



The Associated Students of New Mexico State University

MSC 7110, P.O. Box 30001 | Las Cruces, NM 88003

T. 575.646.4415 | F. 575.646.5596

asnmsu.nmsu.edu

Office of the Attorney General

Official Opinion

TO: Elida Miller, *ASNMSU Vice President*

FROM: Devon Harrison, *ASNMSU Attorney General*

DATE: February 27th, 2025

TITLE: “Clarification on the Application of the Senate Point System for Interim Senators.”

Subject: A Multi-Part Question:

Vice President Miller seeks clarification regarding how the Senate Point System applies to an interim Senator who:

1. Earned points during the Fall 2024 semester while serving as an interim Senator and was later sworn in as a full Senator during the November 2024 ASNMSU election.
2. Accumulated a point based on the *ASNMSU Student Leader Behavioral Agreement*.

How do the ASNMSU Bylaws address these points?

It is the Vice Presidents’ understanding that points reset with each school year and administration – meaning interim Senators’ points are tied to their Senate Administration for which they were an active interim Senator. However, clarification is sought regarding the Bylaws’ stance.

Applicable Bylaw:

ASNMSU Bylaws:

1-3. LEGISLATIVE



The Associated Students of New Mexico State University

MSC 7110, P.O. Box 30001 | Las Cruces, NM 88003

T. 575.646.4415 | F. 575.646.5596

asnmsu.nmsu.edu

1-3-2. SENATE MEMBERSHIP QUALIFICATIONS AND OFFICERS

The Senate of the ASNMSU shall be composed of Senators of the ASNMSU elected by the ASNMSU members of the university's Undergraduate Colleges and the Graduate School, hereafter referred to collectively as the "Colleges." **Senators of the ASNMSU shall be elected for a term of one (1) year and shall take office at the last Senate of the ASNMSU meeting of the semester of their election.** No person shall be a Senator of the ASNMSU who is not, when elected and while in office, a member of the ASNMSU, not under academic or disciplinary probation, and a student of the College by which they are elected. No Senator of the ASNMSU shall hold an additional elected office or appointed position of the ASNMSU except as may be provided through the bylaws. No person shall be a Senator of the ASNMSU if they are enrolled in a recurring class scheduled to overlap for up to more than 90 minutes from the start time of a regularly scheduled Senate meeting and assigned committee meetings. The members of the Senate of the ASNMSU shall be apportioned among the several Colleges in direct proportion to their respective enrollments as determined by the current official fall semester enrollment figures from the NMSU registrar, but each College shall have at least two (2) Senators of the ASNMSU. Amendments to the apportionment shall be passed by a vote of three-fourths of the Senate of the ASNMSU membership present and voting. **When a vacancy occurs in the Senate of the ASNMSU, the College Council of the College of the vacated position may elect an interim Senator of the ASNMSU to serve the remainder of the unexpired term;** however, all senators must recuse themselves from voting on any college council matter regardless of any club affiliations in separate councils. The Vice President of the ASNMSU shall be President of the Senate of the ASNMSU but shall have no vote unless the Senate of the ASNMSU is equally divided. The Senate of the ASNMSU shall choose its other officers and a President Pro Tempore of the ASNMSU who shall serve in the absence of the Vice President of the ASNMSU or when the Vice President of the ASNMSU shall exercise the Office of President of the ASNMSU.

6-7. POINT SYSTEM ACT

The Point System is established to assign penalty points to ASNMSU Senators for unexcused absences to required meetings and breaches of decorum.

6-7-1. MAIN PROVISION



The Associated Students of New Mexico State University

MSC 7110, P.O. Box 30001 | Las Cruces, NM 88003

T. 575.646.4415 | F. 575.646.5596

asnmsu.nmsu.edu

A. Each ASNMSU Senator shall begin their term with zero (0) points; and

B. An ASNMSU Senator shall receive zero (0) points for an excused absence from a required meeting; and

C. For the grievances listed, the following penalties are in order:

a. The Vice-President shall have the sole discretion to determine if a Senator is late or unexcused during Senate. The power falls to Committee Chairs during Committees. Penalties must be determined off the Point System:

