ASNMSU Supreme Court
Bylaws

1. General Provisions

1.1. **Scope.** These guidelines shall govern the procedure in all ASNMSU courts.

1.1.1. These guidelines shall detail the just and speedy determination of every Court action. Membership in ASNMSU does not exempt anyone from NMSU's Code of Conduct but rather imposes the additional obligation to abide by all University regulations. A member of ASNMSU is, therefore, subject to two (2) sources of authority, ASNMSU authority and University authority.

1.1.2. These guidelines are provided as a reference and are provided with the warning that the Court's rules and procedures may be altered to accommodate unforeseen circumstances.

1.1.3. When determining judgments, the Court will consider ASNMSU statutes and ASNMSU Supreme Court precedents. The statutes of the state of New Mexico and rulings of the courts of New Mexico, as well as those of United States federal courts, will also be persuasive authority.

1.2. **Temporary rules.** From time to time, the Chief Justice or Presiding Justice may, with the consent of the majority of the Court, create, modify, or suspend rules in the Judicial Bylaws when necessary for the fairness and/or expediency of a case.

1.3. Hearings, trials, filings open to public. All hearings, pretrial, and trials are open to the public by default. All filings are open to the public by default. Hearings, pretrial, trials, or filings may be made private or confidential at the discretion of the Supreme Court when the Court determines it to be in the best interest of the hearing or trial.

1.4. **Deliberations closed.** Deliberations of the Supreme Court are private and thus closed to the public.

1.5. Conduct of court proceedings. The purpose of judicial proceedings is to ascertain the truth. Such proceedings should be conducted with dignity and decorum, in a manner conducive to undisturbed deliberation in an atmosphere that bespeaks the responsibilities of those who are charged with the administration of justice.

1.6. **Types of cases.** The ASNMSU Supreme Court shall hear civil, constitutional, and appellate cases.

1.6.1. **Civil cases.** Civil trials shall consist of one (1) party, the plaintiff, filing a complaint against another party, the defendant. Both sides will be given the chance to argue their points, present witnesses and evidence, and cross-examine the opposing side's witnesses. The procedures of a municipal court should be used as a model for this type of procedure. A civil action that is decided in a lower court or tribunal may be appealed to the Supreme Court if the matter is an issue of law.

1.6.2. **Constitutional cases.** Constitutional trials shall consist of one (1)party, the petitioner, filing a complaint against the respondent, the ASNMSU or ASNMSU Governing Documents. Both sides will be given the chance to present their case during oral arguments.

1.6.3. **Appellate cases.** An appellate hearing shall consist of one (1) party, the petitioner, requesting the Court to review the decision of a lower court or tribunal, which has been decided in favor of the other party, the respondent. Both sides shall present a brief of their argument to the Court. Both sides will then be given a brief period to make an oral argument before the Court, and answer the Court's questions. Witnesses, evidence and exhibits will not be permitted.

2. COMMENCEMENT OF ACTION; SERVICE OF PROCESS

2.1. **Form of complaints, writs, motions.** All papers must be in the approved format as furnished by the Supreme Court.

2.2. **Commencing an action.** An action is commenced by filing a complaint or writ with the court. Upon filing the action, the court clerk shall endorse the time, day, month, and year it is filed. The court clerk will then deliver the complaint to the Chief Justice of the Supreme Court to endorse its acceptance by the court by signature. Without the signature of the Chief Justice, the clerk must collect three signatures from the other Justices to make the action valid.

2.3. **Summons; issuance.** If the complaint is accepted and signed by the Chief Justice, the court clerk will issue a summons for the responding party or parties.

2.4. **Docketing.** Upon issuance of a summons, the Court Clerk shall docket the action.

2.5. **Service of actions, motions, and other papers.** The court clerk will serve the responding party or parties with the action, motion and/or other papers necessary. The court clerk will also include appropriate information

regarding filing of answers, counter motions, or other motions, and serve to inform the party or parties of the procedure of the court.

2.6. **Proof of service.** The court clerk and service party will sign a Certificate of Service upon service.

