



**Attorney General of the  
Associated Students of the  
University of Utah**

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## **Interpretation Request**

**Redbook Section in Question:**

**Redbook Constitution or Bylaws?** Redbook

**Article:** III

**Section:** 4

**Clause:** 2.5

**Requestor Information:**

**Name:** Kaitlin McLean

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**Date:** 03/06/2019

**Question (Be as specific as possible):**

In what order should inauguration, a new president's appointment of directors/associate directors, and their Senate confirmation take place? Can directors be nominated by a president who has not yet been inaugurated? Is it specified in Redbook that an outgoing Senate must confirm the incoming directors?

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**Attorney General:** Cole McCubbins

**Text of Section in Question:**

[Under Senate Duties]

"To conduct confirmation hearings to confirm or reject all nominations for appointed ASUU positions. Confirmation hearings must be conducted before the scheduled inauguration ceremony excepting circumstances in which the nomination was made following the inauguration ceremony."

**Interpretation:**

There is nothing in Redbook that would require an outgoing Senate to confirm the nominations of an incoming administration. Although the text of Redbook III § 4 (2.5) seems to imply that this must happen, this cannot and should not be the case.

An outgoing Senate cannot confirm incoming directors because the directors cannot be nominated before the inauguration ceremony. The position of President is distinguished from President-elect (see Bylaws IV § 3), and it is the duty of the President (not the President-elect) to nominate officers for confirmation or rejection by the Senate (see Redbook 4 § 2 (1.5)). Therefore, a new administration's planned nominees cannot be nominated before the President-elect is inaugurated.

To have a new administration's nominees be confirmed by an outgoing Senate would also not be prudent. To do so would make it more difficult for the incoming Senate to hold appointed officers accountable for assurances given during their confirmation hearings. Nominees to hold office in ASUU should be confirmed by the Senate they'll be serving alongside, just as nominees of the President of the United States government are confirmed by the Senate they'll be serving alongside.

ASUU has, throughout its history, been inconsistent with the order of inaugurations and confirmations of its directors and associate directors. From this point forward, the following must take place to maintain the integrity of our student government and to follow Redbook's policies:

- The officers that the President-elect plans to nominate will not take the Oath of Office at the inauguration ceremony alongside newly elected officers.
- Once officers are nominated by the new President, they should be confirmed (or rejected) by the new Senate after the inauguration ceremony.
- The new Senate should hold the confirmation hearings before summer because appointed officers cannot be compensated until after they have been confirmed and have taken the Oath of Office (Redbook VI § 1 (1)). Were the hearings to take place after summer, a nominee could do work for an office and not be eligible for compensation if the Senate does not confirm them.