


## Chief Executive Officer Report

TO: U.T. System Board of Regents

FROM: Peter Pisters, M.D.   
President and Chief Executive Officer

DATE: September 28, 2022

RE: Chief Executive Officer Reporting Requirements Under Tex. Educ. Code § 51.253(c)

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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 2021-2022 academic year (Appendix A) and status updates to the 2020-2021 academic year (Appendix B) as of **August 31, 2022**. 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](http://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**  
**2022 CEO Report**  
**2021-2022 Academic Year: September 1, 2021 – August 31, 2022**

<b>Texas Education Code, Section 51.252: Employee Reporting Requirements</b>	
<b>Number of reports received under Section 51.252<sup>1</sup></b>	<b>136</b>
a. Employee submitted reports under Section 51.252	116
b. Student reports submitted under Section 51.252	0
c. Patient submitted reports under Section 51.252	15
d. Others (family members, anonymous CP)	5
e. Confidential reports <sup>2</sup> under Section 51.252	0
<b>Number of investigations conducted under Section 51.252</b>	<b>23</b>
a. Formal investigation ongoing	10
b. Formal investigation completed (Non-Title IX Regs) – Preliminary Determination (Preponderance of evidence <u>not</u> met) and no disciplinary referral	9
c. Formal investigation completed (Non-Title IX Regs) – Preliminary Determination (Preponderance of evidence met) and referred to a disciplinary process	4
d. Formal investigation completed – No Preliminary Determination and referred to a disciplinary process <sup>3</sup>	0
<b>Disposition of disciplinary processes for reports under Section 51.252:</b>	<b>13</b>
a. Disciplinary process pending	0
b. Disciplinary process completed – No Finding of Policy Violation <sup>4</sup>	9
c. Disciplinary process completed – Employee Disciplinary Sanction	4
d. Disciplinary process completed – Student Disciplinary Sanction	0

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> “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.

<b>Number of reports under Section 51.252 for which the institution determined <u>not</u> to initiate a disciplinary process</b>	<b>113</b>
a. Confidential reports under Section 51.252	0
b. Respondent's identity is unknown	24
c. Administrative closure due to insufficient information to investigate or alleged conduct did not meet the definition of sexual harassment, sexual assault, dating violence or stalking	13
d. Determined matter was previously investigated	0
e. Complainant requested the institution not investigate	65
f. Informal resolution process ongoing	2
g. Informal resolution process completed	9

<b>Texas Education Code, Section 51.255: Failure to Report or False Reports</b>	
<b>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)</b>	<b>2</b>
<b>Number of investigations conducted regarding Section 51.255</b>	<b>2</b>
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	2
c. Formal investigation completed (Non-Title IX) – Preliminary Determination (Preponderance of evidence met) and referred to a disciplinary process	0
<b>Any disciplinary action taken, regarding failure to report or false reports to the institution under Section 51.255(c):</b>	<b>2</b>
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	0
d. [Others – Counseling/Remediation – Training for delay in reporting]	2

**Appendix B**  
**2021 CEO Report Updates<sup>5</sup>**  
**2020-2021 Academic Year: September 1, 2020 – August 31, 2021**

<b>Texas Education Code, Section 51.252: Employee Reporting Requirements</b>	
<b>Number of reports received under Section 51.252<sup>6</sup></b>	<b>105</b>
a. Employee submitted reports under Section 51.252	105
b. Confidential reports <sup>7</sup> under Section 51.252	0
<b>Number of investigations conducted under Section 51.252</b>	<b>14</b>
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	7
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 <sup>8</sup>	0
<b>Disposition of disciplinary processes for reports under Section 51.252:</b>	<b>14</b>
a. Disciplinary process pending	0
b. Disciplinary process completed – No Finding of Policy Violation <sup>9</sup>	7
c. Disciplinary process completed – Employee Disciplinary Sanction	7
d. Disciplinary process completed – Student Disciplinary Sanction	0

<sup>5</sup> The 2021 CEO Report Updates consists of the cumulative data set that originated in 2020-2021 with updated statuses of investigation or disciplinary process dispositions. For example, investigations that were ongoing or disciplinary processes that were pending as of 2021’s CEO Report that have since concluded as of 2022’s CEO Report will have an updated status or disposition reflected here.

<sup>6</sup> 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.

<sup>7</sup> 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.

<sup>8</sup> 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.

<sup>9</sup> “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.

