

Texas State University Student Government Supreme Court

**Advisory Opinion
Filling Vacant Seats
Advisory request: 06-124-204
Opinion No: 25-14**

Syllabus

Request received – April 23th, 2025. Opinion Issued – May 1st, 2025

The Supreme Court received a request to advise on procedure for filling a vacant Senator At-large seat in the absence of a senate nominations committee.

The question presented to us for advice was:

- 1- “Should the resulting vacancy in the Senator-At-Large position be filled by appointing the next eligible candidate who received the highest number of votes in the 2025 Student Government Election, or should it instead be filled through the formal application and vetting process typically overseen by the Nominations and Appointments Committee next semester?”

For this question, we hold that:

- 1- A vacant Senator At-large seat may only be filled through the processes outlined in the Student Government Constitution and the Code of Laws. The next eligible candidate who received the highest number of votes – but lost out on the position – may not automatically be appointed into a vacant position. The senate must first convene the Nominations and Appointment Committee.
- 2- In case the number of vacant seats prevents the Senate from conducting business due to quorum requirements, and in the absence of a Nominations Committee, subsections A and C of Section C-1, Article VI, Student Government Senate Rules of Procedure, Student Government Code of Laws, must be adhered to. Subsection B may be ignored until the committee is convened.

A detailed explanation of our decision is found in the opinion below.

Chief Justice Hanzala delivered the majority opinion for a unanimous court, in which Justices Downey, Hernandez, Karki, and Nguyen joined

Texas State University Student Government Supreme Court

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Chief Justice Hanzala delivered the majority opinion of the Court.

We received a request from Mr. Johnathan Daniel Martinez Calderon to advise on the procedure to fill a vacant senate seat before the nominations committee is appointed.

There are established procedures in the Code of Laws regarding vacant seats. Article IV, Section 5-D of the constitution states:

“Undergraduate senator vacancies shall be filled by the candidate receiving a majority vote of the Senate at a regular or special meeting.”

The Code of Laws further expands on this process. A Nominations and Appointment committee is tasked with identifying and vetting new candidates. Article VI, Section B, Student Government Rules and Procedures, Student Government Code of Laws, goes into lengthy detail about the structure, purpose and role of the Nominations and Appointment Committee. Section C of the same article goes over the application process as well.

The problem with this vacancy, however, is that the new senate has only had its first meeting. The senate then moved to adjourn until the fall semester. However, in this one meeting, Karoline Knowles, elected for the Senator at-large position, switched her seat to the designated Round Rock senatorial seat. This was done by a simple resolution passed by the Senate. The At-Large seat previously held by senator Knowles is now considered vacant (pending approval of the resolution from the Student Body President). However, the Senate has not convened a Nominations and Appointment committee, nor has it voted on the Senate Leader or the Senate Parliamentarian (the Code of laws requires both positions to be a member of the committee). Once the senate resumes in the fall, it will then first have to vote in those positions and then convene the committee. This leaves the seat vacant until then.

We have been requested to advise on whether “the resulting vacancy in the Senator-At-Large position be filled by appointing the next eligible candidate who received the highest number of votes in the 2025 Student Government Election or should it instead be filled through the formal

application and vetting process typically overseen by the Nominations and Appointments Committee next semester?”

The petitioner further expressed support for the appointment of the next eligible candidate from the elections. According to them, “the usual process for vetting applicants through [the Nominations and Appointments Committee] is not currently possible.” They are asking us to “issue a formal interpretation on whether, under these specific conditions, the Senate may or should fill the Senator-At-Large vacancy by appointing the next unelected candidate with the highest vote total from the 2025 election, in lieu of the application process overseen by the yet-to-be-constituted Nominations and Appointment Committee.”

We disagree with the appointment procedure proposed here. The Senate may not fill the vacancy by appointing the next unelected candidate. This would circumvent the detailed appointment and nominations procedures listed in the code of laws. According to the Code of Laws (pg 24, article IV, Section C-1, Student Government Senate Rules and Procedures):

“When a vacancy occurs in the Senate, the Senate will vote to approve an applicant.

- a. The President will establish the application for senators each year, collect and process the applications as deemed appropriate and select those nominees they deem qualified to fill vacancies in the Senate.*
- b. The candidate and application will be forwarded to the nominations and appointments committee for further review.*
- c. The Senate Leader will issue a Resolution for confirmation for each qualified applicant accepted by the committee and forward it to the Vice President for consideration at the next meeting.”*

Therefore, the Senate must convene a Nominations and Appointment Committee as it has established in the Code of Laws and then move on to fill the vacant seats.

We acknowledge that this may leave seats vacant for a period of time. If the Senate is in urgency to fill these vacant seats, then it may establish the Nominations Committee as soon as it can. If the Senate wants to appoint people in other ways, then it must codify that by amending the Code of Laws and including other methods it deems fit to fill these seats. Until then, the provisions in the Code of Laws must be followed.

The only scenario where the requirement of the Nominations and Appointment Committee may be bypassed is if the number of vacant seats is such that the Senate is unable to conduct business due to a lack of quorum. Then, the lack of a Nominations and Appointment Committee may only void section B of the aforementioned requirement. The procedure to fill the vacancy must still follow provision A and C. The president may fill in the role of the nominations committee until it is convened. Section B may be skipped, and the President may select qualified applications and forward it to the Senate Leader, and the Senate may vote on it and issue a Resolution.

This provision – namely skipping all the processes involved in the Nominations and Appointments committee – may only take place until the Senate reaches quorum. Once that happens, then all three provisions, and all the requirements set forth in section B of the same article, are applicable.

While we understand the arguments made in support of appointing the next eligible candidate from the election, we reject them for a few reasons.

Firstly, we do not think the situation is egregious enough to allow a circumvention of the rules and procedures set forth in the Code of Laws. With 1 seat vacant, the Senate still has more than enough members to have quorum and conduct its business as needed.

Furthermore, the senate has also adjourned until the fall semester. A majority of the period that this seat would remain vacant is in a time of recess for the senate. There would be no need to fill the vacancy during that.

If we were to allow the appointment of the next eligible electoral candidate as the Senator, this would take place at the next Senate meeting. That meeting will be in the fall semester, and the seat will still remain vacant for a duration of time similar to that if we followed the established procedure.

Finally, we do not consider allowing the next eligible candidate to be appointed as respecting the expressed will of the student body. That candidate ran in the election, and the student body refused to elect them to one of the 11 open senator at-large positions. This could be due to a plethora of reasons. Whatever they may be, the student body had an opportunity to elect that person as their senator and refused to do so. Therefore, giving them an appointment into the senate may be quite opposite to the intentions of the student body.

None of this means that the next eligible candidate is barred from the appointment into the senate. They may apply for the vacant seat as well. The President, the Nominations and Appointment Committee, and the Senate may consider their application with the same weight they consider everyone else's.

For the reasons outlined above, we hold that the vacant seats may only be filled by following the procedure outlined in the Code of Laws.

It is so ordered...