

Chief Executive Officer Report

TO: U.T. System Board of Regents
FROM: Peter Pisters, M.D. 
President and Chief Executive Officer
DATE: October 4, 2021
RE: Chief Executive Officer Reporting Requirements Under Tex. Educ. Code § 51.253(c)

Texas Education Code (TEC), Section 51.253(c) and Texas Administrative Code, Title 19, Sections 3.6(c) and 3.19(a) require institutions of higher education to submit a Chief Executive Officer Report (“CEO Report”) to the institution’s governing body and post the report on the institution’s internet website “at least once annually,” by October of each year.

The CEO Report must contain (1) all reports received by employees under the TEC, Section 51.252 that constitutes “sexual harassment,” “sexual assault,” “dating violence,” or “stalking” (as defined in the TEC, Section 51.251), and (2) any disciplinary actions taken under TEC, Section 51.255 regarding allegations of an employee’s failure to report or submitting a false report to the institution for alleged incidents of sexual harassment, sexual assault, dating violence, or stalking. The reports received may be applicable in multiple reporting categories, and therefore, the CEO summary data reflected in the categories may not add up to the totals of other categories.

In compliance with the Chief Executive Officer’s TEC reporting requirements, the enclosed CEO Report includes all of the required reporting to the U.T. System Board of Regents for the 2020-2021 academic year (Appendix A) and status updates to the 2019-2020 academic year (Appendix B) as of October 4, 2021. The CEO Report is based on the reporting requirements under TEC, Section 51.253(c) along with supplemental category breakdowns, when applicable.

The CEO Report will be posted on the www.mdanderson.org/TitleIX as required by TEC, Section 51.253(c), and a copy of this CEO Report (along with an annual certification of compliance) will be submitted to the Texas Higher Education Coordinating Board (THECB) by October 31, as required annually by 19 Tex. Admin. Code Section 3.19(a).

Appendix A
2021 CEO Summary Data
2020-2021 Academic Year: September 1, 2020 – August 31, 2021

Texas Education Code, Section 51.252: Employee Reporting Requirements	
Number of reports received under Section 51.252¹	105
a. Employee submitted reports under Section 51.252	105
b. Confidential reports ² under Section 51.252	0
Number of investigations conducted under Section 51.252	18
a. Formal investigation ongoing	6
b. Formal investigation completed (Non-Title IX) – Preliminary Determination (Preponderance of evidence <u>not</u> met) and no disciplinary referral	5
c. Formal investigation completed (Non-Title IX) – Preliminary Determination (Preponderance of evidence met) and referred to a disciplinary process	7
d. Formal investigation completed – No Preliminary Determination and referred to a disciplinary process ³	0
Disposition of disciplinary processes for reports under Section 51.252:	7
a. Disciplinary process pending	0
b. Disciplinary process completed – No Finding of Policy Violation ⁴	0
c. Disciplinary process completed – Employee Disciplinary Sanction	7
d. Disciplinary process completed – Student Disciplinary Sanction	0

¹ Not all reports of alleged sexual harassment, sexual assault, dating violence, and stalking against a student or employee are reflected in the CEO Report. Reports made by students and all other non-employees (including incidents under 19 Tex. Admin. Code Section 3.5(d)(3)) directly to the Title IX Coordinator are excluded. Further, if the Title IX Coordinator receives a report that a student or employee was a victim of sexual harassment, sexual assault, dating violence, or stalking prior to being enrolled at or employed by the institution, the report is excluded. Additionally, if a Title IX Coordinator or Deputy Coordinator determines that the type of incident described in a report, as alleged, does not constitute “sexual harassment,” “sexual assault,” “dating violence,” or “stalking” as defined in the TEC, Section 51.251, the report is excluded. When identifiable, duplicate reports were consolidated and counted as one report in the summary data. For example, two employees may witness the same incident of sexual harassment and then report it to the Title IX Coordinator. If the Title IX Coordinator can identify the two reports as being the same incident, then the incident will be counted once. It is the responsibility of the Title IX Coordinator or Deputy Title IX Coordinator to assess each report received and determine whether it is properly included in this report, and if so, to correctly identify the type of incident.