2.7. **Refusal of service.** If a party refused to be served by either refusing to accept documents or sign a Certificate of Service, the court clerk will file an affidavit with the court indicating that the party has refused service. The court clerk will furnish the documents to the party through email. Refusal of service does not remove any burden of a court process from the refusing party.

2.8. **Pro se and representative counsel appearance**.

2.8.1. **Pro se.** A party to any court action may appear, prosecute, defend and appeal any proceeding themselves.

2.8.2. **Representative counsel appearance**. A party may appear, prosecute, defend and appeal any proceeding by representative counsel. All representative counsel must be a member of ASNMSU. Whenever counsel undertakes to represent a party, the counsel shall file a written entry of appearance showing the counsel's name, email, and telephone number. For the purpose of this rule, the filing of any pleading signed by counsel constitutes an entry of appearance.

2.9. **Time Limitations.** The court has the discretion to dismiss or not accept cases not filed in a timely manner.

3. MOTIONS

3.1. **Obligation to transmit filings.** Generally, all filings and motions must be transmitted to the opposing party without delay, unless the filing or motion is submitting alongside a request to preclude the opposing party.

3.2. **Time allowed for submission of pleading or motion in response to a complaint, petition, or other motion.** The standard time allowed for response is 5 days, unless otherwise provided for in these bylaws or in the ASNMSU Bylaws. The court may, at its discretion, alter this time frame.

3.3. **Motions; generally.** All motions must be filed with the Court Clerk, using the official template. Motions should include a statement of facts, legal grounds, and any supporting documentation at minimum. Oral motion are permitted only in hearings or trials with permission from the presiding Justice.

3.4. **Motions allowed.** Permissible motions include but are not limited to:

3.4.1. Request for appeal.

3.4.2. Writ of Certiorari.
3.4.3. Complaint.
3.4.4. Notice of Referral.
3.4.5. Brief-in-Chief.
3.4.6. Motion to Dismiss.
3.4.7. Entry of Appearance.
3.4.8. Answer to Complaint (with or without counterclaim).
3.4.9. Writ of Amicus Curiae.
3.4.10. Motion for Subpoena Duces Tecum.
3.4.11. Motion for Subpoena to Appear and Testify.
3.4.12. Motion for Summary Judgement.
3.4.13. Motion for Severance.
3.4.14. Motion for Continuance.

3.5. **Briefings and hearings on motions.** At the Court's discretion, motions may be set for hearing or ruled upon through written submissions. Each party may submit a brief in support or in opposition to the motion within a deadline set by the Court.

3.6. **Dilatory or harassing motions.** Motions made for the purpose of delaying or disrupting a Court process or for the purpose of harassing a party will not be tolerated. The Court may, at its discretion, issue sanctions if the motion is found to be frivolous or harassing.

3.7. **Subpoenas, generally.** A party may file a motion to request the Court to subpoena documents, evidence, witnesses, testimony, or other materials.

3.8. **Subpoenas, failure to comply.** Failure to comply with Court issued subpoenas may result in sanctions or contempt of Court.

3.9. **Amicus curiae.** Individuals or organizations with a significant interest in a case may submit an amicus curia directly to the Court Clerk and Chief Justice or presiding Justice. The Court has the discretion to accept or reject these motions and may impose limitations.

4. PRETRIAL AND DISCOVERY

4.1. **Pretrials, generally.** The presiding Justice may or may not order a pretrial, at their own discretion.

4.2. **Notice of pretrial.** The Court Clerk shall post notice of a pretrial to ASNMSU social media accounts and to the front door of the ASNMSU Office. This shall also be sent to the parties involved.

4.3. **Waiving the pretrial.** Parties may request to waive the pretrial hearing by informing the court clerk and/or Chief Justice through email.

4.4. **Form of pretrial.** Pretrials may be conducted in person, virtually, or through written submissions. The purpose of the pretrial process is to clarify issues, set trial schedules, and resolve procedural questions.

4.5. **Form of discovery hearing.** Discovery hearings may be conducted in person, virtually, or through written submissions. The purpose of discovery hearings is to address disputes regarding evidence requests and compliance.

