

The Office of the
ATTORNEY GENERAL

To: Matt Arbos, GAC Chairman

CC: Matthew McCann, Student Body President
Alan Hardman, Speaker of the Senate
Jordan Shapiro, Chief Justice
Hannah Fraher, Supervisor of Elections
Ashley Tinstman, Public Relations Coordinator
Michael Preston, SGA Advisor

From: Cortez J. Whatley, Attorney General

Date: September 15, 2011

Subject: Official Opinion Regarding Bill 43-08

I, Attorney General Whatley, in accordance with the Constitution and Statutes of the Student Body of the University of Central Florida, hereby refer the following opinion to Chair Arbos, and all other interested parties:

Inquiry:

Accordingly, the following question is to be examined:

1. Does future implementation of **Bill 43-08 (Revisions to Title VI: The Election Statutes)** constitute as a violation of the Constitution of the University of Central Florida?

Considerations:

Title IV Chapter 402.1 of the Student Body Statutes:

- I. "The Attorney General shall be the legal advisor to the President, and shall hand down opinions on the Constitution of the Student Body, Student Body Statutes, and rights and responsibilities to any member of the student body who shall, in writing, request such opinion."

Title IV Chapter 402.2(C) of the Student Body Statutes:

- II. (Attorney General shall)... "Prepare and submit to the Senate, recommendations for the revisions of the Student Body Statutes."

Article II, Section 5(A) of the Constitution of the Student Body of the University of Central Florida:

- III. (The Student Senate shall)... "Enact, by majority vote, constitutional bylaws to be known as Student Body Statutes, with the exception of bylaws concerning elections, which shall **require** a two-thirds (2/3) vote of the Senate."

Title II, Chapter 201.3 of the Student Body Statutes:

- IV. "2/3- Twice as many "for" than "against.""

*1 Pertains to vote counts in which no members are abstaining.

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Article IV, Section 1 of the Constitution of the Student Body of the University of Central Florida:

- V. “The judicial power of the Student Body Shall be vested in a Judicial Council and such other judicial boards as the Senate may from time to time deem appropriate to establish.”

Article IV, Section 3(B) of the Constitution of the Student Body of the University of Central Florida:

- VI. (The judicial authority of the Student Body shall include)... “Judicial Review, the power to examine legislative and executive acts. Acts brought to the attention of the council may be declared to be unconstitutional by majority concurrence.”

Examination:

The question under examination pertains to **Bill 43-08**. This measure was assigned to first reading on October 28th, 2010. The measure underwent second and third readings on January 27th 2011, and was passed with a final vote count of 20 in favor and 14 against. The measure was signed into statutes under the Kilbride administration and is currently enacted.

The constitutionality of **Bill 43-08** does not concern any of the provisions outlined within the measure. The scrutiny of **Bill 43-08** is in regards to the procedural enactment and future implementation of the act.

Article II, Section 5(A) of the Constitution of the Student Body of the University of Central Florida (here after “Constitution”) explicitly states that any acts amending Title VI **requires** a vote count of at least two-thirds of the members of Senate in order to be valid. Chapter 201.3 of Student Body Statutes defines two-thirds as “twice as many “for” than “against.”” In the consideration of any act pertaining to Title VI in which 34 members of Senate are present and voting, at least 23 votes “for” are required. *¹ 34 members of Senate voted on **Bill 43-08**, and the measure only received 20 votes “for.”

Although this particular measure was signed by the appropriate authorities and ultimately enacted, **Bill 43-08** failed to meet the required vote count from Senate as stated in the Constitution. This failure is in direct conflict with the Constitution, and the bill should not have been advanced passed the legislative stage. Consequently, **Bill 43-08** should have never been signed or enacted.

Furthermore, any and all subsequent legislation regarding Title VI, enacted in accordance to **Bill 43-08**, should also be null and void. The term “in accordance” refers to any bills that contain provisions that are dependent upon provisions established in a previous bill. **Bill 43-53 (Composition of Election Commission)** and **Bill 43-83 (Altering Petition Gathering)** were both enacted after **Bill 43-08**. However, the provisions in both **Bill 43-53** and **Bill 43-83** are independent of **Bill 43-08**.

*1 Pertains to vote counts in which no members are abstaining.

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Official Opinion:

It is the opinion of the Office of Attorney General that the continual implementation of **Bill 43-08** is unconstitutional and all provisions within are null and void.

It is the opinion of the Office of Attorney General that all subsequent legislation regarding Title VI is valid and in compliance with the Constitution.

Recommendation:

It is the recommendation of the Office of the Attorney General to revert to the provisions enacted before **Bill 43-08** was implemented. This reversion does not include any amendments enacted by **Bill 43-35** and **Bill 43-83**. Provisions made by **Bill 43-35** and **Bill 43-83** are to remain in effect.

It is the recommendation of the Office of the Attorney General that this issue be presented to the Judicial Council for final review and a ruling in dissent or concurrence of this opinion.

Cortez J. Whatley
Attorney General
University of Central Florida