



System Ethics & Compliance Office
THE TEXAS A&M UNIVERSITY SYSTEM

March 25, 2024

MEMORANDUM

TO: Chief Executive Officers
The Texas A&M University System

FROM: Ray Bonilla, General Counsel *RB*
The Texas A&M University System

Janet Gordon, System Ethics and Compliance Officer
The Texas A&M University System

SUBJECT: DEI Law Operational Manual

Beginning with the DEI Compliance Review launched in June 2023, the System Ethics and Compliance Office (SECO) and the Office of General Counsel (OGC) have engaged in multiple efforts to guide members through the requirements of Senate Bill 17 (DEI Law). Through regular calls, in-person meetings, and written guidance, SECO and OGC have assisted member compliance officers and other administrators as you prepare to certify compliance, as required annually under the law.

To further assist members in this annual certification process, SECO and OGC have developed the attached DEI Law Operational Manual, which will be incorporated as an appendix to System Regulation 08.01.01, Civil Rights Compliance.

This manual provides the framework for the member-level certification process, including the role of your Ethics and Compliance Officer (ECO) and other members of your leadership team in achieving compliance. The manual identifies several key stakeholders who are expected to review, monitor, and certify compliance within their respective departments. These departmental certifications will assist the chief executive officer of each of our institutions in their certification, on behalf of their institutions, which in turn will allow the Board of Regents to certify compliance on behalf of the System. SECO will work directly with your ECOs throughout this process culminating in your certification of compliance by June 1st of this year, and each succeeding fiscal year.

Chief Executive Officers

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Thank you for the assistance of you and your staff throughout this process. If you have any questions, please contact Dora Lisa Zavala, Director for Equal Opportunity, at dzavala@tamus.edu.

Attachment

cc: Mr. John Sharp, Chancellor
Mr. Billy Hamilton, Deputy Chancellor and CFO
Mr. Charlie Hrcir, Chief Auditor
Dr. James Hallmark, Vice Chancellor for Academic Affairs
Mr. R. Brooks Moore, Deputy General Counsel
Mr. Jan Faber, Managing Counsel, Compliance
Ms. Carla Vogel, Assistant General Counsel
Mr. Jacob Becker, Assistant General Counsel
Ms. Dora Lisa Zavala, Director, Equal Opportunity
A&M System Ethics and Compliance Officers
A&M System Chief Financial Officers
A&M System Chief Academic Officers



D.E.I. Compliance OPERATIONAL MANUAL

THE TEXAS A&M UNIVERSITY SYSTEM

System Ethics and Compliance Office
MARCH 2024

I. PURPOSE AND SCOPE

A. Purpose

The purpose of this operations manual is to outline the procedures to be followed by members of The Texas A&M University System (System) to facilitate compliance with Texas Education Code 51.3525 (DEI Law), as implemented by System Policy 08.01, *Civil Rights Compliance and Protections*.

This manual is developed by the System Ethics and Compliance Office (SECO) in coordination with the System Office of General Counsel (OGC). This document is the property of the System and may not be used for commercial purposes.

This manual serves as an appendix to System Regulation 08.01.01, *Civil Rights Protections and Compliance*.

B. Guidelines

The information and procedures contained in this manual provide guidance to be followed by System members and are not inclusive of all laws, rules, and regulations that govern the activities of the System, its members, and its officers and employees.

C. Designation of Compliance Authority

The Chief Executive Officer (CEO) of each member institution/agency is responsible for ensuring annual compliance with the DEI Law, as implemented by System Policy 08.01. SECO, in coordination with the OGC, shall monitor and review member operations and activities to evaluate members' compliance and provide guidance for corrective action where necessary.

II. GOVERNANCE AND OVERSIGHT

A. System Role

A member may not spend state funds appropriated for a state fiscal year until the System submits to the Texas Legislature and the Texas Higher Education Coordinating Board (THECB) a report certifying the System's compliance with the DEI Law during the preceding state fiscal year. SECO will annually provide a report to the Board of Regents (Board) for the August regular meeting and the Board will approve SECO's submission of this report on behalf of the System. This certification must be submitted no later than September 1 of each year *via* the THECB Institutional Certification and Compliance website.

B. Member Role

On an annual basis, the CEO will certify member compliance with the DEI Law through a statement of compliance to the Board and submit it to SECO.

