



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, *ASNMSUs 68th Administration Vice President*

FROM: Devon Harrison, *ASNMSUs 68th Administration Attorney General*

DATE: May 8th, 2025

TITLE: “Legality and Procedural Standing of the 69th ASNMSU Administration’s Pro Tempore Vote”

Subject:

Clarification on the Legality of the Pro Tempore Election Process.

Background:

A concern has been raised regarding the validity of the most recent vote for the ASNMSU Senate President Pro Tempore. Specifically, a senator has questioned whether the election met the required threshold for a legal majority vote.

Applicable Bylaw:

[ASNMSU Senate Vote Record for Pro Tempore Position Vote](#)

Vote Break Down:

The recorded vote results were as follows:

- Senator Hunter: 4 votes
- Senator Alsheikh: 1 vote
- Senator Hernandez: 0 votes
- Senator Alhalholy: 5 votes



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- Senator Anderson: 10 votes
Total Votes Cast: 20

ASNMSU Bylaws:

1-3. LEGISLATIVE

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1-3-2. SENATE MEMBERSHIP QUALIFICATIONS AND OFFICERS

.... 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.

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6-2. OFFICERS OF THE SENATE

The ASNMSU Vice President shall be the President of the ASNMSU Senate but shall vote only when the ASNMSU Senate is equally divided. The other officers of the ASNMSU Senate shall be the ASNMSU Chief Senate Clerk, Deputy Senate Clerk, President Pro Tempore, Parliamentarian, and Sergeant-At-Arms and such other clerical help and employees as deemed necessary by the ASNMSU Senate. The ASNMSU Senate shall fix compensation for these employees of the ASNMSU Senate at the beginning of each session. All such officers and employees shall serve at the pleasure of the ASNMSU Senate except when otherwise provided by the ASNMSU Constitution. The ASNMSU Parliamentarian may not be elected to or assume the duties of the ASNMSU Senate's Presiding Officer.

6-3. LEGISLATIVE QUALIFICATIONS ACT

A. The ASNMSU Legislative Qualifications Act shall be in order for all salaried officers of the ASNMSU Senate; and

B. ASNMSU Senate Officers shall be ASNMSU fee-paying members and continue to be so throughout the term of their employment; and



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C. ASNMSU Senate Officers shall have been ASNMSU fee-paying members for the fall or spring semester prior to their election or hiring; and

D. ASNMSU Senate Officers shall meet the minimum qualifications set forth in the current NMSU Student Employee Handbook with regards to GPA and academic and disciplinary probation:

1. Waivers on academic progress or GPA shall be decided in accordance with the current NMSU Student Employee Handbook.

E. ASNMSU Senate Officers shall meet any other qualifications outlined by the NMSU Human Resource Services Position Classification Description.

U.S. Constitution:

Article I Section III - "The Senate shall choose their other Officers, and also a President pro tempore in the Absence of the Vice President, or when he shall exercise the Office of President of the United States."

Opinion(s) Rendered:

Section 1-3-2 of the ASNMSU Bylaws states that "the Senate of the ASNMSU shall choose its other officers and a President Pro Tempore." However, it provides no explicit procedural details regarding the method of election (e.g., majority, super-majority, plurality, etc.).

Because ASNMSU's governing documents do not define the voting threshold required for electing the Pro Tempore, we look to established legislative standards for guidance. According to a precedent set by a U.S. Senate resolution adopted in 1890 and supported by standard parliamentary interpretation, **a majority vote (more than 50% of the total voting body) is required to elect a presiding officer**, including a President Pro Tempore.

In the case at hand, 20 votes were cast. Therefore, **a candidate would have needed at least 11 votes to obtain a majority**. The candidate who received the highest number of votes, Senator Anderson, received 10 votes – one vote short of the required majority. While this result reflects a **plurality**, it does not constitute a **majority**. A plurality indicates the highest number of votes among all candidates but not more than half of the total voting body.

Thus, the concern raised by the senator is **valid**. The election did not meet the threshold for a legal vote and therefore does not satisfy the procedural requirements for the position under reasonable legislative interpretation.



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The election of the Pro Tempore was conducted without a legal majority and, as such, **does not stand as procedurally valid**. ASNMSUs' Senate should revisit the vote to ensure that a majority decision is achieved in accordance with best practices and legislative precedent. Due to the time of year, this Official Opinion will be sent out to the current and incoming Vice-President who serve as Senate leadership.

RECOMMENDATION:

The Senate should reconvene to either (1.) confirm the current result through a majority vote or (2.) conduct a new vote with fewer candidates nominated that ensures the winning candidate receives at least half plus one of the total votes. This can be done by an Emergency Meeting or at the first Senate Meeting of the 69th Administration; however, the election of the Pro Tempore takes precedent as the first act of Senate when convening unless moved further down the agenda by a majority vote.

Please feel free to reach out to the Office of the Attorney General for further clarification or procedural support.

Best,

Devon L. Harrison - he / him / his

ASNMSU Attorney General

Email: asnmsuag@nmsu.edu

Ruben Morales - he / him / his

ASNMSU Deputy Intern Attorney General

Email: asnmsu_dag@nmsu.edu

