



The Associated Students of New Mexico State University

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Office of the Attorney General

Official Opinion

TO: Ala Alhalholy, *ASNMSU President*

FROM: Devon Harrison, *ASNMSU Attorney General*

DATE: October 16th, 2024

Subject:

Re-examining the Attorney General's Office's official opinion to Dr. Edwards about correct procedure of Committee of the Whole (C.O.W.).

Applicable Bylaw:

ASNMSU Bylaws:

“3-11. EXECUTIVE REMOVAL AND IMPEACHMENT ACT

A. Before the ASNMSU Senate can refer the ASNMSU President or Vice President to the ASNMSU Supreme Court for impeachment proceedings, a resolution must be introduced into the Senate:

1. This resolution will include the specific reasons for referral.

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C. No referral resolution will be allowed to go through the ASNMSU Senate Committee of the Whole; and

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H. Any ASNMSU Executive Director may be removed from office if an act of impeachment is brought against said official by a three-quarters (3/4) vote of the membership of the ASNMSU Senate present and voting and is found guilty of the charges made against said official by the ASNMSU Supreme Court:



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2. The ASNMSU Chief Senate Clerk will notify, in writing within two (2) days of the introduction of the resolution, the person who is to be impeached and the charges against this person; and

4. No impeachment resolution will be allowed to go through the ASNMSU Senate Committee of the Whole unless the ASNMSU Chief Senate Clerk has notified the person who is to be impeached within two (2) days of the meeting where the ASNMSU Senate will introduce the resolution of impeachment to the ASNMSU Senate Committee of the Whole; and.”

4-2-7. IMPEACHMENT PROCEDURE

A resolution will be introduced into the ASNMSU Senate. This resolution will include the specific reasons for impeachment. In writing, the ASNMSU Chief Senate Clerk will notify within two (2) days of the introduction of the resolution, the person to be impeached and the charges against this person. The person charged can speak at any meeting where that person's position is being officially discussed. No impeachment resolution will be allowed to go through the ASNMSU Senate Committee of the Whole unless the ASNMSU Chief Senate Clerk has notified the person to be impeached within two (2) days of the meeting where the ASNMSU Senate to the ASNMSU Senate Committee of the Whole will introduce the resolution of impeachment.

6-9-1. PROCEDURE

A. Before the ASNMSU Senate can refer an ASNMSU Senator to the ASNMSU Supreme Court for impeachment proceedings, a resolution must be introduced into the ASNMSU Senate. This resolution will include the specific reasons for referral; and

F. No referral resolution will be allowed to go through the ASNMSU Senate Committee of the Whole; and

6-10. LEGISLATION RECOMMENDATIONS

6-10-1. MAIN PROVISIONS

A. “Meeting” means either an ASNMSU Senate meeting or standing committee meeting.

B. The following recommendations are for legislation under review by the ASNMSU Senate:



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8. “Retain or Table” if the majority has voted to stop the movement of the legislation:

a. Legislation may only be untabled in the meeting it was originally tabled unless the ASNMSU Senate Committee of the Whole is considering it; and”

Opinion Rendered:

1. Clarification of the Reasoning Behind the Opinion: The impeachment process outlined in **4-2-7** follows the procedures established in the **Executive Removal and Impeachment Act (3-11)**, which specifies the two-day notice requirement. This notice must be provided by the Chief Senate Clerk for any impeachment resolution heard by the Committee of the Whole. As both **3-11-H-4** and **4-2-7** state, “No impeachment resolution shall be allowed to proceed through the ASNMSU Senate Committee of the Whole unless the ASNMSU Chief Senate Clerk has notified the person to be impeached within two (2) days of the meeting.” This is not to be confused with **4-6-7**, which highlight Supreme Court impeachments, as **4-2-7** is the impeachment procedures for all impeachments across all the branches that the court must abide to as stated in their branches chapter of the bylaws.

2. Clarification of the Executive Removal and Impeachment Act: The ASNMSU President and Vice President, like the U.S. executive branch, fall under the Executive Removal and Impeachment Act because they are part of the executive leadership and therefore the executive branch, which is the Vice President is not included in the Legislative Impeachment Act (**6-9**). The Executive Removal and Impeachment Act must govern the Vice President and Presidents removal. Although **3-11-H-4** specifically mentions Executive Directors, the act applies to all executive branch officials due to the continuity of sections A through H. If the President or Vice President were excluded from these provisions, there would be no applicable bylaws governing their impeachment and therefor would be above the laws of impeachment.

3. Clarification of the Term ‘Referral Resolution’: The ASNMSU Bylaws do not specifically define "referral resolution." However, as used in the impeachment acts, the term relates to the legislative process of introducing an impeachment investigation. Drawing from U.S. Congressional practices, a **referral resolution** begins the investigation, while an **impeachment resolution** is the formal indictment. The referral resolution authorizes the inquiry but does not itself impeach. Therefore, **3-11-C** and **6-9-1-F** are consistent with **3-11-H** and **4-2-7**. Since Senate Resolution 13 was introduced openly at an open forum Senate Committee meeting, it is no longer in the referral stage. Untabling the resolution in the Committee of the Whole would not untable a referral resolution, but rather the impeachment resolution itself.



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The initial opinion correctly interprets the procedures regarding referral and impeachment resolutions. Should you have any further questions or require additional clarification, feel free to reach out. Thank you for your attention to this matter.

Best regards,

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