

March 22, 2021

Dear Chairman Schaible and members of the Committee:

Thank you for allowing me to submit testimony regarding House Bill 1503, regarding the adoption of campus free speech policies (15-10.4-02 ND Century Code).

My name is Liz Legerski and I am an Associate Professor of Sociology at the University of North Dakota (UND). This year I am also acting as the Chair of the UND Senate and serving on the Council of College Faculties as the Faculty Advisor to the State Board of Higher Education.

As you know, during the last legislative session this same policy came before the Legislative Assembly and the North Dakota University System (NDUS) responded by developing overarching guidelines for campus free speech policies. As a result, each of the 11 NDUS institutions responded by developing and implementing their own Free Speech policies that both protect student and faculty rights to free speech while also establishing reasonable and constitutional institutional restrictions. This process remains an excellent example of the “unity, but not uniformity” approach to the NDUS.

The faculty of the NDUS, who I represent, value and respect free speech protections, not only for themselves, but also for their students. Principles of free speech are central to notions of academic freedom and inquiry, which form the bedrock of university teaching and research endeavors.

Given the NDUS’s quick response to, and compliance with, ND Century Code 15-10.4-02 adopted during the 66th Legislative Assembly, it was surprising to see this bill come up again during this 67th Legislative Assembly. And it begs the question, why? Why is this change to Century Code necessary? The NDUS response last time was quick and sufficient. To my knowledge, there have not been any problems with or challenges to the NDUS policies which were developed. Thus, rather than addressing a problem, this legislation appears to simply be the result of external lobbying organizations, who seek to set up policies that advance their own economic interests.

The authors of this legislation have taken a simple, yet effective, section of Century Code and amended it in a number of ways that are unnecessary and may also be problematic. SBHE Policy 401.1 already addresses academic freedom, academic responsibilities, and guidelines around classroom speech and expression. In fact, SBHE policy explicitly states, “essential to this principle [of academic freedom] is the toleration of the conflict of ideas and the opportunity for the expression of diverse points of view.” SBHE policy also includes the admonition of the American Association of University Professors (AAUP) that, “teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject.” These sentiments are already included in existing policy.

Unfortunately, HB 1503 introduces conditions that are not well defined and likely would be difficult to enforce. For example, how do we define what is “reasonably germane” to the subject matter of a discipline and whether content “comprises a substantial portion of classroom instruction”? Faculty members are experts in their respective fields, which are constantly evolving as technology and



society change. The most engaging kind of teaching involves taking abstract concepts and connecting them to real-world events. Thus, faculty and their peers serve as the best judge of the relevance of course materials, and pedagogical best practices support applying those materials to current events as they unfold in real-time.

In short, you have the choice between existing Century Code, which is parsimonious and effective, or the convoluted and prescriptive policy recommendations of an outside lobbying group with financial interests in litigation. By voting against these suggested amendments to existing Century Code 15-10.4-02 you show you trust our institutions of higher education, the responsiveness and nimbleness of the State Board of Higher Education, and the “unity, not uniformity” motto which guides the NDUS.

As a result, I ask that you please do not recommend the passage of HB 1503.

Thank you for your time.

Respectfully,



Liz Legerski, PhD

