compliance with the directives of Subchapter E-3:

- Dallas College implemented policy recommendations from the prior report dated May 2021.
- Southwestern Christian College implemented policy recommendations from the prior report dated May 2021.

Based on three years of compliance monitoring, the THECB convened a negotiated rulemaking committee pursuant to Texas Education Code, Sections 51.259 and 51.295, to develop an administrative penalty matrix as part of the rules found in THECB Administrative Rule 3.19. The rule revision will be considered by the Coordinating Board at the April 27, 2023 quarterly meeting.

Introduction

The 86th Texas Legislature recognized the need for accurate reporting of certain incidents of sexual harassment, sexual assault, dating violence, or stalking (collectively referred to in this report as “sexual misconduct”) at public and private/independent institutions of higher education through its passage of Senate Bill (SB) 212 and House Bill (HB) 1735, each of which amended certain sections of the Texas Education Code (TEC), Chapter 51.

HB 1735, codified as TEC, Chapter 51, Subchapter E-3 (see [Appendix A](#)), requires postsecondary institutions to adopt a policy on sexual harassment, sexual assault, dating violence, or stalking applicable to both enrolled students and employees. SB 212, codified as TEC, Chapter 51, Subchapter E-2 (see [Appendix B](#)), requires an employee of a public or private or independent institution of higher education who witnesses or is told about an incident involving sexual harassment, sexual assault, dating violence, or stalking alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident to report such incidents to the institution’s Title IX coordinator.

Included in SB 212 and HB 1735 were directives that the Texas Higher Education Coordinating Board (THECB or Coordinating Board): (1) convene an advisory committee to develop recommended rules; (2) form a training advisory committee to develop recommended training for persons required to report certain incidents of sexual misconduct; (3) monitor institutions for compliance and assess penalties as necessary; and (4) submit required reports regarding compliance with the legislation.

Before the first annual report to the Legislature in January 2021, the THECB satisfied these directives by:

- developing and adopting reporting rules through negotiated rulemaking;
- developing recommended training for persons required to report certain incidents of sexual misconduct through a training advisory committee;
- creating a website to contain: (1) the training developed for certain postsecondary employees, (2) sample report templates offered as examples for purposes of complying with reporting requirements, and (3) an approved Chief Executive Officer (CEO) Certification Form for CEOs to certify annually by Oct. 31;
- collecting and reviewing initial CEO Certification Forms required by October 31, 2020; and
- monitoring compliance and preparing the report submitted to the Legislature in January 2021. The initial report covered required institutional compliance with Subchapter E-2 as of the January 1, 2020, effective date.

After the initial January 2021 report to the Legislature, the THECB has continued to satisfy these directives by:

- updating report templates to allow institutions to clearly identify institution locations and reporting periods;

- continuing to monitor institutional compliance with Subchapter E-2;
- monitoring institutional compliance with Subchapter E-3;
- preparing this report to the Legislature covering required institutional compliance with Subchapters E-2 and E-3; and
- conducting negotiated rulemaking to develop an administrative penalty matrix as part of the administrative rules found in THECB Administrative Rule 3.19. The rule revision will be considered by the Coordinating Board at the April 27, 2023, quarterly meeting.

Templates Provided by the Coordinating Board

The Coordinating Board has provided templates to institutions to facilitate the required reporting:

- The CEO Certification Form (see [Appendix C](#)) - allows the reporting CEO to indicate if multiple locations within an institutional system are included under the certified information. The form allows for greater clarity as to the time period covered by the certified information.
- The Title IX Coordinator Quarterly Report (see [Appendix D](#))
- The CEO Report to the Governing Board (see [Appendix E](#)) - allows the CEO to indicate if multiple locations within an institutional system are included in the report.

Subchapter E-2 Compliance for Academic Year 2021-2022

Texas Education Code, Chapter 51, Subchapters E-2 and E-3, define the postsecondary educational institutions (PEIs) that must be in substantial compliance as an institution of higher education or a private or independent institution of higher education, as defined by TEC, Chapter 61, Section 61.003. The definition for an institution of higher education in TEC, Section 61.003(8), includes other agencies of higher education as defined in the section. THECB identified 217 PEIs, including educational systems, individual campuses, and other agencies of higher education that are required to comply with Subchapters E-2 and E-3.

For AY 2021-2022, in November 2022 through February 2023, the THECB's Assistant Commissioner for Internal Audit and Compliance and staff conducted the review of compliance required by Subchapter E-2. Of the 217 PEOs identified and required to provide annual CEO Certification Forms, 10 PEIs did not timely file the form by October 31, 2022 which is the due date established in Administrative Rule 3.19. Agency staff worked with each institution to ensure the forms were submitted. All 217 PEIs have now submitted forms. ([Appendix F](#) is a list of identified postsecondary educational institutions required to comply with Subchapter E-2.)

Reports with recommendations and corrective action plans were issued for two PEIs with the most overdue CEO Certification Form submissions (see [Appendix G](#): Summary Results of Compliance Monitoring for AY 2021-2022, Attachments 1 and 2).

[Figure 1](#) provides a graphic summary of the CEO Certification Forms received as of the date of this report. The figure breaks submissions into timely filing and late filing.

Figure 1. CEO Certification Forms Received for AY 2021-2022

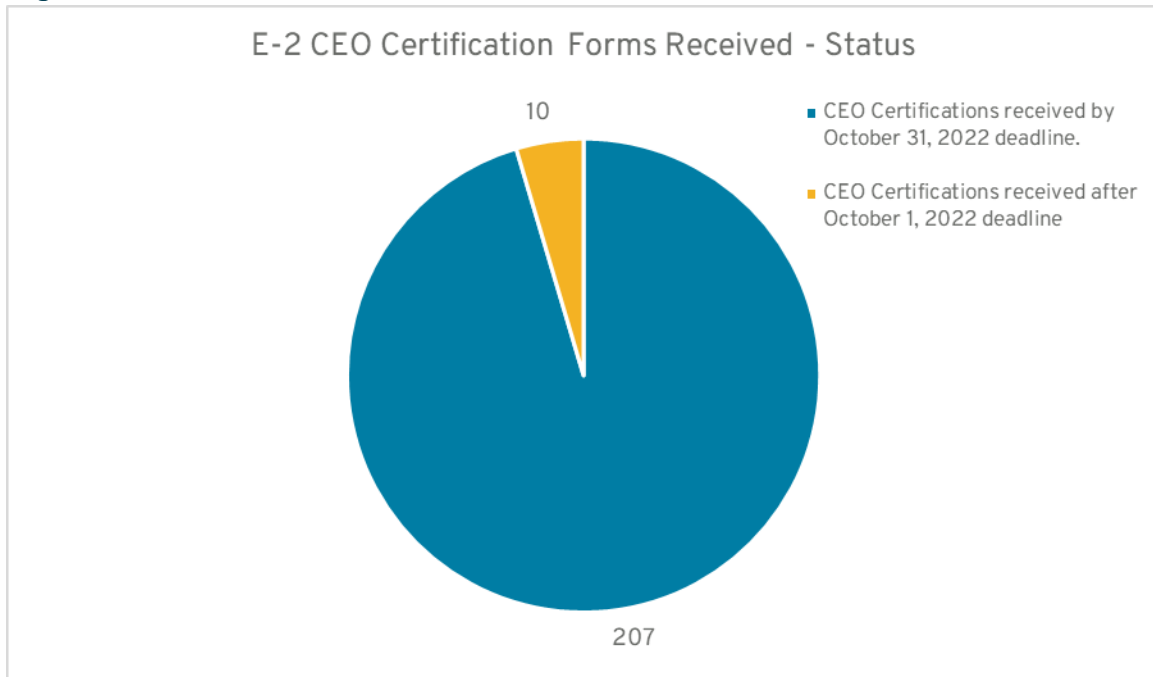
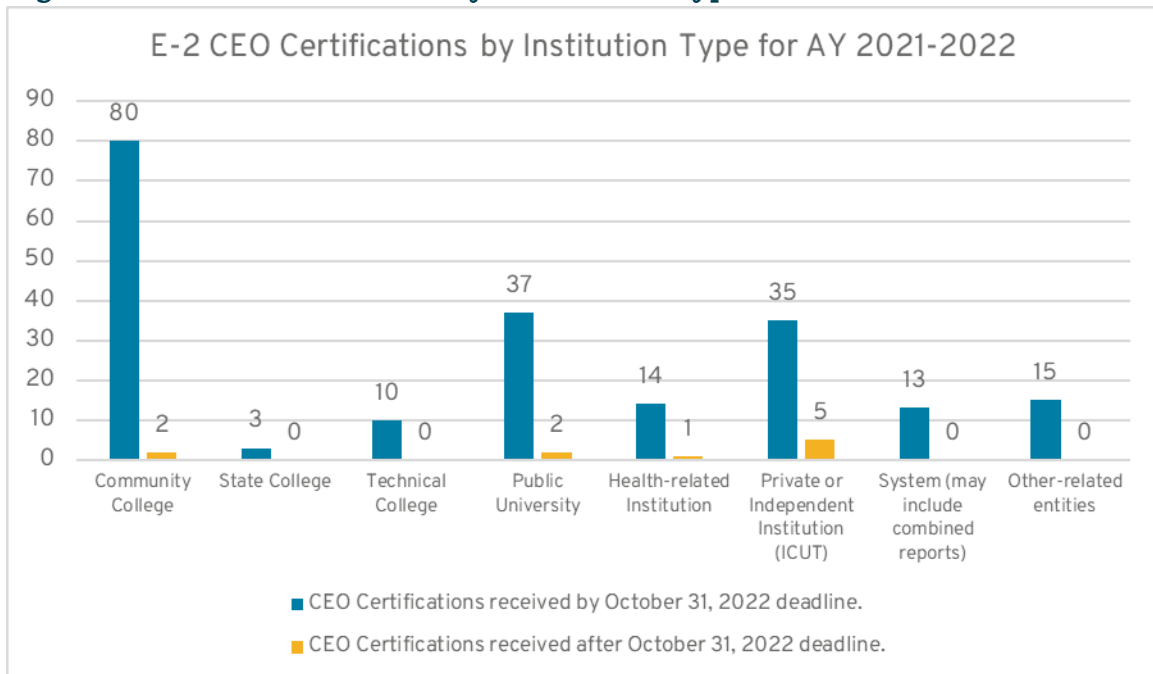


Figure 2 provides a graphic summary of the CEO certifications by institution type. The figure breaks submissions into timely filing and late filing.

Figure 2. CEO Certifications by Institution Type for AY 2021-2022



Subchapter E-3 Compliance for Academic Year 2021-2022

For Academic Year 2021-2022, in September 2022 through February 2023, the THECB's Assistant Commissioner for Internal Audit and Compliance and staff conducted the review of compliance required by Subchapter E-3.

Subchapter E-3, effective August 1, 2020, requires institutions to develop a policy on sexual harassment, sexual assault, dating violence, and stalking; allows for electronic reporting of sexual misconduct; provides amnesty for good faith reports; allows victims to request no investigation; provides a disciplinary process for sexual misconduct; addresses student withdrawal or graduation pending disciplinary charges and requests for information from another postsecondary educational institution; requires trauma-informed investigation training; requires at least one memorandum of understanding with local law enforcement, a sexual misconduct advocacy group, or a hospital or medical provider; provides for designation of confidential employees and student advocates; sets confidentiality protections; allows the THECB to assess an administrative penalty for institutional noncompliance; and requires equal access to persons with disabilities.

The THECB's Assistant Commissioner for Internal Audit and Compliance (IACM) and staff developed an [18-point checklist](#) (Appendix G, Table 2) for a detailed review and assessment of policies and procedures under Subchapter E-3. For the AY 2021-2022 review, IACM and program staff confirmed compliance with E-2 for all 217 PEIs and followed up on two PEIs that previously were not in substantial compliance with E-3. This follow-up verification determined:

- Dallas College implemented policy recommendations from the prior report dated May 2021. Improvements included biennial Board of Trustees review and approval of policy revisions; a policy providing amnesty for students reporting certain incidents; procedures for when a student withdraws or graduates with pending disciplinary charges; and an election not to designate student advocates as permitted by statute. See [Appendix G](#): Summary Results of Compliance Monitoring for AY 2021-2022, Attachment 3.
- Southwestern Christian College implemented policy recommendations from the prior report dated May, 2021. Improvements included Board of Trustees approval of student conduct policies; a hyperlink from the PEIs home page to its sexual assault and reporting related policies and procedures; a home page link clearly indicating that it is for sexual assault reporting for students and employees; a policy providing amnesty for students reporting certain incidents; procedures for documenting a victim's request not to investigate and to notify the victim of the decision whether to investigate an alleged Incident; and trauma-Informed investigation training for PEI law enforcement employees.