ASNMSU Senate meeting (unexcused)	2 points
ASNMSU Senate meeting (late, unexcused)	1 point
ASNMSU Senate standing committee meeting (unexcused)	1 point
ASNMSU Senate standing committee meeting (late, unexcused)	½ point
College Council meeting (unexcused)	1 point
ASNMSU Senate special committee meeting (unexcused)	1 point
ASNMSU Financial Procedures Workshop (late)	1 point
ASNMSU Retreat (unexcused)	1 point First
Breach of Decorum	Verbal warning Second
Breach of Decorum	½ point ASNMSU Senate
Orientation (unexcused)	1 point
ASNMSU Emergency Senate Meeting (unexcused)	1 point
ASNMSU Emergency Senate Meeting (late, unexcused)	½ point

6-7-2. POINT ACCUMULATION

A. The ASNMSU Vice President shall have the sole right to decrease a Senator's points; and

1. In the event that a Senator accumulates the three (3) or four (4) point threshold, it will be the responsibility of the ASNMSU Vice President to inform the Senator within 3 Business Days; and

2. It will be the sole responsibility of the senator in question to schedule a meeting with the ASNMSU Vice President within 10 business days to request a decrease of any points incurred: a. If a Senator fails to contact the ASNMSU Vice President within 10 business days, the points will remain on the Senators file until the completion of their term.

3. It shall be to the ASNMSU Vice-President's discretion if the points shall be reduced or remain the same.



The Associated Students of New Mexico State University

MSC 7110, P.O. Box 30001 | Las Cruces, NM 88003

T. 575.646.4415 | F. 575.646.5596

asnmsu.nmsu.edu

4. In the event a meeting is to take place, an ASNMSU Advisor shall be present as a witness.

B. Upon accumulation of three (3) points and any subsequent increase thereof, the ASNMSU Senator shall be referred to the College Council that the ASNMSU Senator represents. The College Council shall decide whether to refer the ASNMSU Senator to the ASNMSU Supreme Court for impeachment proceedings:

1. A three-quarters (3/4) affirmative vote by those present and voting in the College Council is required to send an ASNMSU Senator to the ASNMSU Supreme Court for impeachment proceedings.

C. If the College Council does not or is not able to refer the ASNMSU Senator to the ASNMSU Supreme Court upon the accumulation of the four (4) point, the ASNMSU Senator shall be referred to the ASNMSU Senate. The ASNMSU Senate shall decide whether to refer the ASNMSU Senator to the ASNMSU Supreme Court for impeachment proceedings:

1. A three-quarters (3/4) affirmative vote by those present and voting in the ASNMSU Senate is required to send an ASNMSU Senator to the ASNMSU Supreme Court for impeachment proceedings.

.
.

6-19. INVALIDITY

If any portion of Chapter 6: Rules of The Senate is found invalid by the ASNMSU Supreme Court, ASNMSU Advisors, or the NMSU Vice President of Student Success, only that portion of Chapter 6 will be considered invalid.

A. The Attorney General shall interpret the invalid portions using legal precedent and NMSU policy to address any vagueness in bylaws that have had portions invalidated or removed until such bylaws are clarified by Senate or by the Supreme Court per the duties stated in 3-8-8-C.

ASNMSU Policy:

[The Formal Executive Strike Form](#)

[The ASNMSU Executive Mandatory Requirements](#)



The Associated Students of New Mexico State University

MSC 7110, P.O. Box 30001 | Las Cruces, NM 88003

T. 575.646.4415 | F. 575.646.5596

asnmsu.nmsu.edu

[The ASNMSU Student Leader Behavioral Agreement](#)

Opinion Rendered:

Per section 6-7-1 subsection A., an ASNMSU Senator's points resets at the start of each term. The term for an ASNMSU Senator is defined as one year, beginning with the last Senate meeting of the semester in which they were elected - 1-3-2. Therefore, points recognized by the ASNMSU Bylaws for a new Senator are those from November 2024 – November 2025; however, the Senate Point system overlooks how interim Senators points expire.

Neither the ASNMSU Bylaws nor the College Council Bylaws clarify how interim Senators fall into the Senate point system – a neglect of proposing a point system that is supposed to be all encompassing. This creates ambiguity whether interim Senators inherent the points already held by the seat for the remainder of the term they are fulfilling. It seems unfair since the system functions on a baseline of equity for incumbent and new Senators, but this would also be unfair for the interim Senator who personally has no relation to the Points. Nonetheless, the current system is unfair with Senators expected to not get 3 points within an entire term whereas interim Senators only must not get 3 points for a partial term. When do points for interim Senators expire is a legal question our bylaws do not answer. So, a strict/narrow interpretation cannot be applied for interim Senators. As the Attorney General's Office, it is our job to interpret the invalid portions of the ASNMSU Bylaws, per 3-8-8-B (citation error in the ASNMSU Bylaws) and specifically the Invalid Rules of Senate per 6-19-A.

