



The Associated Students of New Mexico State University

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Office of the Attorney General

Official Opinion

TO: Elida Miller, *ASNMSU Vice President*

FROM: Devon Harrison, *ASNMSU Attorney General*

DATE: June 20th, 2024

Subject:

Clarification of the Legality of the Business Council needing to do a vote of no confidence to unseat the newly appointed senator (Spring 2024).

Applicable Bylaw:

ASNMSU Bylaws:

6-1. OATH OF OFFICE

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C. An ASNMSU Senator shall have until the second regularly scheduled meeting of their elected term to get sworn in. Should an ASNMSU Senator not fulfill this expectation, that ASNMSU Senator shall be considered to have resigned.

The Business Council Bylaws:

SECTION 7. The council retains the right to unseat any voting member, officer, or organization according to the following criteria:



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C. The Council may also **unseat any voting member, Officer, ASNMSU Senator, or organization, due to a lack of confidence**, by a three-quarter (3/4) majority vote of the members present, provided the members present, during a regular meeting, representing a quorum and where the person, or organization, has been notified two (2) weeks prior to the vote.

Opinion Rendered:

In response to the inquiry regarding the necessity of a vote of no confidence to unseat the newly appointed senator for Spring 2024, it has been determined that such a vote is not required according to the bylaws.

Article 3, Section 7 C. of the Business Council Bylaws permits the use of a vote of no confidence to unseat positions, including an ASNMSU Senator. However, Section 6-1 C. of the ASNMSU Bylaws specifies that a senator has until their second senate meeting to be sworn in. Since the appointment occurred at the final senate meeting of the Spring 2024 semester, the appointee has not yet had the opportunity to be sworn in and is therefore not officially an acting senator.

Consequently, a vote of no confidence is unnecessary at this time, as it only applies to fully sworn-in senators. The appropriate course of action would be for the Business Council to issue a formal apology to the appointee, explaining that their appointment was not valid. Following this, a recall election should be hosted to address the vacancy.

Devon L. Harrison - he / him / his

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