



The Associated Students of New Mexico State University

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F24-SCR-1

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In The

Associated Students of New Mexico State University Supreme Court

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Senator-Elect Ethan Ortiz-Ulibarri and Senator Jaden Moore (Chair of the Rules Committee)

v.

Attorney General Devon Harrison

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On Complaint of Violation of the ASNMSU Law Book

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[September 30, 2024]

CHIEF JUSTICE DURAN delivered the opinion of the Court.

This Complaint arises from Ethan Ortiz-Ulibarri's election to the seat of Senator and his inability to be sworn in. Attorney General Devon Harrison's Official Opinion stated that Ortiz-Ulibarri was unable to be sworn in as a Senator due to Ortiz-Ulibarri not being a fee-paying member of the ASNMSU the semester prior to his election. This opinion was made based on a Senator's classification as a Senate Officer, mandating that Senators must have been fee-paying members of the Association for the semester prior to their election in addition to at the time of their election.

Following a prolonged trial process and subsequent deliberation among the sitting Justices, the ASNMSU Supreme Court found that although Attorney General Devon Harrison's Official Opinion was made in the respect of historical precedence, it was made contrary to the language in the ASNMSU Governing Documents.

The legal question presented to the Court was concerning a Senator's status as a Senate Officer, and by extension, if a Senator is required to have been a fee-paying member of the ASNMSU the semester prior to their election. The Court ruled unanimously in Senator-Elect Ethan Ortiz-Ulibarri and Chair Moore's favor as the Court found that a Senator is not a Senate Officer by the ASNMSU Governing Documents.

The Senate Officers are defined by the ASNMSU Governing Documents as follows: the Vice President, Chief Senate Clerk, Deputy Senate Clerk, President Pro Tempore, Parliamentarian, and Sargeant-At-Arms in 6-2 (Officers of the Senate) of the ASNMSU Governing Documents. Section 6-2 does not make any mention of Senators. It stands to the Court's interpretation that Senators are not defined in this section as Senate Officers.

Section 6-2 also states "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.” However, the Court determined that Senators do not qualify as clerical help nor employees, and thus that the Senate does not have the power to deem Senators as an Officer of the Senate.

Although Senators have been held to requirements listed in the NMSU Student Employee Handbook, which lists them as Officers, the Court determined that any listing of Senators as Senate Officers is incorrect according to the Association’s Governing Documents. Additionally, the Handbook is not included within ASNMSU’s Governing Documents, so does not have power to define Senators as Senate Officers.

The Court acknowledges the long-standing historical precedent that Attorney General Harrison’s opinion was founded upon. Historically, first semester students have been turned away from Senate seats by members of the Association. However, the Court finds that this precedent has been inconsistently applied throughout the years, as we found examples of Senators elected and sworn in to the Senate as first-semester students.

Due to the Court’s opinion that Senators are not Senate Officers unless they are elected to office such as Pro Tempore, Parliamentarian, or other Senate leadership roles, Senators are not required to have been fee-paying Association members the semester prior to election. Therefore, the Court orders no first semester students shall be turned away because they were not fee-paying members the semester before their election without proper amendments to the ASNMSU Governing Documents.

If the ASNMSU Senate wishes to prohibit first semester students from obtaining a seat as a Senator, they must amend the current Governing Documents. The Court recommends that the Senate review the sections referenced in this Opinion and any others to better define distinctions between Senate Officers and Senators.

The Court would also like to point out that this opinion concerns only Senators, not other positions within ASNMSU.

The Court orders that Senator-Elect Ethan Ortiz-Ulibarri be allowed to be sworn in at the next available opportunity.

It is so ordered.