See [Appendix G](#) Summary Results of Compliance Monitoring for AY 2021-2022.

Negotiated Rulemaking

Based on three years of compliance monitoring, THECB convened a negotiated rulemaking committee pursuant to Texas Education Code, Sections 51.259 and 51.295, to develop an administrative penalty matrix as part of Administrative Rule 3.19. The negotiated rulemaking committee met August 1, 2022. After the first session, a workgroup was formed for additional work on the proposed rule, upon which consensus was not achieved.

The workgroup, which was a seven-member subset of the negotiated rulemaking committee, met on September 21, 2022, and again on October 24, 2022. A second session of the full negotiated rulemaking committee was convened on November 10, 2022. Consensus on all proposed rule language was achieved.

Upon review by internal staff and the governor's office, a final proposed rule was published in the *Texas Register* on February 3, 2022. No comments were received. The Coordinating Board will consider the proposed rule ([Appendix H](#)) at its April 27, 2023, quarterly board meeting.

Once an administrative penalty matrix is part of the administrative rules, the THECB will consider assessing penalties for non-compliance with Texas Education Code, Chapter 51, Subchapters E-2 or E-3, starting with the 2022-2023 reporting period.

Conclusion

The THECB staff will continue to provide support to postsecondary educational institutions as they work toward substantial compliance with TEC, Chapter 51, Subchapters E-2 and E-3. In addition, the agency's Internal Audit and Compliance Division will continue to monitor compliance and provide updates on each institution's compliance activities.

Appendix A: Texas Education Code, Chapter 51, Subchapter E-3

EDUCATION CODE TITLE 3. HIGHER EDUCATION

SUBTITLE A. HIGHER EDUCATION IN GENERAL

CHAPTER 51. PROVISIONS GENERALLY APPLICABLE TO HIGHER EDUCATION

SUBCHAPTER E-3. SEXUAL HARASSMENT, SEXUAL ASSAULT, DATING VIOLENCE, AND STALKING

Sec. 51.281. DEFINITIONS. In this subchapter:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Dating violence," "sexual assault," and "stalking" have the meanings assigned by the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. Section 1092(f)(6)(A)).

(3) "Postsecondary educational institution" means an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section [61.003](#).

(4) "Sexual harassment" means unwelcome, sex-based verbal or physical conduct that:

(A) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or

(B) in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.282. POLICY ON SEXUAL HARASSMENT, SEXUAL ASSAULT, DATING VIOLENCE, AND STALKING. (a) Each postsecondary educational institution shall adopt a policy on sexual harassment, sexual assault, dating violence, and stalking applicable to each student enrolled at and each employee of the institution. The policy must:

- (1) include:
- (A) definitions of prohibited behavior;
 - (B) sanctions for violations;

(C) the protocol for reporting and responding to reports of sexual harassment, sexual assault, dating violence, and stalking;

(D) interim measures to protect victims of sexual harassment, sexual assault, dating violence, or stalking during the pendency of the institution's disciplinary process, including protection from retaliation, and any other accommodations available to those victims at the institution; and

(E) a statement regarding:

(i) the importance of a victim of sexual harassment, sexual assault, dating violence, or stalking going to a hospital for treatment and preservation of evidence, if applicable, as soon as practicable after the incident;

(ii) the right of a victim of sexual harassment, sexual assault, dating violence, or stalking to report the incident to the institution and to receive a prompt and equitable resolution of the report; and

(iii) the right of a victim of a crime to choose whether to report the crime to law enforcement, to be assisted by the institution in reporting the crime to law enforcement, or to decline to report the crime to law enforcement; and

(2) be approved by the institution's governing board before final adoption by the institution.

(b) Each postsecondary educational institution shall make the institution's sexual harassment, sexual assault, dating violence, and stalking policy available to students, faculty, and staff members by:

(1) including the policy in the institution's student handbook and personnel handbook; and

(2) creating and maintaining a web page dedicated solely to the policy that is easily accessible through a clearly identifiable link on the institution's Internet website home page.

(c) Each postsecondary educational institution shall require each entering freshman or undergraduate transfer student to attend an orientation on the institution's sexual harassment, sexual assault, dating violence, and stalking policy before or during the first semester or term in which the student is enrolled at the institution. The institution shall establish the format and content of the orientation. The orientation:

(1) may be provided online; and

(2) must include the statements described by Subsection (a)(1)(E).

(d) Each postsecondary educational institution shall develop and implement a comprehensive prevention and outreach program on sexual harassment, sexual assault, dating violence, and stalking. The program must:

(1) address a range of strategies to prevent sexual harassment, sexual assault, dating violence, and stalking, including a victim empowerment program, a public awareness campaign, primary prevention, bystander intervention, and risk reduction; and

(2) include providing to students information regarding the protocol for reporting incidents of sexual harassment, sexual assault, dating violence, and stalking adopted under Subsection (a), including the name, office location, and contact information of the institution's Title IX coordinator, by:

(A) e-mailing the information to each student at the beginning of each semester or other academic term; and

(B) including the information in the orientation required under Subsection (c).

(e) As part of the protocol for responding to reports of sexual harassment, sexual assault, dating violence, and stalking adopted under Subsection (a), each postsecondary educational institution shall:

(1) to the greatest extent practicable based on the number of counselors employed by the institution, ensure that each alleged victim or alleged perpetrator of an incident of sexual harassment, sexual assault, dating violence, or stalking and any other person who reports such an incident are offered counseling provided by a counselor who does not provide counseling to any other person involved in the incident; and

(2) notwithstanding any other law, allow an alleged victim or alleged perpetrator of an incident of sexual harassment, sexual assault, dating violence, or stalking to drop a course in which both parties are enrolled without any academic penalty.

(f) Each biennium, each postsecondary educational institution shall review the institution's sexual harassment, sexual assault, dating violence, and stalking policy and, with approval of the institution's governing board, revise the policy as necessary.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.283. ELECTRONIC REPORTING OPTION. (a) Each postsecondary educational institution shall provide an option for a student enrolled at or an employee of the institution to electronically report to the institution an allegation of sexual harassment, sexual assault, dating violence, or stalking committed against or witnessed by the student or employee, regardless of the location at which the alleged offense occurred.

(b) The electronic reporting option provided under Subsection (a) must:

(1) enable a student or employee to report the alleged offense anonymously; and
(2) be easily accessible through a clearly identifiable link on the postsecondary educational institution's Internet website home page.

(c) A protocol for reporting sexual assault adopted under Section [51.282](#) must comply with this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 719 (S.B. [968](#)), Sec. 2, eff. June 12, 2017.

Transferred, redesignated and amended from Education Code, Section 51.9365 by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 2, eff. September 1, 2019.

Sec. 51.284. AMNESTY FOR STUDENTS REPORTING CERTAIN INCIDENTS.

(a) A postsecondary educational institution may not take any disciplinary action against a student enrolled at the institution who in good faith reports to the institution being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a violation by the student of the institution's code of conduct occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the institution's disciplinary process regarding the incident, if any.

(b) A postsecondary educational institution may investigate to determine whether a report of an incident of sexual harassment, sexual assault, dating violence, or stalking was made in good faith.

(c) A determination that a student is entitled to amnesty under Subsection (a) is final and may not be revoked.

(d) Subsection (a) does not apply to a student who reports the student's own commission or assistance in the commission of sexual harassment, sexual assault, dating violence, or stalking.

(e) This section may not be construed to limit a postsecondary educational institution's ability to provide amnesty from application of the institution's policies in circumstances not described by Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 720 (S.B. [969](#)), Sec. 1, eff. June 12, 2017.

Transferred, redesignated and amended from Education Code, Section 51.9366 by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 3, eff. September 1, 2019.

Sec. 51.285. VICTIM REQUEST NOT TO INVESTIGATE. (a) If an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking reported to a postsecondary educational institution requests the institution not to investigate the alleged incident, the institution may investigate the alleged incident in a manner that complies with the confidentiality requirements under Section [51.291](#). In determining whether to investigate the alleged incident, the institution shall consider:

- (1) the seriousness of the alleged incident;
- (2) whether the institution has received other reports of sexual harassment, sexual assault, dating violence, or stalking committed by the alleged perpetrator or perpetrators;
- (3) whether the alleged incident poses a risk of harm to others; and
- (4) any other factors the institution determines relevant.

(b) If a postsecondary educational institution decides not to investigate an alleged incident of sexual harassment, sexual assault, dating violence, or stalking based on the alleged victim's request not to investigate, the institution shall take any steps the institution determines necessary to protect the health and safety of the institution's community in relation to the alleged incident.

(c) A postsecondary educational institution shall inform an alleged victim of an incident of sexual harassment, sexual assault, dating violence, or stalking who requests the institution not to investigate the alleged incident of the institution's decision whether to investigate the alleged incident.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.286. DISCIPLINARY PROCESS FOR CERTAIN VIOLATIONS.

A postsecondary educational institution that initiates a disciplinary process concerning an allegation that a student enrolled at the institution violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking shall:

- (1) provide to the student and the alleged victim a prompt and equitable opportunity to present witnesses and other evidence relevant to the alleged violation during the disciplinary process;
- (2) ensure that both the student and the alleged victim have reasonable and equitable access to all evidence relevant to the alleged violation in the institution's possession,

including any statements made by the alleged victim or by other persons, information stored electronically, written or electronic communications, social media posts, or physical evidence, redacted as necessary to comply with any applicable federal or state law regarding confidentiality; and

(3) take reasonable steps to protect the student and the alleged victim from retaliation and harassment during the pendency of the disciplinary process.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.287. STUDENT WITHDRAWAL OR GRADUATION PENDING

DISCIPLINARY CHARGES. (a) If a student withdraws or graduates from a postsecondary educational institution pending a disciplinary charge alleging that the student violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking, the institution:

(1) may not end the disciplinary process or issue a transcript to the student until the institution makes a final determination of responsibility; and

(2) shall expedite the institution's disciplinary process as necessary to accommodate both the student's and the alleged victim's interest in a speedy resolution.

(b) On request by another postsecondary educational institution, a postsecondary educational institution shall provide to the requesting institution information relating to a determination by the institution that a student enrolled at the institution violated the institution's code of conduct by committing sexual harassment, sexual assault, dating violence, or stalking.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.288. TRAUMA-INFORMED INVESTIGATION TRAINING. Each peace officer employed by a postsecondary educational institution shall complete training on trauma-informed investigation into allegations of sexual harassment, sexual assault, dating violence, and stalking.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.289. MEMORANDA OF UNDERSTANDING REQUIRED. To

facilitate effective communication and coordination regarding allegations of sexual harassment, sexual assault, dating violence, and stalking at the institution, a postsecondary educational institution shall enter into a memorandum of understanding with one or more:

- (1) local law enforcement agencies;
 - (2) sexual harassment, sexual assault, dating violence, or stalking advocacy groups;
- and
- (3) hospitals or other medical resource providers.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.290. RESPONSIBLE AND CONFIDENTIAL EMPLOYEE;

STUDENT ADVOCATE. (a) Each postsecondary educational institution shall:

- (1) designate:
 - (A) one or more employees to act as responsible employees for purposes of Title IX of the Education Amendments of 1972 (20 U.S.C. Section 1681 et seq.); and
 - (B) one or more employees as persons to whom students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking; and
- (2) inform each student enrolled at the institution of the responsible and confidential employees designated under Subdivision (1).

(b) A postsecondary educational institution may designate one or more students enrolled at the institution as student advocates to whom other students enrolled at the institution may speak confidentially concerning sexual harassment, sexual assault, dating violence, and stalking. The institution shall notify each student enrolled at the institution of the student advocates designated under this subsection.

(c) A confidential employee designated under Subsection (a)(1)(B) or a student advocate designated under Subsection (b) may not disclose any communication made by a student to the employee or advocate unless the student consents to the disclosure or the employee or advocate is required to make the disclosure under state or federal law.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.291. CONFIDENTIALITY. (a) The protections provided by this section apply to:

- (1) an alleged victim of an incident of sexual harassment, sexual assault, dating

violence, or stalking reported to a postsecondary educational institution;

(2) a person who reports to a postsecondary educational institution an incident of sexual harassment, sexual assault, dating violence, or stalking, who sought guidance from the institution concerning such an incident, or who participated in the institution's investigation of such an incident; and

(3) a person who is alleged in a report made to a postsecondary educational institution to have committed or assisted in the commission of sexual harassment, sexual assault, dating violence, or stalking if, after completing an investigation, the institution determines the report to be unsubstantiated or without merit.

