



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: March 18th, 2025

TITLE: " Opinion Regarding Constitutional Clause Invalidity and Impact on Senate Membership."

Subject: Invalidity Striking of a Constitutional Clause – Section 1-3-2 SENATE MEMBERSHIP QUALIFICATIONS AND OFFICERS.

Applicable Bylaw:

ASNMSU Bylaws:

1-3. LEGISLATIVE

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1-3-2. SENATE MEMBERSHIP QUALIFICATIONS AND OFFICERS

The Senate of the ASNMSU shall be composed of Senators... **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. ...**

ASNMSU Spring 2023 Election Ballot:



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Opinion Rendered:

It has come to the attention of the Attorney General's office that a current graduate Senator appears to be in violation of Section 1-3-2 of the ASNMSU Constitution. Specifically, the clause states:

"No person shall be a Senator of the ASNMSU if they are enrolled in a recurring class scheduled to overlap for more than 90 minutes from the start time of a regularly scheduled Senate meeting or assigned committee meetings."

The Senator in question has been excused from the start of Senate meetings until longer than ninety (90) minutes due to a course schedule that conflicts with the regular Senate meeting times, resulting in a clear violation of this provision.

Upon further investigation by the Attorney General's office, it was revealed that Senate Leadership did not recall this specific constitutional referendum being on the ballot during the Fall 2024 ASNMSU election. The Attorney General's office has since reviewed ASNMSU bylaw archives and determined the following:

1. The constitutional amendment in question was made during the Spring 2023 semester under the 67th ASNMSU Administration. However, there was no corresponding bylaw bill to support the amendment, nor was the amendment part of the Constitutional Referendum voted on during that election, which instead addressed Section 1-3-5, "Meetings and Rules of Proceedings."

As a result of this procedural oversight, the Attorney General's office will be striking the invalid Constitutional Clause from the ASNMSU bylaws in the 68th Senate's 12th Bill Packet update. Furthermore, no action will be taken to impeach any Senator currently in violation of this clause.

While the Attorney General's office acknowledges the intent behind the original constitutional provision — to incentivize Senators to avoid course schedules that may impede their ability to fulfill their duties — the procedural error prevents the law from being upheld. If the Senate wishes to establish a similar qualification, the appropriate legal procedure must be followed, including proper passage of a new proposal, correct integration into the bylaws, and public posting of the updated bylaws. This process requires the involvement of multiple parties, and attention to detail is crucial at every stage.

Should you have any questions or require further clarification, please do not hesitate to reach out.

Best regards,



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Devon L. Harrison - he / him / his

ASNMSU Attorney General

Email: asnmsuag@nmsu.edu

Ruben Morales - he / him / his

ASNMSU Deputy Attorney General

Email: asnmsu_dag@nmsu.edu

