



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

F24-SCR-2

—

In The

Associated Students of New Mexico State University Supreme Court

—

Clayton Rowland

v.

Vice President Elida Miller, 68th Senate

—

On Complaint of Violation of the ASNMSU Governing Documents

—

[October 7, 2024]

CHIEF JUSTICE DURAN delivered the opinion of the Court.

This issue arises from Complaint from Plaintiff Clayton Rowland questioning the legality of the Emergency Senate Meeting held on September 13th, 2024, on Zoom. The Plaintiff alleged that the 68th Senate and Vice President Miller failed to adhere to the ASNMSU Governing Documents when the meeting was held.

Following a prolonged trial process and subsequent deliberation among the sitting Justices, the Court voted unanimously in favor of the Plaintiff. The Court found that the Senate and the Vice President made errors in executing the Emergency Senate Meeting.

The legal question presented to the Court was if the Emergency Senate Meeting on September 13th was held legally. The Plaintiff challenged the legality of several parts of the process, including the (a) presence of reasonable notice in a manner and place accessible to the public, (b) whether the meeting qualified to be held in less than 72 hours per the standards set in 5-1-6, and (c) if the meeting was appropriately broadcasted according to 5-1-7. The Plaintiff also alleged (d) that the Senate violated their Oath of Office by engaging in the Emergency Senate Meeting on September 13th, 2024.

The Court determined that several requirements in the ASNMSU Governing Documents were not met, and thus that the meeting was held illegally due to allegations (a) and (b) and found that the Senate did indeed violate their Oath of Office by engaging in the Emergency Senate Meeting.

On the question of the presence of reasonable notice in a manner and place accessible to the public, the Court determined that the Public Relations Department is responsible for posting notices in such a way to fulfill the requirements of the ASNMSU Governing Documents and NMSA 10-15-1. However, the Court also determined that it was unreasonable to expect the Public Relations Department to complete such duties without proper notice and knowledge of the meeting occurring. We found that the Department was not properly notified, and thus could not be expected to post proper notice of the meeting. The Court could not find clarification in the ASNMSU Governing Documents regarding who is responsible for notifying the Public Relations Department.

Another allegation (b) was that the meeting violated provisions in the ASNMSU Governing Documents Section 5-1-6 that an Emergency Senate Meeting cannot be held less than 72 hours from the end of the current day unless “The public body did not expect the circumstances giving rise to the meeting;” and “If the public body does not act immediately, injury or damage to persons or property or substantial financial loss to the public body is likely.” The Court determined that both requirements were met. The Senate did not expect issues arising after the passing of Resolution 1 (also known as the Election Packet), including a court case that would have potentially interrupted the elections process for Fall 2024. Additionally, the Court found that “injury or damage to persons” was likely, as candidates in the Fall 2024 elections would be negatively impacted without clarification on the issue.

Regarding the allegation that the meeting was in violation of Section 5-1-7 (Broadcasting and Recording) of the ASNMSU Governing Documents, the Court found that the Defendants did not appropriately broadcast or record the Emergency Senate Meeting held on September 13th, 2024. The Court notes that without the presence of modification or removal of the requirement to broadcast (5-1-7), Section 5-1-6 (Emergency Meetings) does not release Emergency Senate Meetings from the requirement to be broadcast. Additionally, the meeting was not fully recorded, and the Court interprets the requirement of recording in 5-1-7 as applying to the entirety of the meeting. We note that there may have been difficulties due to the meeting being held over Zoom, however we wish to remind the Senate that in prior years, links to the Zoom meeting have been posted on social media to allow the public to attend the meeting if they wished.

Finally, the Plaintiff alleged that the 68th Senate violated the Oath of Office of Senator. The Court found that as Senators have sworn to “support the Constitution and laws of the State of New Mexico and the Constitution and bylaws of the Associated Students of New Mexico State University,” they violated this Oath by participating in a meeting that violated the New Mexico Open Meetings Act and the ASNMSU Governing Documents. However, the Court notes that the Senate is comprised of individuals with a variety of experience within the Senate and ASNMSU, and it is reasonable for most non-leadership Senators to look to the Senate leadership for proper guidance.

The Court recognizes these missteps as issues that may impact the faith and trust in the Legislative Branch and in ASNMSU as a whole. The Supreme Court seriously recommends that the Senate, Vice President Miller, and Senate leadership take immediate action to prevent future violations from occurring. Our recommendations are as follows.

Concerning the Department of Public Relations’ duty to proper notice of meeting to the public, the Court did not find clarification of who in the Legislative Branch was required to notify the Department of Public Relations of Emergency Senate Meetings, nor parameters such as when they are to be notified, how, and the Department’s required response time to post such notices of meetings. The Court urges the Senate to work with relevant parties to answer these questions and any others with the appropriate legislation that would improve the process and prevent future issues.

The Court also recommends that the Senate review what reasonable notice to the public entails to adhere to both the ASNMSU Governing Documents and the New Mexico Opening Meeting Act in ensure compliance. The Court notes that NMSA 10-15-1 states “The affected body shall determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body,” and recommends that this be adhered to as well.

The Supreme Court is exercising its authority under 5-1-5 (Invalidation of Action) to invalidate all business conducted at the September 13th, 2024, Emergency Senate Meeting. Additionally, the Court orders that any points assigned to Senators as per 6-7 (Point System Act) for absence at the September

13th meeting be invalidated as the meeting was not held legally. The Court also strongly suggests that the legislative branch issue an apology addressing the issues described in this Opinion.

It is so ordered.