

Institutional Handbook of Operating Procedures Policy 02.01.06	
Section: General Administration	Responsible Vice President: Executive Vice President and Provost
Subject: General	Responsible Entity: Academic Enterprise

I. Title

Compliance with State Law Regarding Diversity, Equity, and Inclusion in Institutions of Higher Education.

II. Purpose

This policy implements Senate Bill 17, Texas Education Code § 51.3525, passed by the Texas Legislature during the 2023 term. Pursuant to this law, University of Texas Medical Branch at Galveston (UTMB) shall maintain an environment that promotes learning, academic freedom, and the creation and transmission of knowledge free from any requirements to exhibit or reflect a specific ideology or political view and without providing advantages or disadvantages to individuals based on race, sex, color, ethnicity, or national origin.

III. Prohibitions

Texas law prohibits:

A. Diversity, Equity, and Inclusion Offices

A diversity, equity, and inclusion (“DEI”) office means an office, division, or other unit of an institution of higher education (“DEI Office”), including any group of employees of any size that is established for any of the following purposes or carries out any of the listed duties:

1. influencing, hiring or employment practices at the institution with respect to race, sex, color, or ethnicity, other than through the use of color-blind and sex-neutral hiring processes in accordance with any applicable state and federal antidiscrimination laws;
2. promoting differential treatment of or providing special benefits to individuals on the basis of race, color, or ethnicity. UT System interprets “special benefit” to mean a term, condition, opportunity, or privilege that is unavailable, or substantially better than what is available, or provided to others;
3. promoting policies or procedures designed or implemented in reference to race, color, or ethnicity, other than policies or procedures approved in writing by UTMB’s Chief Legal Officer, the UT System’s Office of General Counsel, and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law;
4. conducting trainings (required or voluntary), programs, or activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, other than trainings, programs, or activities developed by an attorney and approved in writing by UTMB’s Chief Legal Officer, the U.T. System’s Office of General Counsel, and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.

B. Performing the Duties of a DEI Office

UTMB will not permit, hire, or assign any employee or volunteer or contract with a third party to perform any of the duties of a DEI Office set out in III. (A) above.

C. Requiring or considering DEI statements

UTMB shall not compel, require, induce, or solicit any person to provide a DEI statement or give preferential consideration to any person based on the provision of a DEI statement.

1. A “DEI statement” is a written or oral statement of a person’s commitment to (1) furthering diversity, equity, and inclusion based on race, color, ethnicity, national origin, sex, gender identity and/or sexual orientation or (2) promoting differential treatment of or providing special benefits to individuals based on their identification as a member of one or more of these classifications.
2. “Preferential consideration to any person” who provides a DEI statement means treating one person more favorably than another, in any respect, because of their inclusion or provision of a DEI statement expressing a preferred viewpoint in materials they provide to the institution.

D. Preference based on race, sex, ethnicity, or national origin

UTMB shall not give preference on the basis of race, sex, color, ethnicity, or national origin to an applicant for employment, an employee, or a participant in any function of the institution.

To “give preference on the basis of” an attribute means to treat one person more favorably than another, in any respect, because of that attribute.

E. Requiring participation in DEI training

UTMB shall not require any person to participate in DEI training as a condition of enrollment, employment, or performing any institution function.

1. “DEI training” includes a training, program, or activity designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation.
2. “DEI training” does not include a training, program, or activity developed by an attorney and approved in writing by UTMB’s Chief Legal Officer, the U. T. System Office of General Counsel, and the Texas Higher Education Coordinating Board for the sole purpose of ensuring compliance with any applicable court order or state or federal law.
3. Prohibited “DEI trainings” do not include annual equal employment opportunity and Title IX compliance trainings, including sexual harassment training, for faculty, staff, and students designed to educate on legal obligations and UTMB’s commitment to treating employees, students, and applicants consistently and fairly without regard to protected classifications, including race, color, sex, sexual orientation, gender identity, pregnancy, religion, national origin, age, disability, genetic information, citizenship status, and veteran status. The trainings identify applicable federal and state laws and UTMB policies, explain definitions, describe employee and student rights and reporting requirements, outline complaint reporting procedures, and emphasize the prohibition on retaliation.

