



February 17, 2023

To: Rep. Eric James Murphy (R), Rep. Kathy Frelich (R), Rep. Jim Jonas (R), Rep. Keith Kempenich (R), Rep. Dan Ruby (R), Rep. Austen Shauer (R), Rep Cynthia Schreiber-Beck (R), Rep. Michelle Strinden (R), Sen. Terry Wankzek (R)
Sixty-eighth Legislative Assembly of North Dakota
Re: Engrossed House Bill No. 1256

Dear Esteemed Representatives and Senator,

The Association for Title IX Administrators (ATIXA) provides a professional association for school and college Title IX professionals who work within the field of sexual harassment, sexual violence, sex-and gender equity in education. ATIXA provides professional collaboration to explore best practices, establish industry standards, share resources, empower the profession, and advance the worthy goal of gender equity in education. In alignment with our 10,800 active members and over 59,000 trained Title IX professionals, we would like to provide information on the Engrossed House Bill No. 1256.

We appreciate the sentiments of the Bill by providing protections to those who have been victims of sexual harassment or discrimination on the basis of sex, gender, sexual orientation as this dovetails with the Title IX process for institutions of higher education as well as K-12 schools and districts. Adding a penalty for a false allegation of sexual harassment or discrimination would without doubt create a chilling effect on reporting of sexual harassment and discrimination, would invite retaliation, and potentially criminalize a privileged act (the filing of a civil rights complaint of discrimination).

ATIXA is also concerned not just with the concept behind the Bill, but its potential execution. What does it mean that there is no basis for a complaint? Who defines what

a basis is in a way that is not fatally subjective? Who makes that determination? Couldn't any person who is cleared on a complaint turn around and file criminal charges based on that? What happens when a college finds there is a basis to a complaint (which they are required by federal regulations to do under Title IX, presently, before processing a formal complaint), but the courts of North Dakota disagree? Colleges already have policies that prohibit complaints made with malicious falsity (which they should have), and offer penalties for filing such complaints. ATIXA does not see any added value to criminalizing anything but the most egregious of knowingly false complaints filed maliciously, a protection that already exists in the criminal law.

Thank you for your time and consideration regarding Bill No.1256.

Sincerely,

A handwritten signature in black ink, appearing to read "Brett A. Sokolow". The signature is fluid and cursive, with the first name "Brett" being the most prominent.

Brett A. Sokolow, J.D.

Chair of the Board, ATIXA