4.6. **Scope of discovery requests, limits.** Parties may request evidence related to claims or defenses. Discovery may not extend to privileged information, confidential information, or personal communications unrelated to the matter at hand without good cause.

4.7. **Failure to comply with discovery requests.** Failure to comply with discovery requests may result in sanctions.

5. TRIAL

5.1. **Trials, generally.** All parties have the right to a fair and impartial trial. Trials will be conducted by single presiding Justice, a panel of three (3) Justice, or the entire Supreme Court.

5.2. **Notice of trial.** The Court Clerk shall post notice of a trial to ASNMSU social media accounts and to the front door of the ASNMSU Office. This shall also be sent to the parties involved.

5.3. **Form of trial.** Trials may be conducted in person or virtually. The Court will determine the appropriate trial format for each case.

5.3.1. The Court Clerk, or designee, will begin the trial by stating aloud: “All rise, the ASNMSU Supreme Court is now in session. The matter of [Plaintiff] vs. [Defendant] is before the Court. (Chief) Justice (their name) presiding.”

5.3.2. The Court shall administer an oath or affirmation to each witness, substantially in the following form: “You do solemnly swear (or affirm) that the testimony you give is the truth, the whole truth and nothing but the truth.”

5.3.3. The presiding Justice may order witnesses excluded from the courtroom so that they cannot hear the testimony of other witnesses and may order the witnesses not to discuss the case or their testimony with each other.

5.3.4. Both sides may choose to make an opening statement.

5.3.4.1. No exhibits may be introduced or witnesses examined in an opening statement.

5.3.4.2. The presiding justice will allow the plaintiff or plaintiff's counsel to make an opening statement. The plaintiff is not required to make an opening statement.

5.3.4.3. At the conclusion of the plaintiff's opening statement, the defendant may make an opening statement. The defendant is not required to make an opening statement but may do so even if the plaintiff has not made one.

5.3.5. Presentation of Evidence.

5.3.5.1. The plaintiff may call and examine each witness for the plaintiff after which the plaintiff rests. The Court will then hear any appropriate motions made by either party.

5.3.5.2. The defendant may call and examine each witness for the defense after which the defense rests. The defense is not required to present any evidence or call any witnesses.

5.3.5.3. The plaintiff may call rebuttal witnesses and then rest on its entire case.

5.3.5.4. After both parties have rested, the Court will hear any appropriate motions by either party.

5.3.6. Witness Testimony.

5.3.6.1. After each witness has been examined, the opposing party may cross-examine the witness. After cross-examination, the party who called the witness may re-examine the witness based on evidence presented during cross-examination.

5.3.6.2. The Court may ask appropriate questions of any witness at any point during the presentation of evidence.

5.3.6.3. A witness may not testify unless the witness has a personal knowledge of the matter.

5.3.6.4. Hearsay evidence is not admissible.

5.3.7. Introduction of Documentary and Physical Evidence.

5.3.7.1. A party examining a witness may introduce written documents of physical evidence during examination of the witness.

5.3.7.1.1. The party will ask to have the exhibit marked as Plaintiff's or Defendant's Exhibit One (1), Exhibit Two (2), etc.

5.3.7.1.2. The witness may be asked to identify the exhibit.

5.3.7.1.3. The relevance of the exhibit must then be established through examination of a witness.

5.3.7.1.4. The Court may rule on whether or not the exhibit will be admitted as evidence.

5.3.8. After a brief recess, the Court may choose to orally announce its decision, which shall then be entered into the record. The Court may also opt to go into conference to discuss the case. If the Court goes into conference, a decision shall be made within five (5) days. A copy of the decision shall be sent to all parties involved and shall be posted in the ASNMSU office.

5.3.9. Any evidence belonging to either party will be returned to its proper owner after the case has been decided.

5.4. **Time limits.** The Court may set reasonable time limits for opening and closing statements, examination of witnesses, and other parts of the trial deemed necessary.

5.5. **Objections.** Parties may object to evidence, testimony, or procedures during trial. All objections must state the grounds and will be ruled on by the presiding Justice.

5.6. **Evidence.** All evidence must be relevant, material and not overly prejudicial. Parties must disclose intended evidence in pretrial unless other allowed by the Court.