Similarly, prohibited “DEI trainings” do not include trainings required of students, faculty, or staff as a sanction for violating institutional policies regarding compliance

with Title IX, Title VII, and Chapter 21 of the Texas Labor Code or similar federal or state laws, if designed to educate recipients on compliance with institution policies.

IV. Exceptions from Section III Prohibitions

A. Statements in Support of Grant Proposals or Accreditation Compliance

1. Notwithstanding the prohibitions stated in Section III of this policy, UTMB, or an employee of UTMB, for purposes of applying for a grant or complying with the terms of accreditation by an accrediting agency, is permitted to submit to the grantor or accrediting agency a statement that:
 - a. Highlights the institution's work in supporting:
 - i. first-generation college students;
 - ii. low-income students; or
 - iii. underserved student populations;
 - b. Certifies compliance with state and federal antidiscrimination laws.
2. UTMB may disclose data regarding impacts on certain student subgroups within the umbrella term of “underserved student populations.”
3. UTMB may collect and disclose data and information, which includes but is not limited to data and information necessary to maintain accreditation.

B. Academic Course Instruction - Faculty instruction in their assigned courses, practicums, seminars, and executive education programs is not subject to the prohibitions of this policy.

C. Scholarly Research or a Creative Work - Scholarly research and creative work by UTMB’s students, faculty, or other research personnel, and the dissemination of that research or work are not subject to the prohibitions of this policy.

1. “Scholarly research” may include research conducted by a student, faculty, or other research personnel in their respective field under generally accepted scientific standards (e.g., systems in place to ensure the quality and accuracy of hypotheses, methods, data, and findings, such as in a peer reviewed or refereed publication).
2. UTMB interprets “creative work” consistent with UT System’s Regents’ Rules and state and federal law. “Creative Work” may include academic work product of an innovative or interpretive nature, including, but not limited to, music, dance, visual art, and literature. “Creative work” may also include non-research written material created for publication and grant submissions seeking funding for research, instructional or other activities.
3. Programmatic components directly related to and part of the scholarly research or creative work, as defined in Sections IV.(C)(1)-(2) above, and proposed in a grant

submission, are deemed scholarly research or creative work and are not subject to the prohibitions of this policy.

4. "Research personnel" may include any non-faculty staff or trainee with assigned job responsibilities related to research based on the employment or academic training position they hold at UTMB, including individuals who serve on institutional review boards.
- D. Student Organizations - Student organizations that hold registered student organization status pursuant to UTMB policies are not subject to the prohibitions of this policy. Depending on the level of institutional control and support, and the institution's policies and practices, the programs and activities of a student organization that is sponsored by the institution may be subject to the prohibitions of this policy.
 - E. Guest Speakers and Performers - The prohibitions in this policy do not apply to guest speakers or performers on short term engagements. UTMB may host guest speakers and performers under its usual policies and rules on a short-term basis for limited duration events. UTMB maintains its commitment to freedom of speech and expression at its institutions to promote open inquiry and expand knowledge.
 - F. Student Academic Achievement and Postgraduate Outcomes - This policy does not prevent UTMB from having a policy, practice, procedure, program, or activity to enhance student academic achievement or postgraduate outcomes that is designed and implemented without regard to race, sex, color, or ethnicity.
 - G. Data Collection - Nothing in this policy prohibits the collection of data by UTMB or its appropriate disclosure in compliance with the law. This policy includes other exceptions that may be related to the use of collected data, e.g., statements in support of grant proposals or accreditation compliance, academic course instruction, scholarly research, creative work, student academic achievement and postgraduate outcomes designed and implemented without regard to race, sex, color, or ethnicity, and student recruitment and admissions.
 - H. Student Recruitment and Admissions - The prohibitions of this policy generally do not apply to student recruitment and admissions except those prohibitions set out in Section III.(C) above.

V. Policy Impact on Programs and Activities

- A. Programs or Activities Designed in Reference to Sex - This policy does not prohibit programs and activities designed in reference to sex, as opposed to gender identity or sexual orientation. Programs and activities designed for women or men that are otherwise lawfully implemented remain permissible. Examples of such permissible programs and activities include men's and women's athletics programs and single-sex dormitories. Academic programs, like Women in STEM, are permissible when such programs openly allow participation by both women and men.
- B. Employee Organizations - UTMB shall not establish employee groups organized in reference to one or more of race, color, ethnicity, gender identity, or sexual orientation. Groups are considered established by an institution when they are created by the administration of a college, school, department, or business unit. This does not apply to employee organizations that are merely registered with UTMB and do not have an employee assigned by the institution to lead the organization or its activities.