² A confidential report consists only of the “type of incident” from a confidential employee to the Title IX Coordinator; therefore, personally identifiable information is excluded under these circumstances. Examples of confidential employees may include victim advocates for students, student ombuds, or those who work in a counseling center or student health center.

³ Some investigation reports contain an investigator’s preliminary determination regarding the respondent’s responsibility. But in other instances, for example, those classified as “Title IX” investigations, the investigation report will not contain a preliminary determination because the Title IX regulations, effective August 14, 2020, prohibit investigator determinations regarding responsibility.

⁴ “No Finding of a Policy Violation” in this section refers to instances where there is no finding of responsibility after a hearing or an appeal process; investigations completed with a preponderance of evidence not met are excluded since it would not have moved forward into a disciplinary process.

Number of reports under Section 51.252 for which the institution determined <u>not</u> to initiate a disciplinary process	87
a. Confidential reports under Section 51.252	0
b. Respondent's identity is unknown	6
c. Administrative closure due to insufficient information to investigate	5
d. Determined matter was previously investigated or alleged conduct did not meet the definition of sexual harassment, sexual assault, dating violence or stalking	5
e. Complainant requested the institution not investigate	65
f. Informal resolution process ongoing	1
g. Informal resolution process completed	4
h. Dismissed due to Complainant failure to participate in Grievance Process	1

Texas Education Code, Section 51.255: Failure to Report or False Reports	
Number of reports received that include allegations of an employee's failure to report or submitting a false report to the institution under Section 51.255(a)	2
Number of investigations conducted regarding Section 51.255	1
a. Formal investigation ongoing	0
b. Formal investigation completed (Non-Title IX) – Preliminary Determination (Preponderance of evidence <u>not</u> met) and no disciplinary referral	1
c. Formal investigation completed (Non-Title IX) – Preliminary Determination (Preponderance of evidence met) and referred to a disciplinary process	0
Any disciplinary action taken, regarding failure to report or false reports to the institution under Section 51.255(c):	2
a. Employee termination	1
b. Institutional intent to termination, in lieu of employee resignation during disciplinary process	0
c. Employee not eligible for re-hire, in lieu of employee resignation prior to investigation	0
d. Employee placed on formal disciplinary notice for 12 months	1

Appendix B
2020 CEO Summary Data Updates⁵
2019-2020 Academic Year: January 1, 2020⁶ – August 31, 2020

Texas Education Code, Section 51.252: Employee Reporting Requirements	
Number of reports received under Section 51.252	50
a. Employee submitted reports under Section 51.252	50
b. Confidential reports under Section 51.252	0
Number of investigations conducted under Section 51.252	18
a. Formal investigation ongoing	0
b. Formal investigation completed (Non-Title IX or Pre-Title IX Regulations) – Preliminary Determination (Preponderance of evidence <u>not</u> met) and no disciplinary referral	12
c. Formal investigation completed (Non-Title IX or Pre-Title IX Regulations) – Preliminary Determination (Preponderance of evidence met) and referred to a disciplinary process	6
d. Formal investigation completed – No Preliminary Determination and referred to a disciplinary process	0
Disposition of any disciplinary processes for reports under Section 51.252:	6
a. Disciplinary process pending	0
b. Disciplinary process completed – No Finding of Policy Violation	0
c. Disciplinary process completed – Employee Disciplinary Sanction	6
d. Disciplinary process completed – Student Disciplinary Sanction	0
Number of reports under Section 51.252 for which the institution determined <u>not</u> to initiate a disciplinary process	44
a. Confidential reports under Section 51.252	0
b. Respondent’s identity is unknown	1
c. Administrative closure due to insufficient information to investigate	4
d. Determined matter was previously investigated or alleged conduct did not meet the definition of sexual harassment, sexual assault, dating violence or stalking	8
e. Complainant requested the institution not investigate	9
f. Informal resolution process ongoing	0
g. Informal resolution process completed	10