(b) Unless waived in writing by the person, the identity of a person described by Subsection (a):

(1) is confidential and not subject to disclosure under Chapter [552](#), Government Code; and

(2) may be disclosed only to:

(A) the postsecondary educational institution to which the report described by Subsection (a) is made as necessary to conduct an investigation of the report;

(B) a law enforcement officer as necessary to conduct a criminal investigation of the report described by Subsection (a); or

(C) a health care provider in an emergency situation, as determined necessary by the institution.

(c) A disclosure under Subsection (b) is not a voluntary disclosure for purposes of Section [552.007](#), Government Code.

(d) Information regarding an incident of sexual harassment, sexual assault, dating violence, or stalking disclosed to a health care provider or other medical provider employed by a postsecondary educational institution is confidential and may be shared by the provider only with the victim's consent. The provider must provide aggregate data or other nonidentifying information regarding those incidents to the institution's Title IX coordinator.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.292. COMPLIANCE. (a) If the coordinating board determines that a postsecondary educational 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.

(b) If the coordinating board assesses an administrative penalty against a postsecondary educational institution under Subsection (a), the coordinating board shall provide to the institution written notice of the coordinating board's reasons for assessing the penalty.

(c) A postsecondary educational institution assessed an administrative penalty under Subsection (a) may appeal the penalty in the manner provided by Chapter [2001](#), Government Code.

(d) A postsecondary educational institution may not pay an administrative penalty assessed under Subsection (a) using state or federal money.

(e) An administrative penalty collected under this section shall be deposited to the credit of the sexual assault program fund established under Section [420.008](#), Government Code.

(f) 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.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.293. EQUAL ACCESS. In implementing the requirements under this subchapter, a postsecondary educational institution shall, to the greatest extent practicable, ensure equal access for students enrolled at or employees of the institution who are persons with disabilities. The institution shall make reasonable efforts to consult with a disability services office of the institution, advocacy groups for people with disabilities, and other relevant stakeholders to assist the institution with complying with the institution's duties under this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.294. ADVISORY COMMITTEE. (a) The commissioner of higher education shall establish an advisory committee to:

(1) make recommendations to the coordinating board regarding rules for adoption under Section [51.295](#); and

(2) develop recommended training for responsible and confidential employees designated under Section [51.290](#) and for Title IX coordinators at postsecondary educational institutions.

(b) The advisory committee consists of nine members appointed by the commissioner of higher education. Each member must be a chief executive officer of a postsecondary educational institution or a representative designated by that officer.

(c) The advisory committee shall annually review and, if necessary, update the training recommended under Subsection (a)(2).

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.295. RULES. (a) The coordinating board shall adopt rules as necessary to implement and enforce this subchapter, including rules that:

(1) define relevant terms; and

(2) ensure implementation of this subchapter in a manner that complies with federal law regarding confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g).

(b) In adopting rules under this section, the coordinating board shall consult with relevant stakeholders.

Added by Acts 2019, 86th Leg., R.S., Ch. 1078 (H.B. [1735](#)), Sec. 1, eff. September 1, 2019.

Appendix B: Texas Education Code, Chapter 51, Subchapter E-2

EDUCATION CODE

TITLE 3. HIGHER EDUCATION

SUBTITLE A. HIGHER EDUCATION IN GENERAL

CHAPTER 51. PROVISIONS GENERALLY APPLICABLE TO HIGHER EDUCATION

SUBCHAPTER E-2. REPORTING INCIDENTS OF SEXUAL HARASSMENT, SEXUAL ASSAULT, DATING VIOLENCE, AND STALKING

Sec. 51.251. DEFINITIONS. In this subchapter:

- (1) "Coordinating board" means the Texas Higher Education Coordinating Board.
- (2) "Dating violence," "sexual assault," and "stalking" mean dating violence, sexual assault, or stalking, as applicable, that an institution of higher education is required to report under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. Section 1092(f)).
- (3) "Employee of a postsecondary educational institution" does not include a student enrolled at the institution.
- (4) "Postsecondary educational institution" means an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section [61.003](#).
- (5) "Sexual harassment" means unwelcome, sex-based verbal or physical conduct that:
 - (A) in the employment context, unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment; or
 - (B) in the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution.

Added by Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. [212](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.252. REPORTING REQUIRED FOR CERTAIN INCIDENTS.

- (a) An employee of a postsecondary educational institution who, in the course and scope

of employment, witnesses or receives information regarding the occurrence of an incident that the employee reasonably believes constitutes sexual harassment, sexual assault, dating violence, or stalking and is alleged to have been committed by or against a person who was a student enrolled at or an employee of the institution at the time of the incident shall promptly report the incident to the institution's Title IX coordinator or deputy Title IX coordinator.

(b) Except as provided by Subsection (c) or (c-1), the report must include all information concerning the incident known to the reporting person that is relevant to the investigation and, if applicable, redress of the incident, including whether an alleged victim has expressed a desire for confidentiality in reporting the incident.

(c) An employee of a postsecondary educational institution designated by the institution as a person with whom students may speak confidentially concerning sexual harassment, sexual assault, dating violence, or stalking or who receives information regarding such an incident under circumstances that render the employee's communications confidential or privileged under other law shall, in making a report under this section, state only the type of incident reported and may not include any information that would violate a student's expectation of privacy. This subsection does not affect the employee's duty to report an incident under any other law.

(c-1) A campus peace officer employed by a postsecondary educational institution who receives information regarding an incident described by Subsection (a) from an alleged victim who chooses to complete a pseudonym form described by Article [58.102](#), [58.152](#), [58.202](#), or [58.252](#), Code of Criminal Procedure, shall, in making a report under this section, state only the type of incident reported and may not include the victim's name, phone number, address, or other information that may directly or indirectly reveal the victim's identity.

(d) Notwithstanding Subsection (a), a person is not required to make a report under this section concerning:

(1) an incident in which the person was a victim of sexual harassment, sexual assault, dating violence, or stalking; or

(2) an incident of which the person received information due to a disclosure made at a sexual harassment, sexual assault, dating violence, or stalking public awareness event sponsored by a postsecondary educational institution or by a student organization affiliated with the institution.

Added by Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. [212](#)), Sec. 1, eff. September 1, 2019. Amended by:
Acts 2021, 87th Leg., R.S., Ch. 397 (S.B. [1371](#)), Sec. 1,

eff. June 7, 2021.

Sec. 51.253. ADMINISTRATIVE REPORTING REQUIREMENTS. (a)

Not less than once every three months, the Title IX coordinator of a postsecondary educational institution shall submit to the institution's chief executive officer a written report on the reports received under Section [51.252](#), including information regarding:

- (1) the investigation of those reports;
- (2) the disposition, if any, of any disciplinary processes arising from those reports;

and

- (3) the reports for which the institution determined not to initiate a disciplinary process, if any.

(b) The Title IX coordinator or deputy Title IX coordinator of a postsecondary educational institution shall immediately report to the institution's chief executive officer an incident reported to the coordinator under Section [51.252](#) if the coordinator has cause to believe that the safety of any person is in imminent danger as a result of the incident.

(c) Subject to Subsection (d), at least once during each fall or spring semester, the chief executive officer of a postsecondary educational institution shall submit to the institution's governing body and post on the institution's Internet website a report concerning the reports received under Section [51.252](#). The report:

- (1) may not identify any person; and
- (2) must include:
 - (A) the number of reports received under Section [51.252](#);
 - (B) the number of investigations conducted as a result of those reports;
 - (C) the disposition, if any, of any disciplinary processes arising from those reports;
 - (D) the number of those reports for which the institution determined not to initiate a disciplinary process, if any; and
 - (E) any disciplinary actions taken under Section [51.255](#).

(d) If for any semester a postsecondary educational institution has fewer than 1,500 enrolled students, the chief executive officer of the institution shall submit and post a report required under Subsection (c) for that semester only if more than five reports were received under Section [51.252](#) during that semester.

Added by Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. [212](#)), Sec. 1,
eff. September 1, 2019.

Sec. 51.254. IMMUNITIES. (a) A person acting in good faith who reports or assists in the investigation of a report of an incident described by Section [51.252](#)(a) or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident:

(1) is immune from civil liability, and from criminal liability for offenses punishable by fine only, that might otherwise be incurred or imposed as a result of those actions; and

(2) may not be subjected to any disciplinary action by the postsecondary educational institution at which the person is enrolled or employed for any violation by the person of the institution's code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment.

(b) Subsection (a) does not apply to a person who perpetrates or assists in the perpetration of the incident reported under Section [51.252](#).

Added by Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. [212](#)), Sec. 1,
eff. September 1, 2019.

Sec. 51.255. FAILURE TO REPORT OR FALSE REPORT; OFFENSES.

(a) A person commits an offense if the person:

(1) is required to make a report under Section [51.252](#)
and knowingly fails to make the report; or

(2) with the intent to harm or deceive, knowingly makes a report under Section [51.252](#) that is false.

(b) An offense under Subsection (a) is a Class B misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the actor intended to conceal the incident that the actor was required to report under Section [51.252](#).

(c) A postsecondary educational institution shall terminate the employment of an employee whom the institution determines in accordance with the institution's disciplinary procedure to have committed an offense under Subsection (a).

Added by Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. [212](#)), Sec. 1,
eff. September 1, 2019.

Sec. 51.256. CONFIDENTIALITY. (a) Unless waived in writing by the alleged victim, the identity of an alleged victim of an incident reported under Section [51.252](#):

(1) is confidential and not subject to disclosure under Chapter [552](#), Government Code; and

(2) may be disclosed only to:

(A) persons employed by or under contract with the postsecondary educational institution to which the report is made who are necessary to conduct an investigation of the report or any related hearings;

(B) a law enforcement officer as necessary to conduct a criminal investigation of the report;

(C) the person or persons alleged to have perpetrated the incident, to the extent required by other law; or

(D) potential witnesses to the incident as necessary to conduct an investigation of the report.

(b) A disclosure under Subsection (a) is not a voluntary disclosure for purposes of Section [552.007](#), Government Code.

(c) Nothing in this section may be construed as prohibiting a victim from making a report to a law enforcement agency using a pseudonym form described by Article [58.102](#), [58.152](#), [58.202](#), or [58.252](#), Code of Criminal Procedure.

Added by Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. [212](#)), Sec. 1, eff. September 1, 2019. Amended by:

Acts 2021, 87th Leg., R.S., Ch. 397 (S.B. [1371](#)), Sec. 2, eff. June 7, 2021.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. [3607](#)), Sec. 5.021, eff. September 1, 2021.

Sec. 51.257. RETALIATION PROHIBITED. (a) A postsecondary educational institution may not discipline or otherwise discriminate against an employee who in good faith:

(1) makes a report as required by Section [51.252](#); or

(2) cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the employee as required by Section [51.252](#).

(b) Subsection (a) does not apply to an employee who:

- (1) reports an incident described by Section [51.252](#)(a) perpetrated by the employee;
- or
- (2) cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee perpetrated an incident described by Section [51.252](#)(a).

Added by Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. [212](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.258. COMPLIANCE. (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.

(c) If the coordinating board determines that a postsecondary educational 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.

(d) If the coordinating board assesses an administrative penalty against a postsecondary educational institution under Subsection (b), the coordinating board shall provide to the institution written notice of the coordinating board's reasons for assessing the penalty.

(e) A postsecondary educational institution assessed an administrative penalty under Subsection (b) may appeal the penalty in the manner provided by Chapter [2001](#), Government Code.

(f) A postsecondary educational institution may not pay an administrative penalty assessed under Subsection (b) using state or federal money.

(g) An administrative penalty collected under this section shall be deposited to the credit of the sexual assault program fund established under Section [420.008](#), Government Code.

(h) 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 calendar year preceding the date of the report.

Added by Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. [212](#)), Sec. 1, eff. September 1, 2019.

Sec. 51.259. RULES. The coordinating board shall adopt rules as necessary to implement and enforce this subchapter, including rules that ensure implementation of this subchapter in a manner that complies with federal law regarding confidentiality of student educational information, including the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). In adopting those rules, the coordinating board shall use the negotiated rulemaking procedures under Chapter [2008](#), Government Code, and consult with relevant stakeholders.

Added by Acts 2019, 86th Leg., R.S., Ch. 958 (S.B. [212](#)), Sec. 1, eff. September 1, 2019.