<b>Number of reports under Section 51.252 for which the institution determined <u>not</u> to initiate a disciplinary process</b>	<b>91</b>
a. Confidential reports under Section 51.252	0
b. Respondent's identity is unknown	5
c. Administrative closure due to insufficient information to investigate	7
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	67
f. Informal resolution process ongoing	0
g. Informal resolution process completed	6
h. Dismissed due to Complainant failure to participate in Grievance Process	1

<b>Texas Education Code, Section 51.255: Failure to Report or False Reports</b>	
<b>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)</b>	<b>2</b>
<b>Number of investigations conducted regarding Section 51.255</b>	<b>2</b>
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	2
<b>Any disciplinary action taken, regarding failure to report or false reports to the institution under Section 51.255(c):</b>	<b>2</b>
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 Final Notice (12 months)	1



## Executive Summary: Chief Executive Report

September 1, 2021 through August 31, 2022

THE UNIVERSITY OF TEXAS  
MDAnderson  
~~Cancer~~ Center

Making Cancer History®

## **Executive Summary: Chief Executive Report**

2021-2022 Academic Year, Starting September 1, 2021 to August 31, 2022

Pursuant to Texas Education Code (TEC), Section 51.253 (c), effective as of January 1, 2020<sup>1</sup>, 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 students and workforce members who are subjected to, witness or receive information regarding sexual harassment, sexual assault, domestic/dating violence, and stalking incidents as defined in TEC, Section 51.251<sup>2</sup>, 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, 2022, 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 2021-2022 academic year, September 1, 2021 through August 31, 2022, the Title IX Coordinator at The University of Texas MD Anderson Cancer Center received a total of 136 reports under TEC, Sec. 51.252. Of the 136 reports submitted, 25 (18%) reports were submitted in Quarter 1, September 1, 2021 through November 30, 2021, 23 (17%) reports were submitted in Quarter 2, December 1, 2021 through February 28, 2022, 46 (34%) reports were submitted Quarter 3, March 1, 2021 through May 31, 2021 and 42 (31%) were submitted from June 1, 2022 through August 31, 2022. We noted that this spike in reporting in Quarter 3 corresponded to 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.

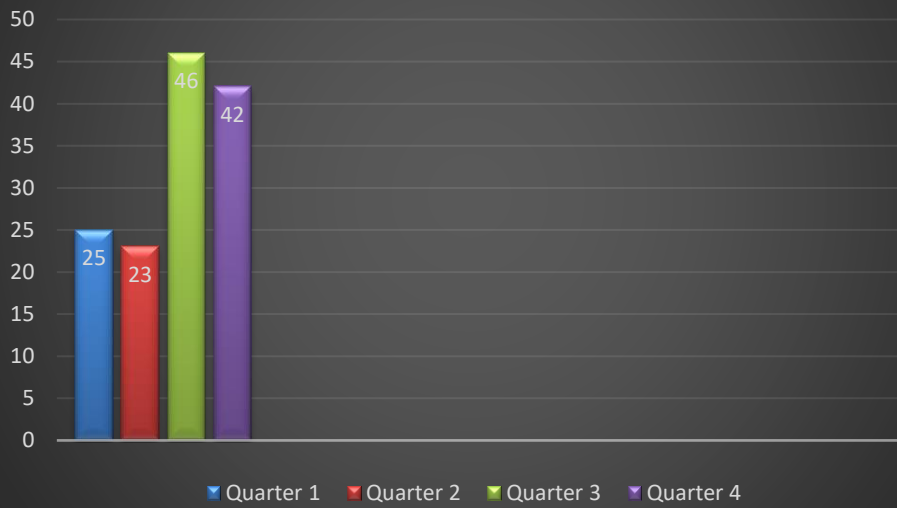
<sup>1</sup> January 1, 2020 is the effective date of the state statute for the purposes of complying with the Title IX Coordinator reporting requirements under TEC, Section 51.253(a).

<sup>2</sup> 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."

## Sexual Misconduct Reports Received by Quarter



### Number of Confidential Reports<sup>3</sup> Received under TEC, Sec. 51.252

Under TEC, Sec. 51.252, a university is able to designate certain individuals as confidential workforce members 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. Confidential Workforce Members include counselors in the Employee Assistance Program (EAP), a health care provider providing medical treatment to a Workforce Member or Student, or clergypersons. **For students only, Institutional ombudspersons are also considered Confidential Workforce Members.** Additionally, Workforce Members who receive information regarding an incident of Sexual Misconduct under circumstances that render the Workforce Member’s communications confidential or privileged under other law (such as attorneys) are also considered “Confidential Workforce Members.”