Texas Education Code, Section 51.255: Failure to Report or False Reports	
Number of reports received that include allegations of an employee’s failure to report or submitting a false report to the institution under Section 51.255(a)	0

⁵ These summary data updates consist of the cumulative data set that originated in 2019-2020 with updated statuses of investigation or disciplinary process dispositions. For example, investigations that were ongoing or disciplinary processes that were pending as of 2020’s CEO Report (published as of October 31, 2020) that have since concluded as of the date of this document will have an updated status or disposition reflected here.

⁶ January 1, 2020 is the effective date of the state statute for the purposes of complying with the Title IX Coordinator reporting requirements under TEC, Section 51.253(a).

Number of investigations conducted regarding Section 51.255	0
a. Formal investigation ongoing	0
b. Formal investigation completed (Non-Title IX) – Preliminary Determination (Preponderance of evidence <u>not</u> met) and no disciplinary referral	0
c. Formal investigation completed (Non-Title IX) – Preliminary Determination (Preponderance of evidence met) and referred to a disciplinary process	0
Any disciplinary action taken, regarding failure to report or false reports to the institution under Section 51.255(c):	0
a. Employee termination	0
b. Institutional intent to termination, in lieu of employee resignation during disciplinary process	0
c. Employee not eligible for re-hire, in lieu of employee resignation prior to investigation	



Executive Summary: Chief Executive Report
September 1, 2020 through August 31, 2021

THE UNIVERSITY OF TEXAS
MD Anderson
Cancer Center

Making Cancer History®

Executive Summary: Chief Executive Report

2020-2021 Academic Year, Starting September 1, 2021 to August 31, 2021

Pursuant to Texas Education Code (TEC), Section 51.253 (c), effective as of January 1, 2020¹, the University's Chief Executive Officer (CEO) is required to submit a written report to the institution's governing body and post the report on the institution's website regarding reports received from workforce members that witness or receive information regarding sexual harassment, sexual assault, dating violence, and stalking incidents as defined in TEC, Section 51.251², and committed by or against a person that is an enrolled student, workforce member at the time of the incident per TEC, Section 51, 252. On October 27, 2021, the University of Texas MD Anderson Cancer Center ("MD Anderson") published the CEO Report on the Title IX website as required by TEC, Section 51.253 (c). This executive summary serves as an accompanying document to provide additional information and explanation regarding the data included in the CEO Report pertaining to the reports submitted under TEC, Sec. 51.252.