5.7. **Witnesses and witness testimony.** Witnesses may testify voluntarily or by subpoena. All witnesses must be sworn in before being allowed to testify. Testimony must be truthful and may be subject to cross-examination.

5.8. **Sequestration of witnesses.** At a party's request or the Court's discretion. Witnesses may be sequestered to prevent testimony from being influenced.

5.9. **Questions by Justices.** Justice may ask questions of parties, witnesses, or others in the courtroom to clarify facts or legal arguments.

5.10. **Standards of conduct for counsel, witnesses, media, and other personnel.** All persons in the courtroom must conduct themselves respectfully. Any attempts to disrupt, delay, or interfere with the courtroom proceedings, or any attempt to influence, harass, or intimidate any other

person in the courtroom will not be tolerated. These actions may result in removal from the courtroom, sanctions, and/or contempt of court proceedings.

6. JUDGEMENTS

6.1. **Judgements, generally.** Judgment as used in these rules includes a decree or any order from which an appeal lies. Judgements must be in writing, signed by the majority of the presiding Justices, and posted on social media and the doors of the ASNMSU Office. They must state the findings of fact, conclusions of the law, and any ordered relief. Judgment shall be entered by the Court at the conclusion of all cases. In all cases the Court shall provide judgment.

6.2. **Pretrial judgements.** The Court may issue pretrial judgements through motions to dismiss filed by a party or sua sponte, or motions for summary judgements filed by a party or sua sponte.

6.3. **Default judgements.** If a party fails to appear, fails to respond, is issued sanctions, or is held in contempt, the Court may enter a default judgement in favor of the opposing party.

6.4. **Summary judgements.** Summary judgements may be granted where there is no genuine dispute of material fact and the moving party is entitled to judgement as a matter of law.

6.5. **Granting or denial of prayers for relief.** The Court may grant full, partial, or no relief as requested in a complaint or motion, depending on the merit of the case and applications of law.

6.6. **Harmless error.** Error in either the admission or the exclusion of evidence and error or defect in any ruling, order, act or omission by the Court or by any of the parties is not grounds for granting a new trial, for setting aside a verdict, for vacating, modifying or otherwise disturbing a judgment or order, unless refusal to take any such action appears to the Court inconsistent with substantial justice.

7. APPEALS

7.1. **Appeals, generally.** Appeals must be filed within14 calendar days of final judgement unless otherwise specified. Appeals do not automatically stay enforcement of the final judgement.

7.2. **Appellate jurisdiction.** The Supreme Court retains final appellate jurisdiction over all cases arising within the ASNMSU and other bodies it presides over. This includes but is not limited to the ASNMSU Elections Board, College Council business that pertains to Senators or ASNMSU

resources, cases handled by a special master, and cases handled by a single presiding Justice.

7.3. **Notice of appeal.** The appealing party must file a Notice of Appeal with the Court Clerk and the Chief Justice. The notice must specify the grounds for appeal.

7.4. **Acceptance of appeal.** If the Court accepts the notice of appeal, the Court Clerk shall issue a summons for the respondent and docket the appeal.

7.5. **Stays; injunctions.** A party may file a request for stay or injunction with the Court Clerk. The Court may grant a stay or injunction at its discretion.

7.6. **Briefs.**

7.6.1. If a Notion of Appeal is accepted by the Court, the appellant must file a Brief-in-Chief with the Court within two (2) days of the notice of acceptance. It may be filed in conjunction with the notice of appeal. This Brief must be delivered to the Court Clerk, Chief Justice, and the opposing party. It must include the legal arguments and background for the case.

7.6.1.1. **Contents.** The brief shall contain:

7.6.1.1.1. A statement of the issues;

7.6.1.1.2. A summary of the proceedings which shall indicate briefly the nature of the case, the course of proceedings, and the disposition in the court below.

7.6.1.1.3. A short recitation of all facts relevant to the issues presented for review, with appropriate references to the record proper and transcript of proceedings;

7.6.1.1.4. A conclusion which shall contain a statement of the precise relief sought.

7.6.1.2. If filed in conjunction with the notice of appeal, the defendant need not notify the respondent. The Court Clerk will deliver the brief to the respondent.