Each member's Ethics and Compliance Officer (ECO) serves as the party responsible for the facilitation and assurance of the member's compliance. The ECO will identify those employees within the agency/institution who will provide the assurance of compliance for their department/division/office. Such employees include but are not limited to the Provost, Vice-President for Student Affairs, Chief Financial Officer, Chief Human Resources Officer, Directors, Deans, Department Chairs, *etc.*

Employees with oversight of compliance for their department/division/office will implement procedures and engage in the systemic review of their operations to ensure compliance with the DEI Law and attest to such on an annual basis.

III. EDUCATION AND TRAINING

A. System Responsibilities

SECO will update System-level Civil Rights Training to reflect statutory changes to the DEI Law.

SECO, in coordination with OGC, will provide annual training on the DEI Law and System and member compliance review processes (DEI Law Compliance Training). Training will be targeted to member leadership (ECOs) and structured in a "trainer-of-trainers" format to provide member leadership with the tools to educate stakeholders at their respective member agency/institution.

B. Member Responsibilities

Member ECOs and identified members of agency/institution leadership will participate in SECO's annual DEI Law Compliance Training.

Members will provide the SECO DEI Law Compliance Training to appropriate audiences at the member agency/institution on an annual basis.

Notices and information to be disseminated on the DEI Law will run through the Compliance Office to ensure accuracy and consistency in messaging.

IV. MONITORING

A. System Level

SECO, in coordination with OGC, will provide guidance and updates on matters of compliance with the DEI Law to all members as changes occur or the need arises for specific guidance.

The OGC Guidance articulated through the September 6, 2023, Frequently Asked Questions (FAQ) document provides specific guidance and parties available for consultation. As changes occur, this document may be updated periodically and redistributed.

As part of the monitoring processes required by System Policy 08.01, SECO will annually facilitate a compliance review of each member's compliance with the DEI Law unless issues arise constituting a need for an unscheduled review.

The compliance review will include:

- Evaluation of member processes in place used to identify and review DEI-related activities:
 - What member processes were used to identify DEI-related activities and analyze whether those activities comply with the DEI Law?
 - How were those activities identified as non-compliant addressed to ensure a return to compliance?
- Reviewing matters of risk and/or non-compliance *via* the quarterly compliance report
- Certification of member compliance through the annual report and assurance statement to be completed and submitted by each member.

Each System member CEO shall submit the member's Certification of Compliance to SECO no later than the first business day of June of each year. CEO certifications must include a report of compliance detailing the procedures followed by the member. SECO, in coordination with OGC shall review member compliance reports and submit a System report of compliance to the Board, in the form of an agenda item seeking the Board's approval of the report certifying the System's compliance with the DEI Law, no later than the agenda item submission deadline for the August regular meeting each year.

B. Member Level

Through the ECO, members must review *all* areas and activities of the agency/institution to ensure compliance with the DEI Law. At the start of each calendar year, the member must engage in SECO's compliance review process which culminates in a self-report and assurance of compliance from their CEO. This process will evaluate each area for issues of non-compliance with the DEI Law as follows:

1. Finance and Budgeting – the Chief Financial Officer, or designee, must review and address any issues of non-compliance related to:
 - a. Account and budget codes as follows:
 - i. Titles
 - ii. Locations/departments
 - iii. Sub-accounts/sub-departments
 - iv. Funding sources

Procedures must be implemented and documented for this review process and must include vetting of new and proposed account/budget titles, locations, departments, and funding sources to ensure compliance. Documentation must be retained and identified in the annual report of compliance through the Compliance Review Checklist.

2. Human Resources – the Chief Human Resource Officer, or designee, must review and address any issues of non-compliance related to:
 - a. Current employees;
 - b. Job profiles, business titles, and position restrictions;
 - c. Hiring practices and materials;
 - i. Review member hiring forms/templates to include all materials within a hiring packet
 - ii. Review documents used to evaluate applicants and candidates for hire such as checklists, interview questions, reference check questions, hiring matrices, candidate rubrics
 - iii. Review forms and documents used for measuring employee performance such as performance evaluations, merit increase forms, promotions, faculty tenure submissions
 - iv. Review job posting forms/templates to include position request forms, and hiring manager procedures.
 - v. Review live job postings published in Workday as well as those on external hiring websites
 - d. Performance evaluation tools, metrics, and procedures;
 - e. Training procedures and materials:
 - i. Review all mandatory training sessions implemented by the member to include those offered through TrainTraq;
 - ii. The review will include all mandatory member training provided to all stakeholders including faculty, staff, students, and third parties delivered outside of TrainTraq and should include all member departments where training is provided and/or made available;
 - iii. Procedures must be implemented for vetting of new and proposed mandatory training to ensure compliance;
 - f. Funding accounts and account titles;
 - g. Third-party contracts providing services for the department.

