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SB60-20/21: Resolution Establishing the Title IX Ad Hoc Committee

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1	The Associated Students of the University of Montana
2	Resolution Establishing the Title IX Ad Hoc Committee
3	February 18th, 2021
4	SB60-20/21
5	Authored by: Christian Pfeifer, Senator; Cierra Anderson, Student-At-Large; Danielle
6	Pease, Student-At-Large;
7	Sponsored by: Joy Barber, GPSC Co-Chair and UM Student; Cam Doran, UM Student;
8	Emma Kiefer, UM Student;
9	Whereas, The Associated Students of the University of Montana (ASUM) is the official student
10 11	government for the University of Montana (UM);
11 12	government for the oniversity of Montalia (OW),
13	Whereas, ASUM's primary responsibility is to advocate for the general welfare of the students ¹ ;
14	whereas, resolver's primary responsionity is to advocate for the general worlde of the stadouts,
15	Whereas, ASUM's advocacy extends to any processes or resources available to students that may
16	impact their campus experience;
17	
18	Whereas, The Department of Education (DOE) enacted significant revisions to Title IX
19	regulations in 2020, affecting the complaint and investigation processes;
20	
21	Whereas, The University of Montana is changing its Title IX policies and procedures to comply
22	with the DOE;
23	
24	Whereas, UM's Interim Policies were produced by Montana's Office of the Commissioner of
25	Higher Education (OCHE);
26	
27	Whereas, These interim policies have been in operation since August of 2020;
28	
29	Whereas, UM's changes to Title IX are currently being reviewed by OCHE and are set to be
30	reviewed by Shared Governance in the coming weeks;
31	
32	Whereas, The DOE Title IX regulations allow for flexibility in implementation ² ;

¹ ASUM Constitution, Article 2, Section 1

² See <u>OCR Webinar: Title IX Regulations Addressing Sexual Harassment</u> at 57:40, No. 4. See also Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 85 Fed. Reg. 97, 30026, 30069, 30154, 30438 (May 19, 2020) (taking note of use of words may, can as opposed to shall, must); Summary of Major Provision of the Department of Education's Title IX Final Rule (2020) (pp 2, No. 3, pp 2-3 No.5, pp 4 No.7, pp 6 No. 8, pp 8 No. 11). Compare Harvard University Interim Procedures for Handling Formal Complaints Against Students Pursuant to the Interim Title IX Sexual Harassment Policy, at 5, (2021); Michigan State University Relationship Violence and Sexual Misconduct and Title IX Policy Hearing Procedures, at 6, (February 5, 2021); Occidental College Interim Sexual Misconduct Policy (August 14, 2020); The University of Southern California Policy on Prohibited Discrimination, Harassment, and Retaliation, at 62 (2020); Pennsylvania State University Complainant Know Your Rights (2020). Cf. Farmer v. Kan. State Univ., 918 F.3d 1094 (10th Cir. 2019) (discussing education program or activity, further supported by 2020 regulations, but not included in policies); Kollaritsch v. Mich. State Univ. Bd. of

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35	Whereas, Culture of Respect Core Evaluation, identifies UM's opportunities to "Include student
36	groups in decision-making around relevant policies and establish systems for soliciting feedback
37	from students" ³ ;
38	
39	Whereas, Revisions to the University's Title IX policies and procedures would benefit from
40	student input and, if changed, can make the complaint and investigation processes much more
41	transparent for students;
42	
43	Therefore, Let It Be Resolved, That ASUM establish the Title IX Ad Hoc Committee;
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45	Therefore, Let It Be Further Resolved, That the charge of the Title IX Ad Hoc Committee read:
46	"To advocate for students impacted by any Title IX proceeding, the transparency of the
47	complaint and investigation processes, and to provide student-sourced amendments to
48	UM's Title IX policy."
49	
50	Therefore, Let It Be Further Resolved, That the membership of the committee include at least
51	two graduate students;
52	
53	Therefore, Let It Be Further Resolved, That this resolution be sent to Lucy France, UM Legal
54	Counsel; Alicia Arant, Director of the Equal Opportunity Office; Jen Euell, Director of the
55	Student Advocacy Resource Center; Christopher Palmer, Chair of Faculty Senate; Charity
56	Atteberry, Chair of Staff Senate; Phil Rosenfelt, Secretary of Education; Clayton Christian,
57	Commissioner of Higher Education; Mike Vasquez, Associated Students of Montana State
58	University-Bozeman President; Katey Sutton, Associated Students of Montana Tech; Jocelynn
59	Norman, Associated Students of Helena College President; Keeley Fitzgerald, Associated
60	Students of the University of Montana Western Office Manager; James Unzaga, Associated
61	Students of Montana State University-Billings President; Riley Mortenson, Associated Students
62	of Montana State University-Northern President; Aaron Frank, Associated Students of Great
63	Falls College Montana State University President.
64	
65	
66	Passed by Committee:, 2021
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68	Passed by ASUM Senate: February 24, 2021
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72	Patrick James Flanagan,
73	Chair of the Senate

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Trs., 944 F.3d 613 (6th Cir. 2019), *cert. denied*,141 S. Ct. 554 (2020) (indicating a major circuit split on "vulnerability", generally not requiring additional post-notice of sexual harassment, contrary to current practices).

³ Culture of Respect, Core Evaluation Baseline Summary Results, University of Montana, 11, September 2020.