7.6.2. The Respondent shall enter a brief within two (2) days of the notice of the brief filed by the appellant. It shall contain the information outlined in Rule (7.6.1.1.).

7.6.3. Within five (5) days after the filing of the notice of appeal, the Supreme Court shall:

7.6.3.1. Enter an order disposing of the appeal; or

7.6.3.2. Schedule oral arguments.

7.7. **Oral arguments.** At the Court's discretion, oral arguments may be held. Each side is given equal time to present their arguments.

7.7.1. The Court Clerk, or designee, will begin the trial by stating aloud: "All rise, the ASNMSU Supreme Court is now in session. The matter of [Plaintiff] vs. [Defendant] is before the Court. (Chief) Justice (their name) presiding."

7.7.1.1. Both parties will be allotted 15 minutes to give their oral arguments. The Justice may interrupt at any time to ask questions of the parties.

7.7.1.1.1. The appellant shall give their oral arguments first.

7.7.1.1.2. At the Court's discretion, there may be a ten (10) minute period for the Court to ask questions of parties.

7.7.1.2. Following oral arguments, the appellant may give a five (5) minute rebuttal.

7.7.1.3. Following oral arguments, the Court shall adjourn for deliberation.

7.8. Rehearing of bench trials. Rehearing may be granted for bench trials upon showing of manifest error, newly discovered evidence, or procedural irregularity.

7.9. **Rehearing of panel trials.** Rehearing before a new panel may be granted under the same grounds as above, with approval of a majority of Justices.

7.10. **Rehearing of en banc trials.** Rehearing by the full court (en banc) is reserved for issues of exceptional importance or constitutional significance, and requires majority approval.

8. IMPEACHMENTS

8.1. **Impeachments, generally**. Impeachment proceedings may be initiated against ASNMSU officials for misconduct, dereliction of duty, or other serious violations. The sole power to initiate impeachment proceedings lies with the Senate.

8.2. **Impeachments, hearings.** Impeachment proceedings will follow trial procedures.

8.3. **Impeachments, judgements.** Following the conclusion of the impeachment trial, the Court may remove the concerned party from office. It

may also ban said party from seeking an ASNMSU office for up to four (4) years.

9. SANCTIONS

9.1. Sanctions, generally. The court may impose sanctions for violations of court rules, bad faith litigation, failure to comply with orders, or misconduct during proceedings.

9.2. **Types of sanctions.** Sanctions may include monetary penalties, dismissal, adverse inference rulings, exclusion of evidence, and referral to other ASNMSU bodies.

10. COURT ADMINISTRATION

10.1. **Court administration, generally.** The Chief Justice oversees the administration of the Supreme Court with assistance from the Deputy Chief Justice. Administrative duties may be delegated as needed.

10.2. **Quorum.** Generally, a quorum consists of a majority of Justices eligible to serve on a particular case.

10.3. **Composition of the Court.** The Court shall be composed of one (1) Chief Justice and four (4) Associate Justices. One Associate Justice shall be selected by the Chief Justice to be the Deputy Chief Justice.

10.4. **Deputy Chief Justice.** When the Chief Justice is unable to perform duties of their office, the Deputy Chief Justice shall be empowered to take on those duties. The Deputy Chief Justice shall not be empowered to appoint a Deputy Chief Justice while acting Chief Justice.

10.5. **Seniority of Justices.** By nature of their office, the Chief Justice is considered the most senior Justice. By nature of their office, the Deputy Chief Justice is considered the second most senior Justice. Following the Chief Justice and Deputy Chief Justice, seniority will be calculated by length of service.

10.6. **Records of the Court.** Records of the Court shall include:

- 10.6.1. Recordings made by any member of the Court.
- 10.6.2. Meeting minutes taken by any member of the Court.
- 10.6.3. Complaints, writs, motions, and other papers filed in the Court.
- 10.6.4. Evidence, evidence lists, and witness lists delivered to the Court.
- 10.6.5. Any other relevant materials that the Chief Justice or Court Clerk deems appropriate.

