



# The Associated Students of New Mexico State University

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## Office of the Attorney General

### Official Opinion

**TO:** Danielle Duran, *ASNMSU Chief Justice*

**FROM:** Ruben Morales Jr., *ASNMSU Deputy Attorney General*

**DATE:** April 4<sup>th</sup>, 2025

**TITLE:** “Clarification on Judicial Branch Participation in Election Tabling Activities”

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#### Subject:

This opinion provides a clear and concise explanation regarding the role of judicial branch members in supporting the election process. It affirms that participation in administrative functions — distinct from voting roles — is consistent with our organizational bylaws and the principles of fairness, due process, and operational efficiency.

#### Context:

This official opinion stems from the judicial branch’s interpretation of certain provisions within their Judicial Manual, particularly judicial branch members refraining from serving as poll workers, thereby maintaining a clear separation from the electoral process. However, practical challenges in securing sufficient poll workers have emerged. Since poll workers must adhere to the highest ethical standards — and the judicial branch is uniquely equipped with rigorous ethics training — their involvement can significantly enhance election integrity. Their participation, especially in non-voting, administrative roles such as tabling, provides an essential safeguard against potential tampering while ensuring the process remains fair and transparent.

#### Applicable Bylaw:

#### ASNMSU Bylaws:



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### 2-3-2. QUALIFICATIONS OF MEMBERS

“In order to serve as a voting member of the ASNMSU Election Board shall:

- A. Be an ASNMSU fee-paying member; and
- B. Not be an official candidate for any ASNMSU elected office; and
- C. Not be a Justice for any ASNMSU Court; and

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### 2-6-4. POLL WORKERS

The ASNMSU Chief Elections Officer shall appoint poll workers to observe that the election is being conducted in accordance with the Election Code:

- A. All ASNMSU Election Board members shall be poll workers; and
- B. At least two (2) poll workers will be appointed for each polling station; and
- C. The poll workers will be entrusted with the designated mobile devices used for internet voting; and
- D. Every ASNMSU employee, elected official, and intern shall be eligible to be appointed as an official poll worker unless running for a position; and
- E. If any poll worker fails to attend the appointed poll at the specified time, the ASNMSU Chief Elections Officer shall appoint a qualified person to fill the vacancy; and
- F. Poll workers shall submit in writing to the ASNMSU Chief Elections Officer any violation of the Election Code using the violation forms; and
- G. Poll workers shall be allowed to assist ASNMSU members who find it hard to vote independently.

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### 4-4-4. A JUSTICE SHOULD REGULATE THEIR ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THEIR JUDICIAL DUTIES

A. They may appear at a public hearing before an executive or legislative body, and they may consult with an executive or legislative body or official, but only on matters concerning the administration of justice within the ASNMSU, except as required through the bylaws; and

B. An ASNMSU Justice may participate in civic and charitable activities that do not reflect adversely upon their impartiality or interfere with the performance of their judicial duties; and

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### Opinion Rendered:

After close consideration, it is the Attorney General's Office's interpretation that the past Chief Justices' Precedent may have stemmed from an assumption that the restrictions applicable to voting members under **Section 2-3-2** might extend to all roles in the election process, including tabling. However, the language of **Section 2-6-4** clarifies that the eligibility for assisting as poll workers — and by extension, fulfilling functions related to the tabling process — is much broader and does not preclude judicial branch members who are not running for office. In fact, this separation of functions between voting members and those assisting with the logistical and administrative aspects of elections (such as tabling and poll work) is a fundamental principle embedded in our organizational structure. As a result, it is strongly believed that the underlying intent is to ensure that the decision-making process remains unbiased while still allowing for a broad participation in the conduct of elections and since judicial branch members assisting with tabling are not exercising voting power, nor influencing the outcome directly, their participation does not infringe upon the integrity of the election process.

In addition, permitting judicial branch members to assist in tabling elections aligns with the principles of fairness and due process. It enables the Association to utilize the full spectrum of available human resources to ensure a smooth, transparent, and orderly election process. Any restriction on tabling based on an inferred conflict from **Section 2-3-2** would, in effect, undermine these principles without any express prohibition in the bylaws. To reinforce this conclusion, **Section 4-4-4-B** states that an ASNMSU Justice may participate in civic and charitable activities, provided such activities do not adversely affect their impartiality or interfere



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with their judicial duties. Election tabling, as an administrative function, can be framed as a civic activity because it directly supports community engagement and the democratic process. For clarification, civic engagement, broadly defined, includes actions that contribute to the collective good – such as assisting in electoral process, which ultimately strengthens our organizational governance and civic participation. Therefore, it is the Attorney General's conclusion that judicial branch members who do participate in election tabling are not compromising impartiality or their judicial responsibilities as they are not engaging in any partisan decision-making but are instead performing a supportive role that facilitates transparency and efficiency in the election process consistent with **4-4-4-B**.

In summary, the judicial branch's precedent within their manual appears to arise from a place of preserving election integrity and the misapplication of the restrictions found in **Section 2-3-2**. These restrictions apply only to the capacity of serving as a voting member of the ASNMSU Election Board, as well as handling Election cases, and are not intended to preclude participation in non-voting, administrative roles such as tabling. **Section 2-6-4-D** and **4-4-4-B**, as well as the unique ethical training judicial members go through, explicitly permits ASNMSU employees – specifically judicial branch members – to serve as poll workers and, by extension, to assist with election tabling, provided they are not candidates. Accordingly, it is our opinion that there is no inherent conflict in the judicial branch tabling for elections under the current bylaws, and the process may proceed in accordance with established principles of fairness and efficiency.

Best regards,

**Ruben Morales - he / him / his**

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