



# The Associated Students of New Mexico State University

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## Office of the Attorney General

### Official Opinion

**TO:** Emily Getchell, *ASNMSU Business Senator, C&A Chair.*

**FROM:** Devon Harrison, *ASNMSU Attorney General*

**DATE:** February 27<sup>th</sup>, 2025

**TITLE:** “Clarification on Procedural Errors in Public Notice for ASNMSU Committees.”

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#### **Subject:**

A Senator sent out an email stating Credentials and Archives (C&A) Committee did not meet the criteria for the New Mexico Open Meetings Act – regarding public announcement of meeting changes. What is the correct way to proceed after such an error?

#### **Applicable Bylaw:**

#### **ASNMSU Bylaws:**

#### 5-1. ASNMSU OPEN MEETINGS ACT

An act establishing an open meeting policy for the ASNMSU policy-making bodies.

#### 5-1-1. DEFINITIONS

As used in the ASNMSU Open Meetings Act:

A. “Policy-making body” means any ASNMSU board, committee, or other body that recommends or formulates policy, including the development of personnel policy, rules, regulations, discussing public business or for the purpose of taking any action of the authority of the ASNMSU, but not limited to the ASNMSU Senate Committees, the ASNMSU Student Advocacy Board, the Continuing Diversity Board, and the ASNMSU Senate; and



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B. “Public notice” means causing to be posted at least seventy-two (72) hours prior to any meeting, the date, time, place, and purpose of such meeting; and

C. “Meeting” means any gathering of a quorum of members of a policy-making body at which policy related to the body is discussed; and

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### 5-1-2. PUBLIC NOTICE

No ASNMSU policy-making body shall conduct a meeting unless reasonably advance public notice is given by:

A. The ASNMSU Department of Public Relations is responsible for giving public notice of the policymaking body; and

B. The ASNMSU Vice President is responsible for creating and releasing the ASNMSU policymaking schedule; and

C. The notice shall include the date, time, and location of the meeting; and

D. The notice shall be published or posted in a place and manner accessible to the public; and

E. Notice has been provided to all FCC licensed broadcast stations and newspapers of general circulation that have been provided a written request for notice of meetings; and

F. The notice includes an agenda or information on how the public may obtain a copy of the agenda; and

G. The notice shall be posted seventy-two (72) hours in advance of the public meeting, except in instances of an Emergency Meeting.

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### 6-11. STANDING COMMITTEES

A. The ASNMSU Senate Rules Committee, Finance Committee, and Credentials and Archives Committee shall be the three ASNMSU Senate standing committees; and

B. It shall be the duty of the ASNMSU Senate standing committees to perform the following faithfully and adequately:



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1. Hold regular meetings while the ASNMSU Senate is in session, once between each ASNMSU Senate meeting at a permanent time and location determined by the Chair; and

2. Hold other meetings as announced in open session by the Chair or as announced by a notice to all ASNMSU Senate standing committees at least forty-eight (48) hours prior to the meeting.

C. Every piece of legislation under the ASNMSU Senate consideration shall be sent to all ASNMSU Senate standing committees; and

D. A quorum shall be fifty percent (50%) of the ASNMSU Senate committee membership plus one (1) member. No business shall be allowed to be conducted if a quorum is not established; and

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### ASNMSU Supreme Court Rulings:

[24-SCR-2](#)

[24-SCR-4](#)

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### Opinion Rendered:

Per the ASNMSU Bylaws (5-1. ASNMSU Open Meetings Act), all policy-making bodies must provide at least 72 hours of public notice before a meeting. Additionally, Bylaw 6-11-B-2 states that unscheduled committee meetings require a 48-hour notice announced in an open session or committee.

As seen in 24-SCR-2 the Supreme Court has taken NMs Open Meetings Act into consideration – as it is like the association's version. Based on the rulings from Supreme Court Case's 2 and 4, the bills revised/reviewed in C&A will be deemed invalid by the court and the court will demand ASNMSU Leadership issue a public statement on the situation, a correction of the situation, along with the posting of the SC ruling.

The Attorney General's Office was notified on Tuesday (02/25) by Vice-President Miller asking for clarification on how to proceed – the same day Chair Getchell notified the Associations leadership of the situation and how the Crimson Connection event submission had already been submitted and was pending approval - to which I told her:



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“Yeah, go ahead and let Emily know to announce it at Rules. According to 6-11-B-2, other meetings (non-scheduled) are announced with a 48-hour notice in an open session/committee; then 6-11-G-6 gives PR the duty of updates on committee schedules/live-stream times to the public.”

The legal problem raised in question is that the new C&A meeting was not within the 48 (and 72) hour requirements found in the bylaws; however, the cancelation of C&A was properly done, but the replacement meeting was scheduled too soon after the public notice to be deemed valid.

With that said, the Attorney General's Office believes that Senate should fix its own procedural errors through the correct legal means rather than take this situation to the ASNMSU Supreme Court. What we recommend is that the C&A committee leadership write up a public statement explaining how the situation raised from C&A not being able to meet quorum at their standard P.M. hours but was able to in the A.M., also requesting PR upload said statement to the ASNMSU Social Media account(s). Additionally, C&A should correctly notify the public of a C&A meeting that takes place during Senate week before Senate. That way, all the bills scheduled to be voted on at the upcoming meeting will be valid and the Senate will not have to go into the Committee of the Whole (C.O.W.) after first readings to correct the validity of the bills. The order of committees seeing bills is a procedural matter; so, there would be no complications with the Finance Committee hearing the bills before C&A. This route is the most beneficial route for the overall student body as it will not stop constituents from receiving their reimbursements and so Senate can continue to make the law more respectable – less conflictions and clearer procedures.

Otherwise, any constituent or ASNMSU member has full legal jurisdiction to take C&A Committee to court; however, as aforementioned, the same outcome looks predicable but in going to court instead of allowing Senate to fix its own procedural mistakes, it could delay constituents, student organizations, departments, etc. from receiving their reimbursements depending on the ability of the court to hear the cases quickly and efficiently before the upcoming Senate meeting (03/06) in order to get the same outcome in the timeline that Senate would be able to in order to legally correct its own problems.

Thank you for your attention to this matter. I appreciate your understanding as we navigate these important changes. Let me know if you have any further questions.

Best regards,

**Devon L. Harrison - he / him / his**

*ASNMSU Attorney General*

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