Procedures must be implemented and documented for this review process and must include vetting of new and proposed job titles, position descriptions, forms, documents, rubrics, metrics, contracts, and processes to ensure compliance.

Documentation must be retained and identified in the annual report of compliance through the Compliance Review Checklist.

3. Faculty Affairs – the Provost, or designee, must review and address any issues of non-compliance related to:
 - a. Faculty hiring and recruiting practices;
 - b. Tenure review procedures;
 - c. Faculty organizations supported by the university (purpose, structure, funding);
 - d. Grant proposals;
 - e. Accreditation certification;
 - f. The provision of academic or professional opportunities to students, visiting scholars, or existing faculty.

Procedures must be implemented and documented for this review process and must include vetting of new and proposed practices, procedures, and processes to ensure compliance. Documentation must be retained and identified in the annual report of compliance through the Compliance Review Checklist.

4. Student Affairs – the Senior Student Affairs Officer, or designee, must review and address any issues of non-compliance related to:
 - a. Departmental events;
 - b. Staff work;
 - c. Trainings for students or staff;
 - d. Student success and outreach programs;
 - e. Support available to students and student organizations, which includes compliance with the DEI Law, which mandates that funding sources made generally available to student organizations at an institution of higher education may not be withheld based on the content or viewpoint of the organization;

Procedures must be implemented and documented for this review process and must include vetting of new and proposed training, events, programs, and activities to ensure compliance. Documentation must be retained and identified in the annual report of compliance through the Compliance Review Checklist.

5. Other Programs and Activities – the Provost and the Senior Student Affairs Officer will identify the party responsible who must review all member funded and/or supported programs and activities and address any issues of non-compliance related to:
 - a. Institutional conferences and seminars;

Procedures must be implemented for vetting of new and proposed programs and activities to ensure compliance. Documentation must be retained and identified in the annual report of compliance through the Compliance Review Checklist.

6. Scholarships and Financial Aid – the Senior Scholarship and Financial Aid Officer must review and address any issues of non-compliance related to:

- a. Awards administered by the member;
- b. Awards from external entities promoted and/or facilitated by the member;
- c. Websites and social media pages listing awards administered, promoted, or communicated by the member;
- d. Materials funded, developed, and/or distributed through the department to include applications, marketing materials, informational materials, guidelines, operating manuals, and any other publication provided by the department;

Procedures must be implemented and documented for this review process and must include vetting of new and proposed scholarships and awards to ensure compliance. Documentation must be retained and identified in the annual report of compliance through the Compliance Review Checklist.

7. Athletics - the Athletic Director, or designee, must review and address any issues of non-compliance related to:

- a. Programs and activities;
- b. Mandatory non-athletic trainings (internal and external) for students and staff;
- c. All materials funded, developed and distributed through the department to include applications, marketing materials, informational materials, guidelines, operating manuals, and any other publication provided by the department;
- d. Co-sponsored events with outside entities;

Procedures must be implemented and documented for this review process and must include vetting of new and proposed programs and activities to ensure compliance. Documentation must be retained and identified in the annual report of compliance through the Compliance Review Checklist.

8. Website and Social Media Information – the Chief Information Officer, or designee, must review and address any issues of non-compliance related to:

- a. Member websites and social media sites will be reviewed for content and links, this should include all webpages maintained or supported by the university and bearing university trademarks as well as all static materials and documents linked from those webpages.

- b. Affiliate websites and social media sites will be reviewed for content and affiliation language

Procedures must be implemented and documented for this review process and must include vetting of new and proposed webpages and social media accounts to ensure compliance. Documentation must be retained and identified in the annual report of compliance through the Compliance Review Checklist.