Number of Reports Received under TEC, Section 51.252

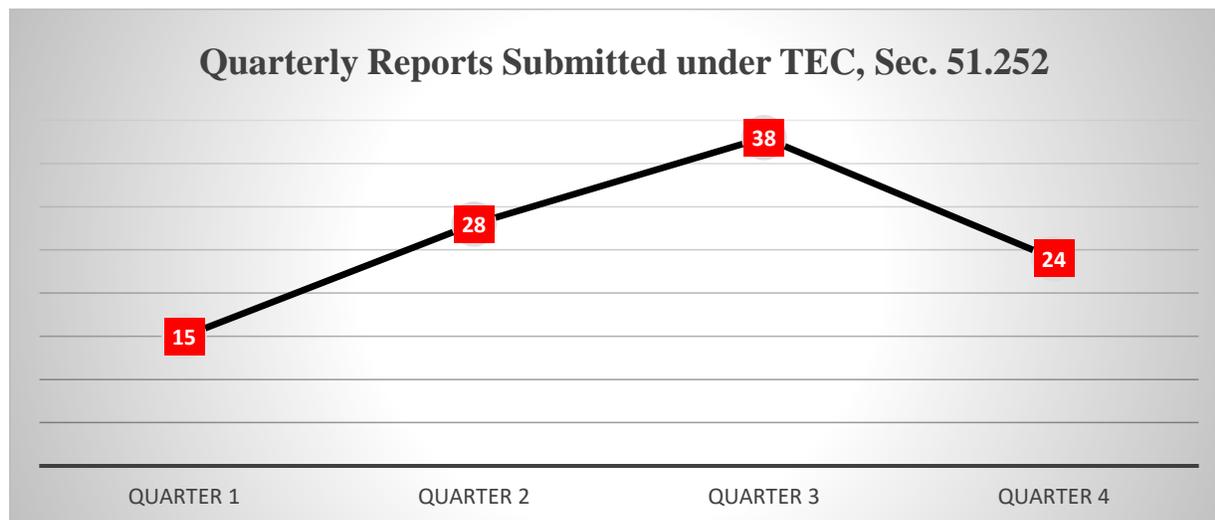
For the 2020-2021 academic year, September 1, 2020 through August 31, 2021, the Title IX Coordinator at The University of Texas MD Anderson Cancer Center received a total of 105 reports under TEC, Sec. 51.252. Of 105 reports submitted, 15 (14%) reports were submitted in Quarter 1, September 1, 2021 through November 30, 2021, 28 (27%) reports were submitted in Quarter 2, December 1, 2021 through February 28, 2021, 38 (36%) reports were submitted Quarter 3, March 1, 2021 through May 31, 2021 and 24 (23%) . We noted that this spike in reporting in Quarter 3 corresponded to both the implementation of the Institutional Mandatory Training – Title IX training module, which, included an emphasis on reporting requirements, pursuant to TEC, Sec. 51.252, for responsible workforce members and changes to COVID-19 operational procedures which resulted in increased numbers of workforce members returning to campus.

¹ January 1, 2020 is the effective date of the state statute for the purposes of complying with the Title IX Coordinator reporting requirements under TEC, Section 51.253(a).

² Texas Education Code (TEC), Section 51.251 provides definitions for sexual assault, sexual harassment, dating violence, and stalking. "In this subchapter '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)). [...] '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."



Number of Confidential Reports³ Received under TEC, Sec. 51.252

Under TEC, Sec. 51.252, a university is able to designate employees confidential with whom students may speak about sexual assault, sexual harassment, dating violence, and stalking incidents without concern that the matter may be reported to the Title IX Coordinator for the purposes of investigating these allegations. Additionally, employees that receive a report from a student or employee “under circumstances that render the employee’s communication confidential or privileged under other law.” Finally, healthcare, mental healthcare, and medical providers are also considered confidential. For each of these three categories of employees, only the disclosure of the type of conduct (e.g. sexual assault, sexual harassment, dating violence, and stalking) is necessary for compliance. Therefore, the limited information contained in reports from confidential employees limits the Title IX Coordinator’s ability to track data related to these incidents and determine if they are duplicate reports. Confidential employees routinely refer complainants to the Title IX Office and the Title IX Office always refers complainants to support services, many of which are confidential employees; thus, it is highly likely that many of the confidential reports are duplicative of the official non-confidential report submitted to the Title IX Coordinator. Of 105 total reports submitted to the Title IX Coordinator, 0 (0%) reports were submitted to confidential resources on campus.

Number of Reports Received under TEC, Sec. 51.252 that were Formally Investigated

Of 105 total reports submitted to the Title IX Office under TEC, Sec. 51.252, MD Anderson Initiated a formal investigation process for 12 (17%) of the reports submitted. As of August 31, 2021,

³ “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. Athletics’ Physicians, Counseling and Mental Health Center, Employee Assistance Program, Institutional Research Board (IRB) University Health Services, Legal Services for Students, Services for Students with Disabilities, Student Advocate, Student Ombuds, University Health Services, and Victim’s Advocate Network).

12 (67%) formal investigations were completed with 7 (39%) investigations concluding that the preponderance of evidence standard was met to substantiate a violation of institution's Sexual Misconduct Prevention Policy #ADM0285; 5 (28%) investigations concluding that the preponderance of evidence was not met to substantiate a violation of the institution's Sexual Misconduct Prevention Policy #ADM0285; 6 (33%) investigations are ongoing. As of August 31, 2021, MD Anderson had 0 (0%) substantiated violations of Sexual Misconduct Under Title IX: Reporting, Process, and Resources Policy (ADM3384).