Appendix C: Chief Executive Officer Certification Form

Chief Executive Officer Annual Certification to THECB

[Insert name of institution]

for the time period of [Insert beginning date for report time period] through [Insert ending date for report time period]

Under Texas Education Code (TEC), Section 51.258, the institution's Chief Executive Officer is required to annually certify in writing to the Coordinating Board that the institution is in substantial compliance with TEC, Title 3, Subtitle A, Chapter 51, Subchapter E-2. Per THECB Rule 3.19, this certification is made annually in October of each year.

By signing this statement, I certify that [Insert name of institution] is in substantial compliance with TEC, Title 3, Subtitle A, Chapter 51, Subchapter E-2.

As evidence of the institution's compliance with Subchapter E-2:

1. The annual Chief Executive Officer Report was submitted to the institution's governing board on [Insert date of report].
2. A summary data report is posted on the institution's website at [Insert web address for page which includes the summary data report].

Signature of CEO: _____

Printed Name: _____

Date: _____

CEO CERTIFICATION rev 03/24/2021

Appendix D: Title IX Coordinator Report Template

Title IX Coordinator Report Template

TO: [Insert Institution's President], Chief Executive Officer

FROM: [Insert Institution's Title IX Coordinator]

DATE: [Insert Date of Report Submission]

RE: Title IX Coordinator Reporting Requirements under Tex. Educ. Code § 51.253(a)

Under the Texas Education Code TEC, Section 51.253(a), the institution's Title IX Coordinator is required to submit a written report no less than every three months to the institution's Chief Executive Officer regarding reports received from employees who are required to report under the TEC, Section 51.252 regarding incidents of "sexual harassment," "sexual assault," "dating violence," or "stalking" as defined in the TEC, Section 51.251.

The attached report includes information received between [Insert beginning date for report time period] through [Insert ending date for report time period].

For the purposes of complying with the Title IX Coordinator reporting requirements under Section 51.253(a), Appendix A, Table 1¹ of the attached report includes information regarding:

1. The investigation of reports received from employees;
2. The disposition, if any, of any disciplinary processes arising from those reports; and
3. The reports for which the institution determined not to initiate a disciplinary process, if any.

To assist the Chief Executive Officer in complying with the Chief Executive Officer's reporting requirements under TEC, Section 51.253(c), Appendix A, Table 2 provides information on any disciplinary actions taken under TEC, Section 51.255.

To further assist the Chief Executive Officer in complying with the Chief Executive Officer's reporting requirements under TEC, Section 51.253(c), Appendix B is included as summary of Appendix A. The summary data in Appendix B is categorized based on the reporting requirements under TEC, Section 51.253(c). The reports received may be applicable in multiple reporting categories, and therefore, the summary data in the categories may not add up to the totals of other categories.

Note: Any additional reports received by the Title IX Coordinator that do not meet the required reporting criteria in TEC Sec. 51.252 have been omitted for the compliance purposes of this specific report.

SAMPLE/TEMPLATE rev 03/24/2021

¹ When identifiable, duplicate reports were consolidated into one case number and counted as one report in the summary data, and confidential employee reporting is noted by case number and as a sub-set to the total number of reports received.

Appendix A

Title IX Coordinator Report

[Insert beginning date for report time period] through [Insert ending date for report time period].

Table 1. Alleged Conduct Reported by Employees under TEC, Section 51.252

Report Number	Date Received	Alleged Conduct Reported by Employees Under § 51.252	Investigation Status	Disciplinary Status
0001-20XX	08/25/XX	Sexual Assault	Formal Investigation Completed, Preponderance of Evidence Met for Sexual Assault	Final Result: Student Hearing Appeal Decision: No Finding of Policy Violation
0002-20XX	09/01/XX	Sexual Harassment	Informal Resolution Completed	Disciplinary Process: Not Applicable
0003-20XX	09/10/XX	Dating Violence	Case Dismissed (Administrative Closure), Insufficient Complaint Information	Disciplinary Process: Not applicable
0004-20XX	09/13/XX	Confidential Employee Reporting: Sexual Assault	Investigation: Not Applicable; no identifiable information	Disciplinary Process: Not Applicable
0005-20XX	09/21/XX	Stalking	Formal Investigation Completed, Preponderance of Evidence Met for Stalking	Final Result: Student Disciplinary Suspension through Spring 20XX
0006-20XX	10/5/XX	Dating Violence	Formal Investigation Completed, Preponderance of Evidence Not Met	Disciplinary Process: Not Applicable
0007-20XX	10/10/XX	Sexual Harassment	Formal Investigation Ongoing	Disciplinary Process: Not Applicable
0008-20XX	10/12/XX	Sexual Assault	Formal Investigation Completed, Preponderance of Evidence Met for Sexual Assault	Disciplinary Process: Student Discipline Process Pending
0009-20XX	10/14/XX	Confidential Employee Reporting: Dating Violence	Investigation: Not Applicable; no identifiable information	Disciplinary Process: Not Applicable

Report Number	Date Received	Alleged Conduct Reported by Employees Under § 51.252	Investigation Status	Disciplinary Status
0010-20XX	10/17/XX	Sexual Harassment	Formal Investigation Completed, Preponderance of Evidence Met for Sexual Harassment	Final Result: Employee Reprimand
0011-20XX	10/19/XX	Sexual Harassment	Formal Investigation Completed, Preponderance of Evidence Met for Sexual Harassment	Disciplinary Process: Faculty Grievance Process Pending

Table 2. Alleged Conduct under TEC, Section 51.255(a)

Report Number	Date Received	Alleged Conduct Under § 51.255(a)	Investigation Status	Disciplinary Status
0012-20XX	10/21/XX	Employee's Failure to Report	Formal Investigation Ongoing	Disciplinary Process: Not Applicable

Appendix B

Summary Data Report

[Insert beginning date for report time period] through [Insert ending date for report time period].

Texas Education Code, Section 51.252

Number of reports received under Section 51.252	11
Number of confidential reports ² under Section 51.252	2
Number of investigations conducted under Section 51.252	7
Disposition ³ of any disciplinary processes for reports under Section 51.252:	
a. Concluded, No Finding of Policy Violation	1
b. Concluded, with Employee Disciplinary Sanction	1
c. Concluded, with Student Disciplinary Sanction	1
d. SUBTOTAL	3
Number of reports under Section 51.252 for which the institution determined not to initiate a disciplinary process	7

Texas Education Code, Section 51.255

Number of reports received that include allegations of an employee's failure to report or who submits a false report to the institution under Section 51.255(a)	1
Any disciplinary action taken, regarding failure to report or false reports to the institution under Section 51.255(c):	
a. Employee termination	--
b. Institutional intent to termination, in lieu of employee resignation	--

² "Number of confidential reports" is a sub-set of the total number of reports that were received under Section 51.252, by a confidential employee or office.

³ "Disposition" means "final result under the institution's disciplinary process" as defined in the Texas Higher Education Coordinating Board's (THECB) rules for TEC, Section 51.259 (See 19 Tex. Admin. Code Section 3.6(e) (2019)); therefore, pending disciplinary processes will not be listed until the final result is rendered.

Appendix E: Chief Executive Officer Report Template

Chief Executive Officer Report Template

TO: [Insert Institution's Governing Board]
FROM: [Insert Institution's President], Chief Executive Officer
DATE: [Insert Date of Report Submission]
RE: Chief Executive Officer Reporting Requirements under Tex. Educ. Code § 51.253(c)

Under the Texas Education Code (TEC), Section 51.253(c), the institution's Chief Executive Officer is required to submit a report at least once during each fall or spring semester to the institution's governing body and post on the institution's internet website a report concerning the reports received by employees under the TEC, Section 51.252, concerning "sexual harassment," "sexual assault," "dating violence," or "stalking" as defined in the TEC, Section 51.251, and any disciplinary actions taken under TEC, Section 51.255.

For the purposes of complying with the Chief Executive Officer's reporting requirements under TEC, Section 51.253(c), the attached summary data report⁴ includes all of the required reporting information to the [Insert Institution's Governing Board] for the time period of [Insert beginning date for report time period] through [Insert ending date for report time period]. The summary data report is categorized based on the reporting requirements under TEC, Section 51.253(c). The reports received may be applicable in multiple reporting categories, and therefore, the summary data in the categories may not add up to the totals of other categories.

The summary data report is also posted on the institution's website as per the public reporting requirements under TEC, Section 51.253(c) at [Insert web address for page which includes the summary data report].

Note: Any additional reports received by the Title IX Coordinator that do not meet the required reporting criteria in the Texas Education Code have been omitted for the compliance purposes of this specific report.

SAMPLE/TEMPLATE rev 03/24/2021

⁴ When identifiable, duplicate reports were consolidated and counted as one report in the summary data, and confidential employee reporting is noted as a sub-set to the total number of reports received.

CEO Summary Data Report

[Insert beginning date for report time period] through [Insert ending date for report time period].

Texas Education Code, Section 51.252

Number of reports received under Section 51.252	11
Number of confidential reports ⁵ under Section 51.252	2
Number of investigations conducted under Section 51.252	7
Disposition ⁶ of any disciplinary processes for reports under Section 51.252:	
e) Concluded, No Finding of Policy Violation	1
f) Concluded, with Employee Disciplinary Sanction	1
g) Concluded, with Student Disciplinary Sanction	1
h) SUBTOTAL	3
Number of reports under Section 51.252 for which the institution determined not to initiate a disciplinary process	7

Texas Education Code, Section 51.255

Number of reports received that include allegations of an employee's failure to report or who submits a false report to the institution under Section 51.255(a)	1
Any disciplinary action taken, regarding failure to report or false reports to the institution under Section 51.255(c):	
c) Employee termination	--
d) Institutional intent to termination, in lieu of employee resignation	--

⁵ "Number of confidential reports" is a sub-set of the total number of reports that were received under Section 51.252, by a confidential employee or office (e.g., Counseling Center, Student Health Center, Victim Advocate for Students, or Student Ombuds).

⁶ "Disposition" means "final result under the institution's disciplinary process" as defined in the Texas Higher Education Coordinating Board's (THECB) rules for TEC, Section 51.259 [See 19 Texas Administrative Code, Section 3.6(3) (2019)]; therefore, pending disciplinary processes will not be listed until the final result is rendered.