9. Policies and Procedures – the ECO must review and address any issues of non-compliance related to:
 - a. Member rules, internal procedures, and guidelines to ensure alignment with System Policy 08.01 as related to the DEI Law
 - b. Ensure procedures and practices are established and documented for each area of compliance;

Document and implement internal controls and establish a monitoring process that is documented and communicated to responsible parties for each area of compliance; the process will culminate in the Statement of Assurance / Certification of Compliance with the DEI Law for submission to SECO annually in May. Documentation must be retained and identified in the annual report of compliance through the Compliance Review Checklist.

10. All Faculty and Staff

- a. It is the responsibility of all faculty and staff to ensure that no institutional support or resources are delivered or conditioned on the basis of race, ethnicity, color, or sex;
- b. All employees are expected to comply with System Policy 08.01 and its delineated prohibitions.

V. REPORTING

A. System Responsibilities

SECO will report to the Board of Regents on a(n) (annual, biannual, quarterly) basis. The report will include:

1. Member progress on internal review
2. Cumulative data on:
 - a. Items of non-compliance
 - b. Hotline reports of potential violation
 - c. Items published through various media outlets
3. Member progress on certification of compliance

No later than the agenda item submission deadline for the August regular Board meeting each year, SECO will submit a System report of compliance to the Board to include final certifications of compliance from each member and the System's certification of system-wide compliance.

B. Member Responsibilities

Through the Compliance Office, members will report to SECO on a quarterly basis. The report will include:

1. Department/division specific progress on internal review
2. Items of non-compliance
3. Hotline reports of potential violation
4. Items published through various media outlets

Each System member CEO shall submit the member's Certification of Compliance to SECO no later than the first business day of June of each year. This certification must include a report of compliance detailing the procedures followed by the member as well as individual certifications from each department/division acknowledging their evaluation and maintenance of compliance for their respective areas of responsibility.

VI. INTERNAL ENFORCEMENT AND DISCIPLINE

A. Response Procedures

All members will respond to reports of potential violations or inquiries related to noncompliance as follows:

1. Report of potential DEI Law violation:
 - a. All reports of a potential violation should be directed to the Risk, Fraud, and Misconduct Hotline at:

<https://secure.ethicspoint.com/domain/media/en/gui/19681/index.html>
 - b. Any emails, calls, text messages or communications of any kind, including articles and media reports of violations, should be forwarded to the member's Compliance Officer who will report the communication *via* the Risk, Fraud, and Misconduct Hotline as indicated above.
 - c. The members should respond to all communications concerning the DEI Law by confirming their commitment to following the law, reminding the reporter of the process for handling the complaint, and affirming that compliance will review the alleged deficiencies. The following is a response template members can use for this purpose:

This is to confirm the receipt of your (email, letter, phone call.) Pursuant to Texas A&M University System policy, all complaints will be filed and investigated through the Office of Compliance. The System is committed to following state law, and reports of noncompliance will be reviewed and, if necessary, deficiencies corrected in accordance with state law and System policy.

All member responses must be copied to the member CEO and OGC at SB17@TAMUS.edu.

For complaints reported directly to the hotline, an acknowledgment of receipt will be sent from SECO to the person filing the complaint.

2. Response to Media:

a. Direct calls/contact from media

Members should instruct their employees to do the following in response to direct calls or contact from the media:

- i. All calls/contact from any media outlet should be directed to Laylan Copelin, Vice Chancellor for Marketing and Communications.
- ii. Media call/contact also should be reported by Marcom via the Risk, Fraud, and Misconduct Hotline at:

<https://secure.ethicspoint.com/domain/media/en/gui/19681/index.html>

b. Published articles

Members should direct their employees to do the following in response to published articles that raise concerns for compliance:

- i. All published articles should be reported via the Risk, Fraud, and Misconduct Hotline at:

<https://secure.ethicspoint.com/domain/media/en/gui/19681/index.html>

- ii. MarCom will respond to the appropriate media outlet when necessary.

B. Discipline Process

In cases where a determination of noncompliance suggests willful violations by an employee, the matter will be referred to the member to process the complaint through the applicable disciplinary or civil rights process, including those outlined in System Regulations: 08.01.01, 16.01.01, 32.01.01, 32.01.02, or 32.02.02. There may be instances where noncompliance also

implicates other violations of a community member’s civil rights, which will be similarly adjudicated.

Forms

DEI Law Compliance Review Checklist – Department

DEI Law Compliance Review Checklist - ECO

DEI Law Member Certification of Compliance – Department

DEI Law Member Certification of Compliance – Chief Executive Officer