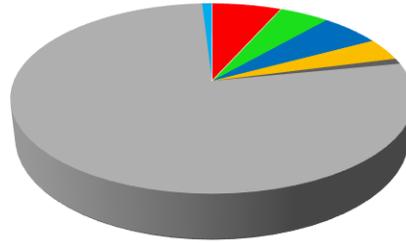
Number of Reports Received under TEC, Sec. 51.252 that were Not Formally Investigated

Of 105 total reports submitted to the Title IX Office under TEC, Sec. 51.252, MD Anderson decided not to initiate a disciplinary process, including conducting a formal investigation process, for 87 (83%) of the reports submitted. MD Anderson made this determination due to the following reasons:

1. Administrative Closure/Resources Only: A total of 60 (69%) reports submitted were not investigated and were closed administratively due to insufficient information to investigate; determination that the matter was previously investigated or alleged conduct did not meet the definition of sexual harassment under either policy #ADM0285 or #ADM3384, sexual assault, domestic/dating violence or stalking or the complainant requested for the alleged conduct not to be investigated. All complainants were provided with information on resources and accommodations/support measures.
2. Dismissal: A total of 1(1%) report was dismissed due to failure of complainant to participate in the Title IX Grievance Process as defined by ADM#3384 and ATT#3385. The complainant was provided with information on resources and accommodations/support measures.
4. Informal Resolution Process⁴ Selected: A total of 5 (6%) reports submitted were not investigated because both the complainant and the respondent selected to resolve the matter via the Informal Resolution Process. Of the 5 Informal Resolution Processes, 4 (80%) were completed on or before August 31, 2021 and 1(20%) remained as ongoing on August 31, 2021.

⁴ The University recognizes that in some limited circumstances (but never in cases involving sexual violence and/or dating violence) voluntary informal resolution options may be an appropriate means of addressing some behaviors reported under #0285. If the informal resolution process is deemed appropriate by the MD Anderson's Title IX Coordinator, or designees, then the complainant will be assisted in informally resolving the issue.

Status of Reports Received September 1, 202 - August 31, 2021



- Formal Investigation Completed - Substantiated Violation of Policy
- Formal Investigation Completed - Unsubstantiated - No Violation of Policy
- Formal Investigation Ongoing
- Informal Resolution Process Completed
- Informal Resolution Process Ongoing
- Administrative Closure/Resources Only
- Dismissal of Report Under Title IX - Failure to Participate in Grievance Process

Disposition⁵ of Disciplinary Processes

As of August 31, 2021, MD Anderson concluded that the preponderance of evidence standard was met for 7 (39%) investigations concluding that the preponderance of evidence standard was met to substantiate a violation of institution's Sexual Misconduct Prevention Policy #ADM0285. Therefore, the MD Anderson initiated a disciplinary process for these 7 (39%) reports under MD Anderson's Corrective Action Policy #ADM0266⁶ as follows: 1. Final Notice (12 months) 2. Notice (12 months); 3. Expectations Memo; 4. Ineligible for rehire.⁷

⁵ "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)].

⁶ MD Anderson's Corrective Action Policy #ADM0266, formal corrective action may be used in any of the following situations: 1) When behavior has been discussed previously and the performance/behavior has not improved for a reasonable period of time. 2) When the behavior is severe enough to justify corrective action. The proper level of corrective action is based on the severity of the policy violation, the employee's work history and/or departmental practice.

Note: No level of corrective action is required before a more severe level of corrective action. For example, notice, final notice, demotion or suspension without pay aren't required steps before termination.

⁷ Respondent voluntarily left the institution prior to the completion of the formal investigative process. Eligibility for rehire was changed to "ineligible for rehire" as a result of the substantiated finding that a violation of policy #0285 had occurred.

Disciplinary Actions for Substantiated Finding

