Senate Resolution

To: The Student Senate of the University of North Dakota
Authors: Gracie Lian – Honors/Undeclared Senator, Noelle Greene – Off-Campus Senator
Sponsors: Matthew Temus – Education Senator
CC: Erik Hanson - Student Body President, Kaleb Dschaak - Student Body Vice President, Cassie Gerhardt - Student Government Advisor, Andrew Freligh - Student Organization Funding Agency Advisor; Dr. Cara Halgren - Vice President for Student Affairs and Diversity,
Date: 1/23/2019
Re: Title IX Proposed Rulemaking

Whereas, the University of North Dakota is “committed to reducing or eliminating barriers to educational and employment opportunity at UND caused by sex discrimination” according to UND’s policies on Title IX and sexual violence and sexual harassment¹; and,

Whereas, approximately two-thirds of college students experience sexual harassment and over 90% of victims on college campuses do not report the assault²; and,

Whereas, UND’s Student Government is dedicated to representing the student interest and to making students’ experiences on our campus both enjoyable and safe; and,

Whereas, the Department of Education has proposed new changes to the Education Title IX regulations, found within Federal Regulations volume 34, part 106; and,

Whereas, many of the new changes may either discourage or make it difficult for students to file Title IX complaints, and thus the changes impede upon UND students’ access to higher education; and,

Whereas, proposed section 106.44(a) limits the mandatory jurisdiction of the institution to only those reported cases in which the misconduct occurs either on campus or at an educational program or activity that is supervised, funded or endorsed by the institution, which reduces schools’ responsibility to investigate reported Title IX allegations, thus limiting the ability of a victim to find recourse after sexual assault or sexual harassment even if the assault has limited his or her access to educational opportunities; and,

Whereas, as stated in the North Dakota Student Association’s (NDSA) Resolution NDSA-12-1819, the “proposed section 106.44(e)(1) redefines “sexual harassment” more narrowly as either “an employee of the institution conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct” or “unwelcome conduct on the basis of sex that is so severe, pervasive and objectively offensive that it denies a person access to the school’s education program or activity,” creating ambiguous loopholes that would allow institutions to interpret the definitions of “severe,”

¹ https://www1.und.edu/affirmative-action/title-ix/index.cfm
² https://www.nsvrc.org/statistics
“pervasive,” and “objectively offensive” while also putting additional responsibility on the reporting party to prove severity, pervasiveness, and offense”; and,

Whereas, the NDSA’s Resolution NDSA-12-1819\(^1\) clearly outlines additional student grievances concerning the proposed Title IX changes, such as the policy change dictating that Title IX coordinators would only be held responsible for reporting sexual misconduct in instances where they have “actual knowledge” of the misconduct rather than being held accountable to intervene if they “reasonably” should have known about misconduct, consequently providing universities with an excuse for ignoring and devaluing vigorous attention to and awareness of the warning signs of sexual misconduct; so

Therefore, be it moved that UND Student Government does not support the proposed Title IX changes due to their protection of universities over their protection of the rights and safety of higher education students; and,

Therefore, be it further moved that UND Student Government supports and stands in solidarity with the NDSA and its Resolution NDSA-12-1819 “A Resolution Urging Action on Title IX”; and,

Therefore, be it furthest moved that UND Student Government asks the Department of Higher Education to revisit Title IX and institute changes that are fair to both students and institutions of higher education.

[Signature]

Erik Hanson, Student Body President

---

1 https://ndsa.ndus.edu/resolutions/