

To: Chair Beard and the Education Committee
From: The University Senate of the University of North Dakota
Subject: Opposition to Senate Bill 2392
Date: February 10, 2025

Dear Chair Beard and members of the Education Committee,

I am Zarrina Azizova, an Associate Professor of Higher Education, and I currently serve as the Chair of the University Senate of the University of North Dakota (UND). On behalf of the University Senate, I submit this testimony **in opposition to SB 2392** that relates to the regulation of prohibited discriminatory practices and provides for a legislative management report.

The University of North Dakota has long upheld the principles of equal opportunity in education and employment as mandated by federal and state law, including Title VI, Title VII, Title IX, the Americans with Disabilities Act, the North Dakota Human Rights Act, the University's Policy Statement on Discrimination and Harassment, and our accreditors. If the intent of SB 2392 is to protect against discriminatory practices, multiple non-discrimination laws, University policies, and accreditation requirements already exist and have been successfully guiding NDUS institutions for decades.

However, a close reading of SB 2392 reveals that, rather than reinforcing non-discrimination, it introduces vague and restrictive definitions that would significantly disrupt the University's core mission of teaching, research, and service. The bill's ambiguous language would not only cause confusion and potentially conflict with existing anti-discrimination requirements, but would also severely curtail academic freedom, free speech, and the integrity of higher education. Below, I outline our primary concerns:

1. **Threat to Academic Freedom and Free Speech:** At its core, SB 2392 undermines the fundamental principles of higher education by restricting the ability of faculty to engage in teaching, research, and service that explore issues of race, gender, and systemic inequality. Academic freedom—the right of faculty to determine what and how they teach without political interference—is essential to the pursuit of knowledge and the development of critical thinking skills among students. This bill imposes an ideological litmus test that contradicts the foundational tenets of free expression enshrined in the First Amendment. The prohibition of certain topics and perspectives on campus amounts to government overreach into the classroom, chilling open discussion and restricting intellectual inquiry. Faculty must be free to teach historical and contemporary realities, including issues related to race, gender, and social structures, without fear of reprisal or defunding. In fact, the University Senate has approved the launch of the University of North Dakota's Resources and Programming on Academic Freedom and Free Speech (und.edu/academics/university-senate/index.html). With this initiative, we look forward to an active engagement of faculty in discussions and interpretations of laws, policies, and historic practices that have built and shaped academic independence of higher education, which is the key feature of American Higher Education that proudly distinguishes itself from the world.

2. **Confusing and Unjustified Definitions:** SB 2392 defines “prohibited discriminatory practice” as a policy, procedure, practice, program, office, initiative, or required training that (among other definitions) is “referred to or named diversity, equity, and inclusion.” This categorization is both unclear and deeply troubling. Diversity, equity, and inclusion are long-held tenants that are enshrined in the US Constitution and reflected in decades of federal and state law. For example, recognizing the need for equitable and inclusive access, since 1973, under NDCC 37-19.1, “Veterans who are North Dakota residents shall be entitled to preference, over all other applicants, in appointment or employment by governmental agencies. UND also provides dedicated student support and success resources to our veterans and active-duty service members, which meet our definition of DEI. The bill offers no rationale for why these concepts—central to ensuring fairness in education and employment—should suddenly be deemed unacceptable. This vague prohibition leaves the University uncertain about how to comply without violating existing legal, licensing, and accreditation requirements.
3. **Coursework Disruptions through Curricular Restrictions:** By banning coursework, research, and training that engage with diverse, equitable, and inclusive principles, SB 2392 places an unreasonable burden on faculty and institutions. Many required and elective courses—ranging from history, sociology, and psychology to law, health sciences, and business—incorporate discussions on identity, inclusion, and equity. These topics are integral to understanding the complexities of our society and preparing students for careers in diverse workplaces. The broad language of the bill makes it virtually impossible to comply without engaging in extreme censorship, removing critical academic content, and jeopardizing licensure and accreditation requirements. Moreover, any and all curricular changes require a full scale of faculty governance and review to be approved and implemented in accordance with our accreditation and licensing requirements, as well as other academic and professional standards. Our review processes and procedures are long-standing and robust. Additionally, faculty hiring, tenure decisions, and research funding could be compromised if institutions are prohibited from considering work that engages in a full range of topics.
4. **Students’ Learning Loss and Timely Degree Progression:** SB 2392 would diminish the quality of education our University provides, delay students’ time to degree due to the curricular disruptions, jeopardizing their licensing credentials, and leave our graduates unprepared to navigate and lead in an increasingly diverse world. Employers across industries emphasize the importance of cultural competency and inclusive leadership. If our University is barred from equipping students with these essential skills, we risk graduating students who are unable to meet the employment needs of North Dakota, especially in high demand occupations, including but not limited to health care and education.
5. **Cost Prohibitive and Unfunded Mandate:** UND teaches 4000 sections each fall/spring semester plus another 2500 during summer. These numbers include independent study, internships, and research courses. This sheer number of courses generates an incredible volume of syllabi pages (with approximately 15 pages per a syllabus), which would then need to be reviewed for compliance, uploaded to a newly designed web portal, maintained/modified every semester, and reported every other year. In addition, under this bill, UND would be required to train all employees annually for course audits. These requirements are cost prohibitive, and this mandate is unfunded. It is simply not possible

to do the reporting/auditing work asked within our appropriated budget without doing irreparable harm to our educational mission as established in the ND Constitution.

6. **Reputation of the North Dakota's Higher Education and Academic Research:**

Finally, the bill's punitive measures, including the threat of withholding state funding, put North Dakota's higher education system at risk of faculty flight, declining student enrollment and reputational damage. Top-tier scholars and prospective students will seek opportunities in states where academic freedom is protected, ultimately weakening our universities and workforce regionally, nationally, and globally.

Consequently, SB 2392 undermines the principles of free inquiry, restricts faculty expertise, limits students' success in their pursuits of higher education, and increases the administrative costs of teaching and course offerings. We urge a **DO NOT PASS** recommendation on SB 2393 to preserve the integrity of higher education in North Dakota and uphold the core democratic values of free speech and academic independence.

Respectfully Submitted,

Zarrina Azizova, Ph.D.

2024-2025 Chair, University Senate of the University of North Dakota