Appendix F: Chief Executive Officer Certifications for AY 2021-2022

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
Alamo Colleges District System	System (may include combined reports)	Report Received by Deadline	10/31/22
Alamo Community College – Northeast Lakeview College (ACCD)	Community College	Report Received by Deadline	10/31/22
Alamo Community College – Northwest Vista College (ACCD)	Community College	Report Received by Deadline	10/31/22
Alamo Community College - Palo Alto College (ACCD)	Community College	Report Received by Deadline	10/31/22
Alamo Community College - San Antonio College (ACCD)	Community College	Report Received by Deadline	10/31/22
Alamo Community College - St. Philip's College (ACCD)	Community College	Report Received by Deadline	10/31/22
Alvin Community College	Community College	Report Received by Deadline	10/11/22
Amarillo College	Community College	Report Received by Deadline	10/31/22
Angelina College	Community College	Report Received by Deadline	10/10/22
Austin Community College District	Community College	Report Received by Deadline	10/28/22
Blinn College District	Community College	Report Received by Deadline	10/21/22
Brazosport College	Community College	Report Received by Deadline	10/12/22
Central Texas College	Community College	Report Received by Deadline	10/14/22
Cisco College	Community College	Report Received by Deadline	08/16/22
Clarendon College	Community College	Report Received by Deadline	10/21/22
Coastal Bend College	Community College	Report Received by Deadline	09/21/22
College of the Mainland Community College District	Community College	Report Received by Deadline	10/31/22
Collin County Community College District	Community College	Report Received by Deadline	10/28/22
Dallas College System	System (may include combined reports)	Report Received by Deadline	10/31/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
Dallas College Brookhaven Campus	Community College	Report Received by Deadline	10/31/22
Dallas College Cedar Valley Campus	Community College	Report Received by Deadline	10/31/22
Dallas College Eastfield Campus	Community College	Report Received by Deadline	10/31/22
Dallas College El Centro Campus	Community College	Report Received by Deadline	10/31/22
Dallas College Mountain View Campus	Community College	Report Received by Deadline	10/31/22
Dallas College North Lake Campus	Community College	Report Received by Deadline	10/31/22
Dallas College Richland Campus	Community College	Report Received by Deadline	10/31/22
Dallas Colleges Online	Community College	Report Received by Deadline	10/31/22
Del Mar College	Community College	Report Received by Deadline	10/12/22
El Paso Community College District	Community College	Report Received by Deadline	10/31/22
Frank Phillips College	Community College	Report Received by Deadline	10/24/22
Galveston College	Community College	Report Received by Deadline	09/22/22
Grayson College	Community College	Report Received by Deadline	10/25/22
Hill College	Community College	Report Received by Deadline	10/14/22
Houston Community College System (HCCS)	System (may include combined reports)	Report Received by Deadline	10/17/22
Houston Community College System- Central Campus	Community College	Report Received by Deadline	10/17/22
Houston Community College System- Coleman Campus	Community College	Report Received by Deadline	10/17/22
Houston Community College System- Northeast Campus	Community College	Report Received by Deadline	10/17/22
Houston Community College System- Northwest Campus	Community College	Report Received by Deadline	10/17/22
Houston Community College System- Southeast Campus	Community College	Report Received by Deadline	10/17/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
Houston Community College System- Southwest Campus	Community College	Report Received by Deadline	10/17/22
Houston Community College System- Online	Community College	Report Received by Deadline	10/17/22
Howard College (HCJCD)	Community College	Report Received by Deadline	10/10/22
Southwest Collegiate Institute for the Deaf (HCJCD)	Other-related entities	Report Received by Deadline	10/10/22
Kilgore College	Community College	Report Received by Deadline	09/21/22
Laredo College	Community College	Report Received by Deadline	10/26/22
Lee College	Community College	Report Received by Deadline	10/26/22
Lonestar College System	System (may include combined reports)	Report Received by Deadline	09/29/22
Lone Star College - Cy-Fair (LSCS)	Community College	Report Received by Deadline	09/29/22
Lone Star College - Houston North (LSCS)	Community College	Report Received by Deadline	09/29/22
Lone Star College - Kingwood (LSCS)	Community College	Report Received by Deadline	09/29/22
Lone Star College - Montgomery (LSCS)	Community College	Report Received by Deadline	09/29/22
Lone Star College - North Harris (LSCS)	Community College	Report Received by Deadline	09/29/22
Lone Star College - Tomball (LSCS)	Community College	Report Received by Deadline	09/29/22
Lone Star College - University Park (LSCS)	Community College	Report Received by Deadline	09/29/22
McLennan Community College	Community College	Report Received by Deadline	10/20/22
Midland College	Community College	Report Received by Deadline	10/21/22
Navarro College	Community College	Report Received After Oct. 31 Deadline	11/29/22
North Central Texas College	Community College	Report Received by Deadline	10/25/22
Northeast Texas Community College	Community College	Report Received by Deadline	10/24/22
Odessa College	Community College	Report Received by Deadline	10/31/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
Panola College	Community College	Report Received by Deadline	10/25/22
Paris Junior College	Community College	Report Received by Deadline	10/07/22
Ranger College	Community College	Report Received by Deadline	10/11/22
San Jacinto College District System	System (may include combined reports)	Report Received by Deadline	10/11/22
San Jacinto College Central Campus (SJCD)	Community College	Report Received by Deadline	10/11/22
San Jacinto College North Campus (SJCD)	Community College	Report Received by Deadline	10/11/22
San Jacinto College South Campus (SJCD)	Community College	Report Received by Deadline	10/11/22
San Jacinto College Generation Park Campus (SJCD)	Community College	Report Received by Deadline	10/11/22
San Jacinto College Maritime Campus (SJCD)	Community College	Report Received by Deadline	10/11/22
South Plains College	Community College	Report Received by Deadline	10/06/22
South Texas College	Community College	Report Received by Deadline	10/12/22
Southwest Texas Junior College	Community College	Report Received by Deadline	10/25/22
Tarrant County College District System	System (may include combined reports)	Report Received by Deadline	10/20/22
Tarrant County College - Connect Campus	Community College	Report Received by Deadline	10/20/22
Tarrant County College - Northeast Campus (TCCD)	Community College	Report Received by Deadline	10/20/22
Tarrant County College - Northwest Campus (TCCD)	Community College	Report Received by Deadline	10/20/22
Tarrant County College - South Campus (TCCD)	Community College	Report Received by Deadline	10/20/22
Tarrant County College - Southeast Campus (TCCD)	Community College	Report Received by Deadline	10/20/22
Tarrant County College - Trinity River Campus (TCCD)	Community College	Report Received by Deadline	10/20/22
Temple College	Community College	Report Received by Deadline	10/31/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
Texarkana College	Community College	Report Received by Deadline	09/26/22
Texas Southmost College	Community College	Report Received by Deadline	09/09/22
Trinity Valley Community College	Community College	Report Received After Oct. 31 Deadline	11/02/22
Tyler Junior College	Community College	Report Received by Deadline	10/27/22
Vernon College	Community College	Report Received by Deadline	10/04/22
Victoria College	Community College	Report Received by Deadline	10/31/22
Weatherford College	Community College	Report Received by Deadline	10/20/22
Western Texas College	Community College	Report Received by Deadline	10/17/22
Wharton County Junior College	Community College	Report Received by Deadline	10/04/22
Texas State Technical College (TSTC) System	System (may include combined reports)	Report Received by Deadline	10/26/22
Texas State Technical College-Abilene	Technical College	Report Received by Deadline	10/26/22
Texas State Technical College- Breckenridge	Technical College	Report Received by Deadline	10/26/22
Texas State Technical College- Brownwood	Technical College	Report Received by Deadline	10/26/22
Texas State Technical College-East Williamson County	Technical College	Report Received by Deadline	10/26/22
Texas State Technical College-Ft. Bend (TSTC)	Technical College	Report Received by Deadline	10/26/22
Texas State Technical College- Harlingen (TSTC)	Technical College	Report Received by Deadline	10/26/22
Texas State Technical College-Marshall (TSTC)	Technical College	Report Received by Deadline	10/26/22
Texas State Technical College-North Texas (TSTC)	Technical College	Report Received by Deadline	10/26/22
Texas State Technical College- Sweetwater	Technical College	Report Received by Deadline	10/26/22
Texas State Technical College-Waco (TSTC)	Technical College	Report Received by Deadline	10/26/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
Stephen F. Austin State University	Public University	Report Received by Deadline	10/11/22
The Texas A&M University System, Administrative and General Offices; Texas A&M AgriLife Research	System (may include combined reports)	Report Received by Deadline	10/14/22
Prairie View A&M University	Public University	Report Received by Deadline	10/31/22
Tarleton State University	Public University	Report Received by Deadline	10/31/22
Texas A&M International University	Public University	Report Received by Deadline	10/31/22
Texas A&M University	Public University	Report Received by Deadline	10/28/22
Texas A&M Health Science Center	Health-related Institution	Report Received by Deadline	10/28/22
Texas A&M University at Galveston	Public University	Report Received by Deadline	10/28/22
Texas A&M University-Qatar	Public University	Report Received by Deadline	10/28/22
Texas A&M AgriLife		Report Received by Deadline	
Texas A&M Veterinary Medical Diagnostic Laboratory	Other-related entities	Report Received by Deadline	10/28/22
Texas A&M Forest Service	Other-related entities	Report Received by Deadline	10/28/22
Texas A&M AgriLife Extension Service	Other-related entities	Report Received by Deadline	10/28/22
Rodent and Predatory Animal Control Service (a part of the Texas A&M AgriLife Extension Service)	Other-related entities	Report Received by Deadline	10/28/22
Texas A&M AgriLife Research	Other-related entities	Report Received by Deadline	10/28/22
Texas Water Resources Institute	Other-related entities	Report Received by Deadline	10/28/22
Texas A&M Engineering Experiment Station	Other-related entities	Report Received by Deadline	10/28/22
Texas A&M Engineering Extension Service	Other-related entities	Report Received by Deadline	10/13/22
Texas A&M Transportation Institute	Other-related entities	Report Received by Deadline	09/13/22
Texas Division of Emergency Management	Other-related entities	Report Received by Deadline	10/20/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
Texas A&M University-Central Texas	Public University	Report Received by Deadline	10/24/22
Texas A&M University-Commerce	Public University	Report Received by Deadline	10/31/22
Texas A&M University-Corpus Christi	Public University	Report Received by Deadline	10/19/22
Texas A&M University-Kingsville	Public University	Report Received by Deadline	10/28/22
Texas A&M University-San Antonio	Public University	Report Received by Deadline	10/31/22
Texas A&M University-Texarkana	Public University	Report Received by Deadline	10/14/22
West Texas A&M University	Public University	Report Received by Deadline	10/31/22
Panhandle-Plains Historical Museum	Other-related entities	Report Received by Deadline	10/31/22
Texas Southern University	Public University	Report Received by Deadline	10/31/22
Texas State University System, System Administration	System (may include combined reports)	Report Received by Deadline	10/28/22
Lamar Institute of Technology (TSUS)	State College	Report Received by Deadline	10/12/22
Lamar State College-Orange (TSUS)	State College	Report Received by Deadline	10/13/22
Lamar State College-Port Arthur (TSUS)	State College	Report Received by Deadline	10/28/22
Lamar University	Public University	Report Received by Deadline	10/27/22
Sam Houston State University	Public University	Report Received by Deadline	10/21/22
Sam Houston State University College of Osteopathic Medicine	Health-related Institution	Report Received by Deadline	10/21/22
Sam Houston Memorial Museum	Other-related entities	Report Received by Deadline	10/21/22
Sul Ross State University	Public University	Report Received by Deadline	10/12/22
Sul Ross State University Rio Grande College	Public University	Report Received by Deadline	10/12/22
Texas State University	Public University	Report Received by Deadline	10/25/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
Texas Tech University System	System (may include combined reports)	Report Received by Deadline	10/31/22
Angelo State University	Public University	Report Received by Deadline	10/13/22
Midwestern State University	Public University	Report Received by Deadline	10/19/22
Texas Tech University	Public University	Report Received by Deadline	10/31/22
Texas Tech University Museum	Other-related entities	Report Received by Deadline	10/31/22
Texas Tech University Health Sciences Center	Health-related Institution	Report Received by Deadline	10/20/22
Texas Tech University Health Sciences Center-El Paso	Health-related Institution	Report Received After Oct. 31 Deadline	12/02/22
Texas Woman's University	Public University	Report Received After Oct. 31 Deadline	11/02/22
The University of Texas System, System Administration	System (may include combined reports)	Report Received by Deadline	10/17/22
The University of Texas at Arlington	Public University	Report Received by Deadline	10/31/22
The University of Texas at Austin	Public University	Report Received by Deadline	10/31/22
The University of Texas at Austin Dell Medical School	Health-related Institution	Report Received by Deadline	10/31/22
The University of Texas at Dallas	Public University	Report Received by Deadline	10/18/22
The University of Texas at El Paso	Public University	Report Received by Deadline	10/26/22
The University of Texas at El Paso Museum	Other-related entities	Report Received by Deadline	10/26/22
The University of Texas at San Antonio	Public University	Report Received by Deadline	10/21/22
The University of Texas at Tyler	Public University	Report Received by Deadline	10/27/22
The University of Texas Health Science Center at Tyler	Health-related Institution	Report Received by Deadline	10/27/22
The University of Texas Permian Basin	Public University	Report Received by Deadline	10/21/22
The University of Texas Rio Grande Valley	Public University	Report Received by Deadline	10/29/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
The University of Texas Rio Grande Valley - Medical School	Health-related Institution	Report Received by Deadline	10/29/22
The University of Texas Health Science Center at Houston	Health-related Institution	Report Received by Deadline	10/21/22
The University of Texas Health Science Center at San Antonio	Health-related Institution	Report Received by Deadline	10/18/22
The University of Texas M.D. Anderson Cancer Center	Health-related Institution	Report Received by Deadline	10/21/22
The University of Texas Medical Branch at Galveston	Health-related Institution	Report Received by Deadline	10/11/22
The University of Texas Southwestern Medical Center	Health-related Institution	Report Received by Deadline	10/25/22
University of Houston System	System (may include combined reports)	Report Received by Deadline	10/18/22
University of Houston	Public University	Report Received by Deadline	10/18/22
University of Houston College of Medicine	Health-related Institution	Report Received by Deadline	10/18/22
University of Houston-Clear Lake	Public University	Report Received by Deadline	10/13/22
University of Houston-Downtown	Public University	Report Received by Deadline	10/11/22
University of Houston-Victoria	Public University	Report Received by Deadline	10/18/22
University of North Texas System	System (may include combined reports)	Report Received by Deadline	10/24/22
University of North Texas	Public University	Report Received After Oct. 31 Deadline	11/02/22
University of North Texas at Dallas	Public University	Report Received by Deadline	10/27/22
University of North Texas Dallas College of Law	Public University	Report Received by Deadline	10/27/22
University of North Texas Health Science Center	Health-related Institution	Report Received by Deadline	10/26/22
Abilene Christian University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/11/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
Amberton University	Private or Independent Institution (ICUT)	Report Received by Deadline	09/30/22
Austin College	Private or Independent Institution (ICUT)	Report Received by Deadline	10/18/22
Baylor College of Medicine	Health-related Institution	Report Received by Deadline	10/10/22
Baylor University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/10/22
Concordia University Texas	Private or Independent Institution (ICUT)	Report Received by Deadline	10/25/22
Dallas Baptist University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/26/22
East Texas Baptist University	Private or Independent Institution (ICUT)	Report Received by Deadline	09/08/22
Hardin-Simmons University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/17/22
Houston Christian University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/31/22
Howard Payne University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/17/22
Huston-Tillotson University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/29/22
Jacksonville College	Private or Independent Institution (ICUT)	Report Received After Oct. 31 Deadline	11/21/22
Jarvis Christian College	Private or Independent Institution (ICUT)	Report Received by Deadline	10/31/22
LeTourneau University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/31/22
Lubbock Christian University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/26/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
McMurry University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/03/22
Our Lady of the Lake University of San Antonio	Private or Independent Institution (ICUT)	Report Received by Deadline	10/25/22
Parker University	Private or Independent Institution (ICUT)	Report Received After Oct. 31 Deadline	11/01/22
Rice University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/27/22
Schreiner University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/24/22
South Texas College of Law Houston	Private or Independent Institution (ICUT)	Report Received by Deadline	10/05/22
Southern Methodist University	Private or Independent Institution (ICUT)	Report Received by Deadline	09/22/22
Southwestern Adventist University	Private or Independent Institution (ICUT)	Report Received After Oct. 31 Deadline	11/02/22
Southwestern Assemblies of God University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/31/22
Southwestern Christian College	Private or Independent Institution (ICUT)	Report Received After Oct. 31 Deadline	11/10/22
Southwestern University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/25/22
St. Edward's University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/02/22
St. Mary's University	Private or Independent Institution (ICUT)	Report Received by Deadline	09/30/22
Texas Chiropractic College	Private or Independent Institution (ICUT)	Report Received by Deadline	10/24/22
Texas Christian University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/18/22