Employee resource groups are organizations that are not established by UTMB - Employee resource groups typically consist of employees with a common background or a common set of interests. Identity-based groups must be open to all interested participants and receive similar treatment and benefits as other employee groups.

UTMB's staff that handles ministerial tasks like reserving university spaces, coordinating access to audio visual equipment for meeting spaces, or other similar tasks, for all of UTMB's employee organizations may continue to provide such services to all employee organizations, including those organized in reference to one or more of race, color, ethnicity, gender identity, or sexual orientation.

- C. Institutional Investigative Units - The prohibitions in this policy do not apply to UTMB's investigative units that must sometimes consider race, color, ethnicity, gender identity, or sexual orientation in reaching determinations on alleged violations of institutional policies.
- D. Recognized History Events - The prohibitions in this policy do not apply to UTMB activities to participate in state, federal, or other widely recognized history events, including but not limited to Black History Month, Hispanic Heritage Month, Women's History Month, and Pride Month.
- E. Patient Healthcare and Other Health and Wellness Initiatives - The prohibitions in this policy do not apply to the provision of healthcare to patients and health and wellness initiatives, which are expressly excluded from the definition of programs or activities. Healthcare is individualized and is primarily designed and implemented to address health care needs.

VI. Employee Compliance

- A. Employees, including contractors hired to perform university work that would otherwise be performed by a UTMB employee, are subject to discipline, up to and including termination, for violating any provision set out in Section III above.

VII. Impacted Employee Positions

- A. An employee whose position is eliminated through implementation of Texas Education Code § 51.3525 may be reassigned to a different position at the institution, if appropriate, or invited to apply for a different position.
- B. UTMB may provide a letter of recommendation for employment at the institution or elsewhere to each employee in good standing whose position is eliminated as a result of the implementation of Texas Education Code § 51.3525. UTMB may also provide such employees reemployment assistance.

VIII. Compliance and Certification

- A. UTMB shall adopt and communicate policies, procedures, or other guidance to implement the requirements of Texas Education Code § 51.3525 and this policy and shall educate community members on permitted and prohibited activities. UTMB shall identify one or more points of contact that various constituencies may consult with compliance questions.
- B. The President shall, upon confirming the institution's compliance with this policy, submit to the UT System Chancellor a certification on behalf of UTMB that the institution complies with this policy.

- C. The required form and timing of UTMB’s certification will be prescribed by the Chancellor.
- D. UTMB will not spend money appropriated to the institution for a state fiscal year until the Board of Regents submits to the legislature and the Texas Higher Education Coordinating Board a report certifying the board's compliance with this Section during the preceding state fiscal year. This provision applies beginning with funds appropriated for the fiscal year starting September 1, 2024.

IX. State Audit for Compliance with Texas Education Code § 51.3525(g)

- A. Upon receiving notice from the state auditor of an audit of the institution under Texas Education Code § 51.3525, UTMB shall promptly notify the UT System Audit Office and the Vice Chancellor and General Counsel of the pending audit.
- B. UTMB is required to cooperate with the state auditor conducting the statutory audit.
- C. If UTMB receives an audit finding of a violation of Texas Education Code § 51.3525, it must cure the violation not later than the 180th day after the date on which the determination is made; and if UTMB fails to cure the violation during the 180-day period, it shall be ineligible to receive formula funding increases, institutional enhancements, or exceptional items during the state fiscal biennium immediately following the state fiscal biennium in which the determination is made.

X. Texas Higher Education Coordinating Board Study under Texas Education Code § 51.3525(j)
 UTMB shall coordinate with the Texas Higher Education Coordinating Board to complete the statutorily required biennial study.

XI. Relevant Federal and State Statutes
[Texas Education Code § 51.3525](#)

XII. Relevant System Policies and Procedures
[Board of Regents’ Rule 10701](#): Compliance with Laws Related to Race, Color, National Origin, Ethnicity, Religion, Sex, Age, Veteran Status, or Disability

XIII. Dates Approved or Amended

<i>Originated: 01/10/2024</i>	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>

XIV. Contact Information
 Provost Administration
 409-772-1019