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SB25-13/14: University of Montana Confidentiality Policy

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The Associated Students of The University of Montana

Resolution Regarding The University of Montana Confidentiality Policy

November 6, 2013

SB25-13/14

Authored by: Anita Green, ASUM Senator

Sponsored by: Mike Hopkins, Business Manager; Ashlynn Andersen, ASUM Senator; Jacob Foster, ASUM Senator; Sam Thompson, ASUM Senator; Jan Roddy, ASUM Senator

Whereas, The Associated Students of The University of Montana (ASUM) Senate supports victims;

Whereas, the ASUM Senate believes victims should be allowed to voice themselves publicly;

Whereas, The University of Montana Student Conduct Code reads:

“Rights to Confidentiality. …[T]he identity(ies) of individual students involved in the proceedings [of student conduct and disciplinary practices] will not be disclosed.”;

Whereas, certain information within court legal proceedings is disclosed to the public, including but not limited to the identity(ies) of those involved;

Whereas, The University of Montana has obligations to protect certain privacy rights of its students;

Whereas, The University of Montana abides by Montana Code Annotated 20-25-515 and 20-25-511 which read:

“20-25-515. Release of student records. A university or college shall release a student's academic record only when requested by the student or by a subpoena issued by a court or tribunal of competent jurisdiction. A student's written permission must be obtained before the university or college may release any other kind of record unless such record shall have been subpoenaed by a court or tribunal of competent jurisdiction.”

“20-25-511. Student's right of privacy -- legislative intent. It is the legislature's intent that an institution of the university system of Montana is obligated to respect a student's right of privacy. This obligation must be observed by establishing procedures to safeguard the institution's activities that are necessary to protect the health, safety, and privacy of a person's residence and the privacy of the person's records. Intrusions by peace officers and other officials exercising responsibility for law enforcement must be governed by standards and procedures no less stringent than those applicable to intrusions on private quarters outside
the institutions. A student may not be subjected to discrimination by the use of covert records.”;

Whereas, Article II, Section 9, of the Montana Constitution states:

“RIGHT TO KNOW. No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.”;

Whereas, Article II, Section 10, of the Montana Constitution states:

“RIGHT OF PRIVACY. The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest.”;

Therefore, Let It Be Resolved, that the ASUM Senate encourages The University of Montana to not prevent or otherwise dissuade students from speaking openly and publicly about their experiences;

Therefore, Let It Be Further Resolved, that the ASUM Senate encourages The University of Montana to disclose information of the accused revealed in any confidential proceedings after the University has reached a verdict of “guilty” of the accused if it relates to violent or sexual misconduct, and if the offender or offenders has/have also been found guilty in a court of law for said offences;

Therefore, Let It Be Further Resolved, that a copy of this resolution be sent to Rhondie Voorhees, Dean of Students; Teresa Branch, Vice President of Student Affairs; Eric Gutierrez, EO/AA Director; Sandy Schoonover, Director of Residence Life; Lucy France, Chief Legal Counsel for The University of Montana; and Drew Colling, Executive Director of SARC.

Passed by Committee: November 4, 2013

Passed by ASUM Senate: November 6, 2013

Jan Roddy,     Mariah Williams,
Relations and Affairs Chair   Chair of the Senate