Institution (Some institutions may be part of a combined system report.)	Type of Institution	Receipt Status	Date Report Received
Texas College	Private or Independent Institution (ICUT)	Report Received by Deadline	10/28/22
Texas Lutheran University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/31/22
Texas Wesleyan University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/12/22
Trinity University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/26/22
University of Dallas	Private or Independent Institution (ICUT)	Report Received by Deadline	10/25/22
University of Mary Hardin-Baylor	Private or Independent Institution (ICUT)	Report Received by Deadline	09/30/22
University of St. Thomas-Houston	Private or Independent Institution (ICUT)	Report Received by Deadline	10/31/22
University of the Incarnate Word	Private or Independent Institution (ICUT)	Report Received by Deadline	10/18/22
Wayland Baptist University	Private or Independent Institution (ICUT)	Report Received by Deadline	10/24/22
Wiley College	Private or Independent Institution (ICUT)	Report Received After Oct. 31 Deadline	01/27/23

Appendix G: Summary Results of Compliance Monitoring

**Texas Higher
Education**
COORDINATING BOARD

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Daniel O. Wong

Harrison Keller, Ph.D.
COMMISSIONER OF HIGHER
EDUCATION

March 14, 2023

Dr. Harrison Keller
Commissioner of Higher Education
1801 N. Congress Avenue
Suite 12.200
Austin, TX 78701

Re: *Summary Results – Compliance Requirements – Texas Education Code,
Chapter 51, Subchapters E-2 and E-3 for Academic Year 2021-2022*

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 for Academic Year 2021-2022*. This information will be presented at the April 2023 Committee on Academic and Workforce Success.

Our review of the 217 postsecondary educational institutions (PEIs) found the following:

- Ten PEIs did not timely file the annual Chief Executive Officer (CEO) Certification as codified in Subchapter E-2 by October 31, 2022 the due date established by the coordinating board. Reports with recommendations and corrective action plans were issued for two PEIs with the most overdue CEO Certification Form submissions.

We performed follow up verification of Subchapter E-3 recommendations and determined:

- Dallas College implemented policy recommendations from the prior report dated May, 2021.
- Southwestern Christian College implemented policy recommendations from the prior report dated May, 2021.

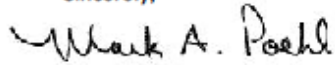
This report contains the review results, compliance requirements, and individual reports as follows:

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

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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 Certification Forms Not Timely Filed

Institution Type/Number	Institution	Date Received by Coordinating Board
Public Universities		
1	Texas Woman's University	11/2/2022
2	University of North Texas – Denton	11/2/2022
3	Texas Tech University Health Science Center – El Paso**	12/02/2022
Private Universities		
4	Parker University	11/01/2021
5	Southwestern Adventist University	11/2/2022
6	Southwestern Christian College	11/10/2021
7	Wiley College**	1/27/2023
Community Colleges		
8	Trinity Valley Community College	11/2/2021
9	Jacksonville College	11/21/2021
10	Navarro College	11/29/2021

**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 Form to be filed no later than October 31st each year based on Rule 3.19(a).*

***See the final reports for these PEIs as Attachments 1 and 2.*

Table 2: Subchapter 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 (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 - an enrolled student to whom an enrolled student may speak confidentially
17	51.291	Addresses confidentiality; adherence to these requirements stipulated in this subsection.
18	51.293	Protocols to address equal access for students enrolled at or employees of an IHE who are persons with disabilities.

PERFORMED BY:

Mr. Bobby Lane, CFE, CICA, Compliance Specialist

Ms. Elizabeth Steele, Compliance Specialist

THECB

Board Members

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Dr. Tina Jackson, Assistant Commissioner of Workforce Education

Ms. Cathie Maeyaert, Director, Private Postsecondary Institutions/Title IX Coordinator for
Higher Education Institutions

State Auditor's Office

Internal Audit Coordinator

Sunset Advisory Commission

Ms. Jennifer Jones, Director

Office of the Governor-Budget and Policy Division

Ms. Sarah Hicks, Budget and Policy Director

Legislative Budget Board

Mr. Christopher Mattson, Assistant Director

Attachment 1

Texas Higher Education COORDINATING BOARD

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Welcome Wilson, Jr.
Daniel O. Wong
Harrison Keller, Ph.D.
COMMISSIONER OF HIGHER
EDUCATION

March 3, 2023

Dr. Richard Lange
President
Texas Tech University Health Science Center – El Paso
5001 El Paso Dr.
El Paso, TX 79905

Re: *A Compliance Monitoring Desk Review of Certain Sexual Misconduct
Reporting and Compliance Requirements at Texas Tech University Health
Science Center – El Paso*, Report No. THECB-CM-DR-23-029-EP

Dear Dr. Lange,

I am attaching the final report on *A Compliance Monitoring Desk Review of
Certain Sexual Misconduct Reporting and Compliance Requirements at Texas
Tech University Health Science Center – El Paso*, Report No. THECB-CM-DR-
23-029-EP. There was one observation related to CEO Certification
submission, resulting from this engagement. Management's response has
been incorporated into the final report.

Summary

The 86th Legislature enacted SB-212, amending TEC, 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, Section 51.258(b) authorizes the coordinating board to assess an administrative penalty for failure of the IHE to show substantial compliance with the act.

Texas Tech University Health Science Center – El Paso did not file the CEO Certification with the Texas Higher Education Coordinating Board on or before October 31, 2022, as required by Texas Administrative Code (TAC), Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19.

This is the third reporting cycle for the CEO Certification as required by TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19 as authorized by Texas Education Code Chapter 51.258 by acts of the 86th Legislature and became effective January 1, 2020.

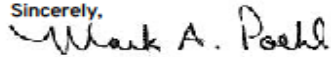
This Compliance Monitoring report will be presented to the Texas Higher Education Coordinating Board Committee on Academic and Workforce

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Success and the Committee on Agency Operations in April 2023. These are standing committees of the THECB Board.

The cooperation of your staff during this review is greatly appreciated. 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

EXECUTIVE SUMMARY

Texas Tech University Health Science Center–El Paso (TTUHSC–EP) did not file the Chief Executive Officer (CEO) Certification with the Texas Higher Education Coordinating Board (THECB) according to the requirements of TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19, as authorized by Texas Education Code (TEC), Chapter 51.258.

Review Objective, Scope, and Methodologies

We limited our objective and scope to reviewing compliance with the specific reporting requirement set forth in TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19. Academic Affairs and Workforce Education identified that TTUHSC-EP was one of 218 institutions of higher education (IHEs) required to file the CEO Certification Form on or before October 31, 2022.

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

Background

The Academic Affairs and Workforce Education Division under the Director of Private Postsecondary Institutions is responsible for receiving and tracking the receipt of CEO Certification Forms and acts as the Title IX point of contact for the institutions.

The 86th Legislature enacted SB 212, amending TEC, 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 to certify to the THECB on an annual basis that it is in substantial compliance with this subchapter. Further, Section 51.258(b) authorizes the THECB to assess an administrative penalty for failure of the IHE to show substantial compliance with the act.

As a result of the passage of this bill, THECB established rules in TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19(a), related to CEO certification. At this time, an administrative rule is pending final review and adoption that will provide guidance under Section 51.258(b) to assess the amount of the administrative penalty when an IHE is found not to be in substantial compliance with TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19(a).

Observation

TTUHSC–EP did not file the Chief Executive Officer (CEO) Certification Form with the THECB on or before October 31, 2022. Current rules allow the THECB to assess a penalty of up to \$2 million if and IHE is found to not be in substantial compliance. TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19, Subsections (a), (b), and proposed (e) state as follows:

“(a) The chief executive officer of each postsecondary educational institution shall annually certify in writing to the Coordinating Board, in October of each year, that the institution is in substantial compliance with Texas Education Code Subchapter E-2.”

“(b) If the Coordinating Board determines that a postsecondary education institution is not in substantial compliance with Texas Education Code Subchapters E-2 on or after January 1, 2020, and E-3 on or after August 1,

2020, 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.”

[proposed] “(e) A postsecondary educational Institution's failure to timely and accurately file the certification of substantial compliance with TEC Section 51.258 and Subsection (a) not later than October 31 of each year shall result in a penalty of \$2,000 per day of violation.

1. A postsecondary educational institution may cure a violation under this subsection by filing its report not later than November 30 of the year the report was due.
2. If the postsecondary educational institution cures the violation as provided in this subsection, the Coordinating Board shall not assess a penalty.
3. If the postsecondary educational Institution fails to cure the violation as provided in this subsection, the Coordinating Board shall assess the full penalty owed under this subsection beginning on November 1 of the year the report was due.
4. If a postsecondary educational institution files a good faith correction to a previously filed certification of substantial compliance within a reasonable time of discovering an unintentional error, but not later than February 1 following the due date of the report, the Coordinating Board shall not assess a penalty.”

Had the proposed rule been in effect for the reporting period ending October 31, 2022, TTUHSC-EP would have been subject to a penalty of \$62,000 for failure to comply with the rule.

Recommendation(s):

1. Ensure that future CEO Certification Forms are submitted to the THECB on or before October 31 each year.

Management Response:

Jennifer Erickson, VP Human Resources assumed the interim Title IX Coordinator role for TTUHSC El Paso on November 1, 2022. Upon transition, Ms. Erickson was contacted by Mr. Bobby Lane regarding the status of our CEO Certification. Ms. Erickson immediately investigated the matter and learned the CEO Certification had not been previously submitted to THECB by former Title IX Coordinator, Dr. Linda Ellis. Ms. Erickson took the necessary steps to submit the required CEO Certification to THECB.

Effective February 1, 2023, Ms. Leslie Collins assumed the role of Title IX Coordinator for TTUHSC El Paso. Ms. Collins currently serves as the Title IX Coordinator for TTUHSC Lubbock and is familiar with THECB CEO Certification requirements and deadlines. Going forward, she will ensure submission to THECB on or before October 31 each year. If for any reason Ms. Collins is unable to submit to THECB, Ms. Erickson will serve as her back-up, and submit on her behalf.