Here are the facts known to the Attorney General's Office: The interim Senators points from their interim term are from August – November 2024, which means all points this Senator has accumulated are solely from Vice-President Millers' 68th Senate. The Precedent past Vice Presidents have followed regarding interim Senators makes logical sense on how to handle the initial transition of an individual as an interim Senator to a first-year Senator; it gives the first-year Senator an administration-long point record that contains their time as an interim senator, which would make their term over a year, but gives them a reset after an administration. However, there is no legal precedent – just logical and practical procedural precedents.

According to the New Mexico State Constitution, NM Const art IV § 35, all state legislatures are on a same playing field regarding impeachments – there is no point system; so, following legal state precedent, it is the Attorney General's Office interpretation that interim Senators should be on the same playing field and not be allowed a shorter duration where they can rack up points because they know they'll be reset quicker than others since their terms are not full terms, which grants interim Senators the liberties to neglect their Senator duties that they



The Associated Students of New Mexico State University

MSC 7110, P.O. Box 30001 | Las Cruces, NM 88003

T. 575.646.4415 | F. 575.646.5596

asnmsu.nmsu.edu

have sworn themselves to more willfully than incumbent and new Senators. This is not an overstatement as the Attorney General's Department has been working with Senate Leadership on an amendment to Chapter 6's 'Point System Act' where a 'Neglect of Senate Duties' point will be proposed to the list of ASNMSU Senate Points. Senators can be given as it was an increasing problem for the beginning half of the 68th ASNMSU Administration.

Regarding the accumulated point from the *ASNMSU Student Leader Behavioral Agreement*, this ASNMSU document is signed by every member of every branch; so, it is binding to Senators and interim Senators alike – it is tied to the duties and oaths Senators have sworn to hold themselves to. So, despite there being no point listing for breaking one's duties or oaths, this is a neglect of duties that the Attorney General's Office cannot condone as 'correct behavior' for any ASNMSU member. The background knowledge the Attorney General's Office was able to receive – while maintaining the least amount of information surrounding which interim Senator this opinion is said about – is that six (6) individuals were on a four (4) person ASNMSU Golf Cart five (5) members of the Executive Branch and one (1) member of the Legislative Branch – the interim Senator. Everyone in executive received a strike; so, Vice President Miller gave the Senator the Senate equivalent to an executive strike – a legislative point. The exact same reasoning for the Executive Strikes were used as the reasoning of the, which was:

“Did not practice safe and responsible conduct when acting as a representative of ASNMSU”

Therefore, it is the Attorney General's Office's interpretation that the correct legal procedure to be taken is to hold interim Senators and Senators (incumbent or new) to the same legal standards for impeachment. Since all points accumulated have been from August 2024 – February 2025 (less than any non-interim term) that all points accumulated should be recognized and the Attorney General's Office will be pushing for a Bylaw Proposal change to implement proper point timeline for interim senators based on state and federal precedent and we have had acquit time for polling (looking for precedent in other University Student Governments Bylaws). The ASNMSU Supreme Court will have the final say over the legal validity of the interim points and the *ASNMSU Student Leader Behavioral Agreement* point.

For reiteration, the Attorney General's Office will be pushing for an '*Attorney General Bylaw Proposal*' that brings legislation to the ASNMSU Senate that can correct this oversight in legislation and correct all grammar, punctuation, and spelling errors within the legislative act.

Please feel free to contact the AG office if you need further clarification on this matter.

Best regards,

Devon L. Harrison - he / him / his



The Associated Students of New Mexico State University

MSC 7110, P.O. Box 30001 | Las Cruces, NM 88003

T. 575.646.4415 | F. 575.646.5596

asnmsu.nmsu.edu

ASNMSU Attorney General

Email: asnmsuag@nmsu.edu

Ruben Morales - he / him / his

ASNMSU Deputy Intern Attorney General

Email: asnmsu_dag@nmsu.edu

