RESOLUTION OF THE SENATE
OF
THE ASSOCIATED STUDENTS OF MONTANA STATE UNIVERSITY

Adopted 12 October 2017

Whereas, The mission statement for Montana State University’s Office of Institutional Equity reads, “Montana State University is dedicated to ensuring an environment of non-discrimination and equal opportunity in its education programs and employment opportunities in compliance with state and federal laws;” and,

Whereas, Title IX states that, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance;” and,

Whereas, On September 22nd, 2017, Secretary of Education Betsy DeVos announced in a Dear Colleague letter that the Department of Education would be withdrawing statements of policy placed in the “Dear Colleague Letter on Sexual Violence, issued by the Office for Civil Rights at the U.S. Department of Education, dated April 4, 2011” and “Questions and Answers on Title IX and Sexual Violence, issued by the Office for Civil Rights at the U.S. Department of Education, dated April 29, 2014;” and,

Whereas, These withdrawals will allow public schools to use a higher burden of proof in Title IX investigations—that of “clear and convincing evidence” as opposed to the previously mandated “preponderance of evidence”—leading to more substantiated evidence being required; and,

Whereas, The “preponderance of evidence” burden of proof was used at Montana State University prior to it being mandated; and,

Whereas, The burden of proof in the United States court system is “beyond a reasonable doubt”; and,

Whereas, According to information gathered by the Rape, Abuse, and Incest National Network (RAINN)—information being pulled from the Department of Justice, Bureau of Justice Statistics, and Federal Bureau of Investigation, amongst others—of the 31% of sexual assaults that are actually reported in the United States, only 2% of those cases will lead to a conviction, making the overall conviction for sexual assaults 0.7%; and,
Whereas, A lower burden of proof is used at Montana State University because “clear and convincing evidence” and “beyond a reasonable doubt” are too high burdens of proof to make a conviction on sex crimes, since in most cases the evidence that can be gathered in sex crimes cannot reach those higher standards, even though the preponderance of evidence would find that the accused committed the crime and continues to pose a threat; and,

Whereas, The intention of withdrawing the previous 2011 and 2014 policies was to add more equitability in the conviction process, and de-center it from the survivors of the crimes, but Montana State University, among others, has been able maintain a fair and equitable conviction process, while also centering its efforts on the safety and civil rights of the survivors; and,

Whereas, These withdrawals were preceded by a decision in February of 2017, threatening the civil rights of LGBTQIA+ students, faculty, and staff in public schools, by removing the May of 2016 guidance for public schools to allow students, faculty, and staff to use facilities that matched their gender identity; now, therefore, be it

Resolved, That the Associated Students of Montana State University supports the civil rights of those that are discriminated against based on sex, in particular those being made more vulnerable by rollbacks in policy—first the LGBTQIA+ community, and now both survivors of sexual and domestic violence and those who might be in the future; and,

Resolved, That in keeping with their current efforts to combat discrimination and sexual/domestic violence on campus and in the community, ASMSU requests that the administration of Montana State University make a statement on how the Title IX rollbacks will affect our community, and how they plan to keep fighting for the civil rights of students, faculty, and staff.

Theodore Grover – Senate Speaker