Implementation Date(s):

February 1, 2023

Responsible Party(ies):

Leslie Collins (Primary)

Jennifer Erickson (Secondary)

PERFORMED BY:

Mr. Bobby Lane, CFE, CICA, Compliance Specialist

THECB

Board Members

Commissioner's Office

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Ms. Nichole Bunker-Henderson, General Counsel

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Dr. David Troutman, Deputy Commissioner of Academic Affairs

Mr. Matt Parson, Assistant Commissioner of Workforce Innovation

Dr. Tina Jackson, Assistant Commissioner of Workforce Education

Ms. Cathie Maeyaert, Director of Private Postsecondary Institutions/Title IX Coordinator for
Higher Education Institutions

Texas Tech University Health Science Center-El Paso

Ms. Jennifer Erickson, Vice President of Human Resources/Title IX Coordinator

Ms. Leslie Collins, Title IX Coordinator

Ms. Christy Esqueda, Audit Director

Texas Tech University System

Dr. Tedd L. Mitchell, Chancellor

Mr. Mark Griffin, Chairman, Board of Regents

Ms. Dawn R. Payne, Assistant Vice Chancellor and Director Office of Equal Opportunity/Deputy
Title IX Coordinator for Employees

Ms. Kimberly Turner, Chief Audit Executive

State Auditor's Office

Internal Audit Coordinator

Sunset Advisory Commission

Ms. Jennifer Jones, Director

Office of the Governor-Budget and Policy Division

Ms. Sarah Hicks, Budget and Policy Director

Legislative Budget Board

Mr. Christopher Mattson, Assistant Director

Attachment 2

Texas Higher Education COORDINATING BOARD

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Harrison Keller, Ph.D.
COMMISSIONER OF HIGHER
EDUCATION

March 8, 2023

Dr. Herman J. Felton, Jr.
President
Wiley College
711 Wiley Avenue
Marshall, TX 75670

Re: *A Compliance Monitoring Desk Review of Certain Sexual Misconduct
Reporting and Compliance Requirements at Wiley College*, Report No.
THECB-CM-DR-23-029-W

Dear Dr. Felton,

I am attaching the final report on *A Compliance Monitoring Desk Review of Certain Sexual Misconduct Reporting and Compliance Requirements at Wiley College*, Report No. THECB-CM-DR-23-029-W. There was one observation related to CEO Certification submission, resulting from this engagement. Management's response has been incorporated into the final report.

Summary

The 86th Legislature enacted SB-212, amending TEC, 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, Section 51.258(b) authorizes the coordinating board to assess an administrative penalty for failure of the IHE to show substantial compliance with the act.

Wiley College did not file the CEO Certification with the Texas Higher Education Coordinating Board on or before October 31, 2022, as required by Texas Administrative Code (TAC), Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19.

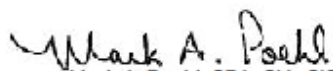
This is the third reporting cycle for the CEO Certification as required by TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19 as authorized by Texas Education Code Chapter 51.258 by acts of the 86th Legislature and became effective January 1, 2020.

This Compliance Monitoring report will be presented to the Texas Higher Education Coordinating Board Committee on Academic and Workforce Success in April 2023. This is a standing committee of the THECB Board.

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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

EXECUTIVE SUMMARY

Wiley College did not file the Chief Executive Officer (CEO) Certification Form with the Texas Higher Education Coordinating Board (THECB) according to the requirements of TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19 as authorized by Texas Education Code (TEC) Chapter 51.258.

Review Objective, Scope, and Methodologies

We limited our objective and scope to reviewing compliance with the specific reporting requirement set forth in TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19. Academic Affairs and Workforce Education identified that Wiley College was one of 218 institutions of higher education (IHEs) required to file the CEO Certification Form on or before October 31, 2022.

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

Background

The Academic Affairs and Workforce Education Division under the Director of Private Postsecondary Institutions is responsible for receiving and tracking the receipt of CEO Certification Forms and acts as the Title IX point of contact for the institutions.

The 86th Legislature enacted SB 212, amending TEC, 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, Section 51.258(b) authorizes the THECB to assess an administrative penalty for failure of the IHE to show substantial compliance with the act.

As a result of the passage of this bill, THECB established rules in TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19(a), related to CEO certification. At this time, an administrative rule is pending final review and adoption that will provide guidance under Section 51.258(b) to assess the amount of the administrative penalty when an IHE is found not to be in substantial compliance with TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19(a).

Observation

Wiley College did not file the Chief Executive Officer (CEO) Certification Form with the THECB on or before October 31, 2022. Current rules allow the THECB to assess a penalty of up to \$2 million if an IHE is found to not be in substantial compliance. TAC, Title 19, Part 1, Chapter 3, Subchapter A, Section 3.19 subsections (a), (b), and proposed (e) state as follows:

“(a) The chief executive officer of each postsecondary educational institution shall annually certify in writing to the Coordinating Board, in October of each year, that the institution is in substantial compliance with Texas Education Code Subchapter E-2.”

“(b) If the Coordinating Board determines that a postsecondary education institution is not in substantial compliance with Texas Education Code Subchapters E-2 on or after January 1, 2020, and E-3 on or after August 1, 2020, 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.”

[proposed] “(e) A postsecondary educational Institution's failure to timely and accurately file the certification of substantial compliance with TEC Section 51.258 and Subsection (a) not later than October 31 of each year shall result in a penalty of \$2,000 per day of violation.

A postsecondary educational institution may cure a violation under this subsection by filing its report not later than November 30 of the year the report was due.

If the postsecondary educational institution cures the violation as provided in this subsection, the Coordinating Board shall not assess a penalty.

If the postsecondary educational Institution fails to cure the violation as provided in this subsection, the Coordinating Board shall assess the full penalty owed under this subsection beginning on November 1 of the year the report was due.

If a postsecondary educational institution files a good faith correction to a previously filed certification of substantial compliance within a reasonable time of discovering an unintentional error, but not later than February 1 following the due date of the report, the Coordinating Board shall not assess a penalty.”

Had the rule been in effect for the reporting period ending October 31, 2022, Wiley College would have been subject to a penalty of \$174,000 for failure to comply with the rule.

Recommendation:

1. Ensure that future CEO Certifications are submitted to the THECB on or before October 31 each year.

Management Response:

Wiley College is committed to ensuring that future CEO Certifications are submitted to the THECB on or before October 31st of each year. Wiley College leadership will implement the following processes to make certain that all future submissions are submitted on time:

Both the Deputy Title IX and Title IX Coordinator will create calendar/event reminders at the 60-day mark and 30-day mark for report submissions. Both the Deputy Title IX and Title IX Coordinator will meet during the first week of September to re-engage about the report submission. Wiley College will internally certify the report one week out from the THECB submission date of October 31st.

Wiley College is dedicated to continuous improvement.

Implementation Date(s):

October 2023

Responsible Party(ies):

Dr. Danielle Sims Brooks, Vice President for Student Development and Enrollment Management

Dr. Tashia Bradley, Vice President for Administration and Chief Operating Officer

PERFORMED BY:

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

THECB

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Mr. Anthony Infantini, Chief Financial Officer
Ms. Sarah Keyton, Associate Commissioner for Administration
Ms. Nichole Bunker-Henderson, General Counsel

Academic Affairs and Workforce Education

Dr. David Troutman, Deputy Commissioner of Academic Affairs
Mr. Matt Parson, Assistant Commissioner of Workforce Innovation
Dr. Tina Jackson, Assistant Commissioner of Workforce Education
Ms. Cathie Maeyaert, Director of Private Postsecondary Institutions/Title IX Coordinator for
Higher Education Institutions

Wiley College

Dr. Tashia Bradley, Vice President for Administration and Chief Operating Officer
Dr. Danielle Brooks, Vice President for Student Affairs, Enrollment Management, & Strategic
Retention

Independent Colleges and Universities in Texas

Dr. Steven E. Johnson, President

State Auditor's Office

Internal Audit Coordinator

Sunset Advisory Commission

Ms. Jennifer Jones, Director

Office of the Governor-Budget and Policy Division

Ms. Sarah Hicks, Budget and Policy Director

Legislative Budget Board

Mr. Christopher Mattson, Assistant Director

Attachment 3

Texas Higher Education COORDINATING BOARD

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Welcome Wilson, Jr.
Daniel O. Wong

Harrison Keller, Ph.D.
COMMISSIONER OF HIGHER
EDUCATION

September 21, 2022

Dr. Justin Lonon
Chancellor
Dallas College
1601 S. Lamar St.
Dallas, TX 75215

RE: A Compliance Monitoring Follow up Review of our Initial Review of House
Bill 1735 Policy Compliance Requirements at Dallas College, Report No.
THECB-CM-DR-21-035-8

Dear Dr. Lonon,

The Texas Higher Education Coordinating Board has completed a follow up review on our *Initial Review of House Bill 1735 Policy Compliance Requirements at Dallas College*, Report No. THECB-CM-DR-21-035-8. The results of the review are characterized below.

Dallas College implemented the following policy recommendations from our prior report issued May 28, 2021 with one note as follows:

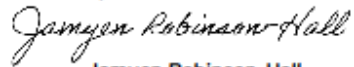
- Board of Trustees biennial review and approval of any policy revisions,
- A policy providing amnesty for students reporting certain incidents,
- Procedures for when a student withdraws or graduates with pending disciplinary charges, and
- Provisions for at least one or more responsible employee, confidential 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.
- Note: Dallas College's initial response for this item 2. follows: *Finally, due to its recent consolidation and reorganization, the College has elected not to designate "Student Advocates" at this time, as permitted by Texas Education Code (TEC) §51.290. The College's Office of Institutional Equity will review this decision, in consultation with appropriate stakeholders, during the College's scheduled biennial review of the Sexual Misconduct Policy.*

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This Compliance Monitoring follow up report will be presented to the Texas Higher Education Coordinating Board (THECB) Agency Operations Committee, a standing committee of the THECB Board, on October 26, 2022.

We appreciate the cooperation of your staff during this review. If you have any questions or comments, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Janyen Robinson-Hall".

Janyen Robinson-Hall
Senior Compliance Specialist, Internal Audit and Compliance

PERFORMED BY:

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

c:

THECB

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Ms. Melissa Henderson, Chief of Staff
Ms. Sarah Keyton, Associate Commissioner for Administration
Dr. David Troutman, Deputy Commissioner for Academic Affairs
Mr. Ken Martin, Associate Commissioner, Chief Operating Officer/Chief Financial Officer
Ms. Nichole Bunker-Henderson, General Counsel

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

Dallas College

Ms. Monica Lira Bravo, Chair, Board of Trustees
Mr. Rafael Godinez, Executive District Director, Internal Audit
Mr. Rob Wendland, General Counsel
Ms. Tricia Horatio, Associate General Counsel
Ms. Francienne Maynard, Title IX Coordinator

Texas Association of Community Colleges

Dr. Ray Martinez, III, President and Chief Executive Officer

State Auditor's Office

Audit Coordinator

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Office of the Governor-Budget and Policy Division

Ms. Sarah Hicks, Budget and Policy Director

Legislative Budget Board

Mr. Christopher Mattsson, Assistant Director

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Texas Higher Education COORDINATING BOARD

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Daniel O. Wong

Harrison Keller, Ph.D.
COMMISSIONER OF HIGHER
EDUCATION

September 21, 2022

Dr. Ervin D. Seamster, Jr.
President
Southwestern Christian College
200 Bowser Cir.
Terrell, TX 75160

RE: *A Compliance Monitoring Follow up Review of our Initial Review of House Bill 1735 Policy Compliance Requirements at Southwestern Christian College*, Report No. THECB-CM-DR-21-035-18

Dear Dr. Seamster,

The Texas Higher Education Coordinating Board has completed a follow up review on our *Initial Review of House Bill 1735 Policy Compliance Requirements at Southwestern Christian College*, Report No. THECB-CM-DR-21-035-18. The results of the review are characterized below.

Southwestern Christian College (SwCC) implemented the following policy recommendations from our prior report issued May 27, 2021 as follows:

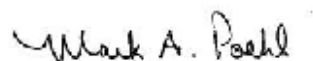
- Board of Trustees approval of the student conduct policies published in the academic catalog and/or student handbook.
- A hyperlink from SwCC's home page to its sexual assault and reporting (Title IX) related policies and procedures.
- Board of Trustees biennial review and approval of any policy revisions.
- A home page link (electronic reporting option) clearly indicating that it is for sexual assault reporting for students and employees of SwCC.
- A policy providing amnesty for students reporting certain incidents.
- Procedures for documenting a victim's request not to investigate and to notify the victim of SwCC's decision whether to investigate an alleged incident.
- Trauma-informed investigation training for SwCC law enforcement employees.

This Compliance Monitoring follow up report will be presented to the Texas Higher Education Coordinating Board (THECB) Agency Operations Committee, a standing committee of the THECB Board, on October 26, 2022.