10.7. **Opinions**. The ASNMSU Supreme Court shall issue a majority opinion upon conclusion of a trial.

10.7.1. The ASNMSU Chief Justice shall draft the opinion or appoint another Justice to do so.

10.7.2. If the ASNMSU Chief Justice is in the minority, the senior Justice in the majority is responsible for appointing a justice in the majority to write the opinion.

10.7.3. No ASNMSU Justice shall be prevented from drafting and releasing separate dissenting or concurring opinions.

10.7.4. Opinions shall be published by posting in the ASNMSU office and on the ASNMSU social media accounts.

10.8. **Recusals.**

10.8.1. **Affiliation disclosure.** Upon appointment to the Supreme Court, each Justice must file a disclosure of affiliation with the Chief Justice and an ASNMSU Advisor. This must be reviewed and refiled each semester and when a Justice acquires a new affiliation.

10.8.2. **Review of affiliation.** At the filing of each case, the Court Clerk will review the affiliations of the Justices to determine if any Justice could have a conflict of interest with the case at hand. If a potential conflict is found, the Court Clerk will inform the Chief Justice of the issue. If the Chief Justice may have a conflict, the Court Clerk will inform the Deputy Chief Justice.

10.8.3. **Notice of potential conflict of interest. When** a potential conflict is found, the Chief Justice will review the conflict and may ask the concerned Justice to recuse themselves.

10.8.4. **Notice of recusal.** A Justice shall recuse themselves from the case by notifying the Court Clerk and the Chief Justice (or Deputy Chief Justice) of the recusal in writing.

10.8.5. **Recusal by force.** If a Justice refuses to recuse themselves, the Court may convene to discuss the matter. If the majority of the Justice votes to recuse the concerned Justice, the Justice shall be recused and barred from further participation in the case.

10.8.6. **Recusal by motion.** Any party may file a motion to have a Justice recused from a case if they have sufficient cause to believe said Justice has a conflict of interest or is disqualified as per the rules set in these Bylaws or the ASNMSU Bylaws.

10.8.7. **Transmittal of proceedings.** If a Justice is recused after presiding over a case for any length of time, the Justice has one (1) business day to send a designated Justice a copy of all proceedings.

10.8.8. **Noting recusals.** All recusals shall be noted in the official opinion.

10.9. **Contempt of Court.** A Justice has jurisdiction to punish for contempt only for disorderly behavior or breach of the peace, which interrupts or disturbs a judicial proceeding in progress before the Justice or for disobedience of any lawful order or process of the Court. The Court may order any of the following judgments if a party is found guilty of contempt of court:

10.9.1. Order dismissing action pending before the Court if said party filed the action;

10.9.2. A judgment fining an organization or an ASNMSU Base Program a maximum of five hundred dollars ($500).

10.10. **Amendments to the Judicial Bylaws.**

10.10.1. **Proposed Amendments.** Any member of the Supreme Court, including Court Clerks, shall be allowed to propose amendments to these Bylaws.

10.10.2. **Senate Bylaws Committee.** The Senate Bylaws Committee may make recommendations for amendments, but they must be adopted by a Justice before being considered by the Supreme Court.

10.10.3. **Hearing proposed amendments.** Proposed amendments may be heard in the following manners:

10.10.3.1. **Distributed to the Supreme Court at a Court meeting.** The Court must have sufficient time to review the proposed amendments, ask questions, and make discussion points. Concluding these, the Justices shall vote on the proposed amendments.

10.10.3.2. **Distributed to the Supreme Court via email.** The Court must have sufficient time to review the proposed amendments, ask questions, and make discussion points. Concluding these, the Justices shall vote on the proposed amendments by email.

10.10.4. **Voting on amendments.** Each Justice shall have one (1) vote on the proposed amendment. The proposed amendment is passed if the majority (50% +1) of the Justices votes to support the amendment.

10.10.5. **Notice of amendments.** When these bylaws are amended, the Chief Justice shall be responsible for notifying the ASNMSU President, ASNMSU Vice President, ASNMSU Senate, and ASNMSU Advisors of the changes. They must also be updated online.