

**University Senate**

Twamley Hall, Room 201  
264 Centennial Dr Stop 8382  
Grand Forks, ND 58202-8382  
UND.edu/university-senate

**SB 2247**

Mar. 5, 2023

Robert Newman, Chair, University Senate, University of North Dakota

Chairman Heinert and members of the House Education Committee:

My name is Robert Newman, I am a professor at the University of North Dakota and the Chair of UND's University Senate. On behalf of the UND University Senate I respectfully submit this **testimony in OPPOSITION to SB 2247.**

We oppose SB 2247 because it is not a remedy for any real problem, and because it creates problems by interfering with legitimate education and training. We appreciate that the House committee made some changes that reduced our concern about interference with academic freedom and free speech, but fundamental problems remain.

1. Section 1, 15-10.6-01 - 3 (lines 17 – 20) defines a series of “Specified concepts” (formerly labeled “Divisive concepts”) that are all clearly repugnant or contrary to the values of our state and country. NONE of these ideas are being promoted in education or training in higher education (or K-12 for that matter). Some of the concepts (a – d) are racist or sexist, others (e – p) are intended to elicit fear, anger or concern in citizens and state legislatures about the intended purpose of diversity training or classroom education (<https://www.mtsu.edu/first-amendment/article/2178/divisive-concepts>). The whole thing is a fabrication: “*the controversy is a manufactured one, a masterful disinformation campaign to silence advocates of anti-racism.*” <https://academeblog.org/2021/09/10/the-teachable-moment-of-divisive-concepts-legislation/>

**In short, there is NO problem. There is certainly no need for legislation that would intentionally or unintentionally, directly or indirectly interfere with education either in K-12 or higher ed, or in training within institutions.**

To be clear, we do have a history of racism, sexism, and other forms of discrimination in this country that have caused great harm, and which continue to impact people to this day. This is extremely well-documented and undeniable. Accordingly, it is important that students (all of us) learn the truth, the full

---

Today, the University of North Dakota rests on the ancestral lands of the Pembina and Red Lake Bands of Ojibwe and the Dakota Oyate — presently existing as composite parts of the Red Lake, Turtle Mountain, White Earth Bands, and the Dakota Tribes of Minnesota and North Dakota. We acknowledge the people who resided here for generations and recognize that the spirit of the Ojibwe and Oyate people permeates this land. As a university community, we will continue to build upon our relations with the First Nations of the State of North Dakota — the Mandan, Hidatsa, and Arikara Nation, Sisseton-Wahpeton Oyate Nation, Spirit Lake Nation, Standing Rock Sioux Tribe, and Turtle Mountain Band of Chippewa Indians.

---

story, so that we can learn from it and work towards a better future, one that matches the ideals of our founders.

2. 15-10.6-02 states that students, employees, and prospective employees may not be penalized or discriminated against for their support or opposition to any of the specified/divisive concepts, nor can anyone be asked to endorse or oppose them, or even be asked about their beliefs.

**This is already policy and it is under the purview of the State Board of Higher Education. There is no need for legislation, nor would any be appropriate for issues under the jurisdiction of the SBHE.**

3. 15-10.6-03 prohibits Specified Concepts training. This is the most egregious problem remaining in this bill. We appreciate that the Senate committee attempted to carve out an exemption for classroom, for-credit education that is protected by academic freedom policy. However, there are legitimate training needs that may include discussion or presentation of “Specified/divisive” concepts. As noted previously, these are repugnant concepts, but they are also things that have actually happened in our nation’s history and that continue to reverberate into the present. Racism, sexism, and other forms of discrimination are regrettably still with us. Sometimes that is overt, sometimes it is more subtle. Overt discrimination violates federal law and SBHE policy already addresses this. Microaggressions that flow from implicit bias are one example of more subtle behavior and are still a problem. Training is required to mitigate all forms of discrimination, so that people are aware of such problems, how to detect them, and how to avoid them. Even training of educators on how to mitigate problems that may arise in the classroom or on best practices to facilitate discussion of contentious topics such as these “Specified/divisive” concepts is essential. That may include viewing course material related to these concepts through an appropriate lens. But nobody is promoting or endorsing the “Specified/divisive” concepts.

With regard to point 2 under 15-10.6-03 (line 19-22), many institutions hire diversity officers to oversee efforts to make campuses more inclusive and welcoming. Intellectual diversity is already protected under State Board policy and is not the reason we need diversity offices and directors.

**In short, training may be necessary to improve our ability to be aware of and remedy problems related to “Specified/divisive concepts”. Restricting our ability to provide that training would make matters worse by limiting our ability to address real problems and also projects state and institutional indifference. Moreover, this falls within the purview of the SBHE.**

4. 15-10.6-04 is a matter that should be left to the SBHE.
5. 15-10.6-05 protections for academic freedom are a welcome addition to the original bill, but also falls under the purview of the SBHE.

**We urge the committee to oppose SB 2247 and vote Do Not Pass.**

Respectfully,

Robert Newman, PhD. / Chair, University Senate, UND