**Note:** Under state law, Confidential Workforce Members who receive information regarding incidents of Sexual Harassment, Sexual Assault, Dating Violence or Stalking committed by or against a Student or Workforce Member of MD Anderson, are required to report the **type of incident** to the Title IX Coordinator (or Deputy Coordinators). Confidential Workforce Members may not include any information that would violate a student’s expectation of privacy. The Confidential Workforce Member’s duty to report an incident under any other law also applies. 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 136 total reports submitted to the Title IX Office under TEC, Sec. 51.252, MD Anderson initiated a formal investigation process for 23 (17%) of the reports submitted. As of August 31, 2022,

<sup>3</sup> “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).



13 formal investigations were completed with 4 investigations concluding that the preponderance of evidence standard **was met** to substantiate a violation of institution's Sexual Misconduct Prevention Policy #ADM0285; 9 investigations concluding that the preponderance of evidence was not met to substantiate a violation of the institution's Sexual Misconduct Prevention Policy #ADM0285, and 10 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**

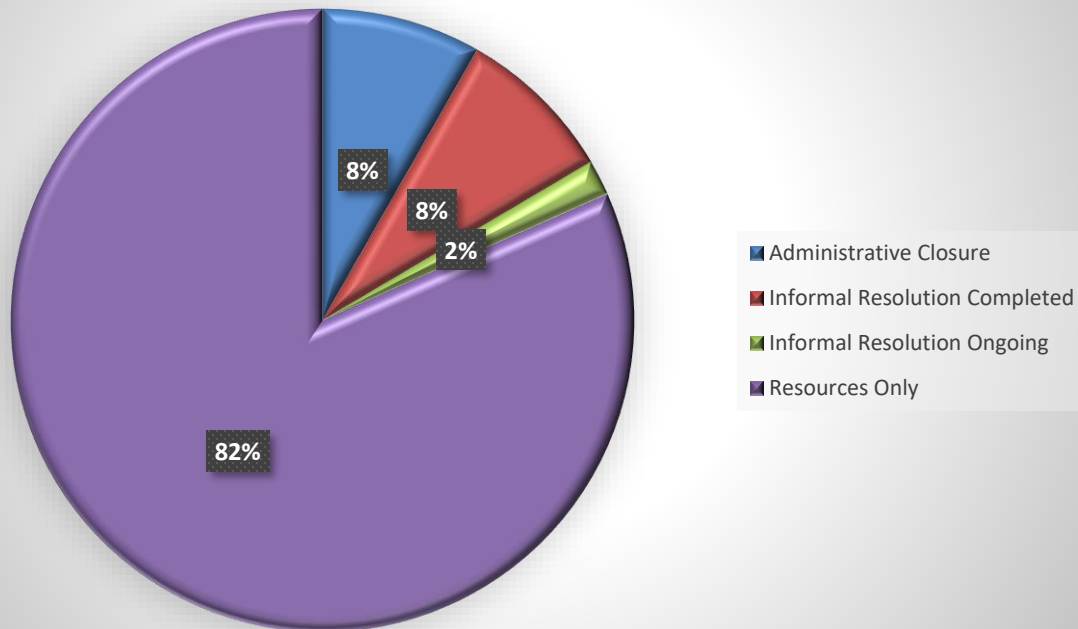
Of 136 total reports submitted to the Title IX Office under TEC, Sec. 51.252, MD Anderson decided not to initiate a disciplinary process, including conducting a formal investigation process, for 113 (83%) of the reports submitted. MD Anderson made this determination due to the following reasons:

1. Administrative Closure: A total of 13 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 institutional policy, Sexual Misconduct Prevention Policy, #ADM0285 or Sexual Misconduct Under Title IX: Reporting, Process, and Resources Policy, #ADM3384.
2. Informal Resolution Process<sup>4</sup>: A total of 11 reports submitted were not investigated because both the complainant and the respondent selected to resolve the matter via the Informal Resolution Process. Of the 11 Informal Resolution Processes, 9 were completed on or before August 31, 2022 and 2 remained as ongoing on August 31, 2022.
3. Resources Only: A total of 89 reports submitted were not investigated and were closed as a "Resources Only" as complainant requested for the alleged conduct not to be investigated, did not respond when contacted by the Title IX Office, or the complainant and/or respondent were unknown/not a participant in an institution/university program or activity. All complainants were provided with information on resources and accommodations/support measures.

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<sup>4</sup>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 Sexual Misconduct Report September 1, 2021 - August 31, 2022



### Disposition<sup>5</sup> of Disciplinary Processes

As of August 31, 2022, MD Anderson concluded that the preponderance of evidence standard was met for 4 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 4 reports under MD Anderson's Corrective Action Policy #ADM0266<sup>6</sup> as follows: 1. Final Notice (12 months) 2. Termination from Employment 3. Discontinuation of Patient Care 4. Ineligible for rehire.<sup>7</sup>

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<sup>5</sup> "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)].

<sup>6</sup> 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.

<sup>7</sup> 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.