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We appreciate the cooperation of your staff during this review. 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

PERFORMED BY:

Mr. Bobby Lane, CFE, CICA, Compliance Specialist

Ms. Elizabeth Steele, Compliance Specialist

c:

THECB

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Ms. Melissa Henderson, Chief of Staff

Ms. Sarah Keyton, Associate Commissioner for Administration

Dr. David Troutman, Deputy Commissioner for Academic Affairs

Mr. Ken Martin, Associate Commissioner, Chief Operating Officer/Chief Financial Officer

Ms. Nichole Bunker-Henderson, General Counsel

Academic Affairs and Workforce Education

Dr. Tina Jackson, Assistant Commissioner of Workforce Education

Ms. Cathie Maeyaert, Director of Private Postsecondary Institutions/Title IX Coordinator-
Institutions

Southwestern Christian College

Dr. John H. Dansby, Sr., Chairman, Board of Trustees

Mr. Aaron Robledo, Chief of Police

State Auditor's Office

Audit Coordinator

Sunset Advisory Commission

Ms. Jennifer Jones, Director

Office of the Governor-Budget and Policy Division

Ms. Sarah Hicks, Budget and Policy Director

Legislative Budget Board

Mr. Christopher Mattsson, Assistant Director

Appendix H: Proposed Rule Revision to Texas Administrative Code, Title 19, Part 1, Chapter 3, Subchapter A

CHAPTER 3:

*RULES APPLYING TO ALL PUBLIC AND PRIVATE OR INDEPENDENT INSTITUTIONS OF HIGHER
EDUCATION IN TEXAS REGARDING ELECTRONIC REPORTING OPTION FOR CERTAIN OFFENSES;
AMNESTY*

SUBCHAPTER a:

*REQUIREMENTS FOR CERTAIN INCIDENTS OF SEXUAL HARASSMENT, SEXUAL ASSAULT,
DATING VIOLENCE, OR STALKING AT CERTAIN PUBLIC AND PRIVATE INSTITUTIONS OF HIGHER
EDUCATION; AUTHORIZING ADMINISTRATIVE PENALTIES*

Section 3.19 Compliance.

(a) The chief executive officer of each postsecondary educational institution shall annually certify in writing to the Coordinating Board, not later than [in] October 31 of each year, that the institution is in substantial compliance with Texas Education Code Subchapter E-2. The Coordinating Board shall make available to institutions a required template for the certification which satisfies the requirements of this section.

(b) In addition to annually reviewing the reporting under Texas Education Code § 51.258 and § 3.19, the Coordinating Board shall conduct risk-based compliance monitoring of Texas Education Code, Subchapters E-2 and E-3. The CB will determine the basis for reviews based on risk factors such as time since last review, stakeholder feedback, prior findings or complaints, and other factors. The Coordinating Board shall make available to the institutions a report template which satisfies the requirements of this section.

(c) [(b)] If the Coordinating Board determines that a postsecondary educational institution is not in substantial compliance with Texas Education Code Subchapters E-2 on or after January 1, 2020, [and] or E-3 on or after August 1, 2020, the Coordinating Board may assess an administrative penalty against the institution in an amount not to exceed \$2 million annually. [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.] Compliance errors committed by an institution or system that are in substantial compliance with Subchapters E-2 and E-3 will not result in a penalty. The Coordinating Board will not find an institution is out of substantial compliance with the provisions in E-2 and E-3 based on a determination that the Coordinating Board would have taken different action after an independent evaluation of evidence.

(d) In evaluating whether an institution or system is in substantial compliance in accordance with Rule 3.3, the Coordinating Board will determine the institution's or system's good faith effort by evaluating the following factors:

1. The nature and seriousness of the compliance error;

2. The extent to which the institution complied with the statutory requirements and to what extent it did not;

3. The number of any institutional compliance errors;

4. Whether the institution had actual notice of the error;

5. Whether the institution made any effort to rectify any compliance errors or agrees to rectify any violations going forward;

6. The extent to which the institution has relevant policies and/or practices;

7. The institution's intent;

8. Severity of the error's effect;

9. Any previous compliance errors of a similar kind and the time lapse since those error(s);

10. Institutional efforts to prevent compliance errors, including the extent to which the institution provided training to employees and/or acted after learning about the error;

11. The explanation for the cause of the compliance error, including a good-faith mistake; a differing, reasonable interpretation of the law; a conflict between two provisions, or a conflict with another legal or governmental requirement (such as Title IX regulations or a mandatory report to the National Institutes of Health);

12. Any prevention and/or response efforts of the institution, made in good faith, to address a possible compliance error;

13. The degree of cooperation of the institution with the Coordinating Board in remedying a potential compliance error; and

14. Any other fact or circumstance as justice may require.

(e) [(c)] A postsecondary educational Institution's failure to timely and accurately file the certification of substantial compliance with Texas Education Code § 51.258 and Subsection (a) not later than October 31 of each year shall result in a penalty of \$2,000 per day of violation. [If the Coordinating Board assesses an administrative penalty against a postsecondary educational institution under Subsection (b), the Coordinating Board shall provide to the institution written notice of the Coordinating Board's reasons for assessing the penalty.]

(1) A postsecondary educational institution may cure a violation under this subsection by filing its report not later than November 30 of the year the report was due.

(2) If the postsecondary educational institution cures the violation as provided in this subsection, the Coordinating Board shall not assess a penalty.

(3) If the postsecondary educational Institution fails to cure the violation as provided in this subsection, the Coordinating Board shall assess the full penalty owed under this subsection beginning in November of the year the report was due.

(4) If a postsecondary educational institution files good faith correction to a previously filed certification of substantial compliance within a reasonable time of discovering an unintentional error, not later than February 1 following the due date of the report, the Coordinating Board shall not assess a penalty.

(f) The Coordinating Board may assess an administrative penalty, up to a total of \$2 million annually, if a postsecondary educational Institution has failed to maintain substantial compliance with Texas Education Code, Chapter 51, Subchapter E-2 or E-3.

(1) In determining the total penalty to assess, the Coordinating Board shall consider the number of students at the institution, the penalty matrix in this section, apply mitigating and aggravating factors, and any other factor justice may require. Mitigating factors may result in a reduction of the administrative penalty. Aggravating factors may result in an increased administrative penalty, up to \$2 million annually.

((A) Penalty Matrix)
Figure 19 TAC §3.19(f)

<u>Subchapter E-2</u>		
<u>Statute and Rule Violations</u>	<u>Institutional Failure to Maintain Substantial Compliance Related to</u>	<u>Potential Annual Penalty</u>
<u>Tex. Educ. Code §51.252; §3.5</u>	<u>Reporting Required for Certain Incidents</u>	<u>\$60,000</u>
<u>Tex. Educ. Code §51.253; §3.6</u>	<u>Administrative Reporting Requirements</u>	<u>\$2,000 per day</u>
<u>Tex. Educ. Code §51.255(c); §3.8</u>	<u>Failure to Report or False Report (Termination)</u>	<u>\$30,000</u>
<u>Tex. Educ. Code §51.256; §3.17</u>	<u>Confidentiality</u>	<u>\$60,000</u>
<u>Tex. Educ. Code §51.257(a); §3.18</u>	<u>Retaliation Prohibited</u>	<u>\$30,000</u>

<u>Subchapter E-3</u>		
<u>Statute and Rule Violations</u>	<u>Institutional Failure to Maintain Substantial Compliance Related to</u>	<u>Potential Annual Penalty</u>
<u>Tex. Educ. Code §51.282; §3.4</u>	<u>Policy Requirements</u>	<u>\$5,000</u>
<u>Tex. Educ. Code §51.282; §3.4</u>	<u>Policy Accessibility</u>	<u>\$5,000</u>
<u>Tex. Educ. Code §51.282; §3.4</u>	<u>Policy Orientation for Students</u>	<u>\$5,000</u>
<u>Tex. Educ. Code §51.282; §3.4</u>	<u>Outreach Program for Students and Employees</u>	<u>\$5,000</u>
<u>Tex. Educ. Code §51.282; §3.4</u>	<u>Policy Review</u>	<u>\$5,000</u>
<u>Tex. Educ. Code §51.283; §3.7</u>	<u>Electronic Reporting Option</u>	<u>\$5,000</u>
<u>Tex. Educ. Code §51.284; §3.5(e)</u>	<u>Amnesty for Students Reporting Certain Incidents</u>	<u>\$30,000</u>
<u>Tex. Educ. Code §51.285; §3.19</u>	<u>Victim Request Not to Investigate</u>	<u>\$5,000</u>
<u>Tex. Educ. Code §51.286; §3.10</u>	<u>Disciplinary Process for Certain Violations</u>	<u>\$30,000</u>
<u>Tex. Educ. Code §51.287; §§3.11, 3.30</u>	<u>Student Withdrawal or Graduation Pending Disciplinary Charges</u>	<u>\$30,000</u>
<u>Tex. Educ. Code §51.288; §3.12</u>	<u>Trauma Informed Investigation Training</u>	<u>\$5,000</u>
<u>Tex. Educ. Code §51.289; §3.13</u>	<u>Memoranda of Understanding Required</u>	<u>\$5,000</u>
<u>Tex. Educ. Code §51.290; §§3.14, 3.15</u>	<u>Responsible and Confidential Employee; Student Advocate</u>	<u>\$30,000</u>
<u>Tex. Educ. Code §51.291; §3.17</u>	<u>Confidentiality</u>	<u>\$60,000</u>
<u>Tex. Educ. Code §51.293; §3.16</u>	<u>Equal Access</u>	<u>\$5,000</u>

(B) Mitigating factors may include:

(i) The inability of the postsecondary educational

institution to meet the requirement of law due to:

(1) a disaster declared under Texas Government Code chapter 418;

(2) a technology failure rendering compliance impossible; or

(3) a severe medical impairment of a person responsible for compliance with a requirement under Texas Education Code Chapter 51, Subchapters E-2 or E-3; or

(ii) Evidence that the postsecondary educational institution properly reported an incident to another state or federal agency with law enforcement or regulatory authority.

(iii) Any actual notice to the institution of the compliance error;

(iv) Institutional efforts to prevent compliance errors, including the extent to which the institution provided training to employees and/or acted after learning about the error;

(v) The explanation for the cause of the compliance error, including a good-faith mistake; a differing, reasonable interpretation of the law; a conflict between two provisions, or a conflict with another legal or governmental requirement (such as Title IX regulations or a mandatory report to the National Institutes of Health);

(vi) The lack of harm to any individual; and

(vii) The extent to which the institution or system complied with Subchapters E-2 and E-3.

(C) Aggravating factors shall include:

(1) Harm to an individual caused by, or directly related to, the postsecondary educational institution's violation of law;

(2) Any evidence of a postsecondary educational institution's failure to act on a prior substantially similar complaint;

(3) Any evidence of multiple incidents of similar failures or length of time of failure by the postsecondary institution;

(4) Any evidence that the postsecondary educational institution or its chief executive officer knowingly provided a false

certification under Texas Education Code § 51.258(a);

(5) That the postsecondary educational institution attempted to conceal or cause others to conceal information relevant to a determination of violation under Chapter 51, Subchapters E-2 and E-3; and

(6) The extent to which the institution or system failed to comply with Subchapters E-2 and E-3.

[(d) A postsecondary educational institution assessed an administrative penalty under Subsection (b) may appeal the penalty in the manner provided by Chapter 2001, Government Code.]

(g) [(e)] If the Coordinating Board assesses an administrative penalty against a postsecondary educational institution under Subsection (f), the Coordinating Board shall provide to the institution written notice of the Coordinating Board's reason for assessing the penalty. [A postsecondary educational institution may not pay an administrative penalty assessed under Subsection (b) using state or federal money.]

(h) [(f)] A postsecondary educational institution assessed an administrative penalty under Subsection (f) may appeal the penalty in the manner provided by Chapter 2001, Government Code. The Coordinating Board shall enter a final decision and order as to any penalty assessed after a contested case proceeding. [The Coordinating Board shall deposit an administrative penalty collected under this section to the credit of the sexual assault program fund established under Section 420.008, Texas Government Code.]

(i) [(g)] A postsecondary educational institution may not pay an administrative penalty assessed under Subsection (f) using state-appropriated or federal money. [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 calendar year preceding the date of the report.]

(j) The Coordinating Board shall deposit an administrative penalty collected under this section to the credit of the sexual assault program fund established under Section 420.008, Texas Government Code.

(k) The Coordinating Board shall annually submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing legislature 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 education institutions found not to be in substantial compliance as provided by

this section and any penalties assessed under the section during the calendar year preceding the date of the report.

Texas Higher Education

COORDINATING BOARD

This document is available on the Texas Higher Education Coordinating Board website:
<http://highered.texas.gov>.

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