

*The Office of the*  
**ATTORNEY GENERAL**

**To:** E. Joshua Miller, Comptroller  
**CC:** Matthew M. McCann, Student Body President  
Wesley Jones, Speaker of the Senate  
Nick Simons, LJR Chair  
Ashley Tinstman, Public relations Coordinator  
Michael Preston, SGA Advisor  
Shane Juntunen, SGA Advisor

**From:** Cortez J. Whatley, Attorney General

**Date:** October 18, 2011

**Subject:** Official Opinion Regarding A Motion to Amend Something Previously Adopted

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 Comptroller Miller, and all other interested parties:

**Inquiry:**

Accordingly, the following questions are to be examined:

1. Is a motion to amend a measure previously adopted by the Senate, after it as passed through 3<sup>rd</sup> reading, consistent with the provisions outlined in Student Body Statutes, the Constitution of the University of Central Florida, or Senate Rules?

**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 of 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."

Article II, Section I of the Constitution of the Student Body of the University of Central Florida

- II. "The legislative authority of the Student Body shall be vested in the Student Senate hereinafter referred to as the Senate"

Article III, Section I of the Constitution of the Student Body of the University of Central Florida:

- III. "All executive powers and those powers not specifically granted herein to other branches of the Student Government shall be vested in the Student Body President, assisted by the Student Body Vice President, and such other administrative officers as the President shall appoint to effectively carry out the business of the Student Government Association."

Article III, Section III (D) of the Constitution of the Student Body of the University of Central Florida:

- IV. The President shall.. "Sign or veto all measures passed by the Senate within ten school days of passage from the Senate..."

*The Office of the*  
**ATTORNEY GENERAL**

---

Title II, Chapter 200 of the Student Body Statutes:

- V. “The Student Government parliamentary authority shall be the current edition of Robert’s Rules of Order.”
- VI. “Robert’s Rules of Order shall be the authority for all formal and announced Student Government meetings.”
- VII. “Robert’s Rules of Order shall be the authority only over those questions which have not been specified by general law or university regulations or by the Constitution of the Student Body of the University of Central Florida, Student Body Statutes, or Senate Rules and Procedures.”

Senate Rule 5.01 (A)(2)

- a. Bills
  - i. “Every measure concerning fiscal matters...”

Senate Rule 6.01 (A)(B)(C)

- VIII. “Measures on First Reading: When a measure is brought before the Senate for the first time, it shall be placed on “First Reading.” First reading shall serve as a period of initial introduction. The measure shall be referred to committee(s) for consideration.
- IX. “Measures on Second Reading: When a measure is reported “out of committee,” it shall be placed on “Second Reading.” Second reading shall serve as a period of opening debate and amendment. All measures may be amended by a majority vote on second reading.
- X. “Measures on Third Reading: After the amending process has taken place on second reading, a measure shall be moved to third reading for final debate.

*The Office of the*  
**ATTORNEY GENERAL**

**Abstract:**

In Brief, Bill 43-119 passed through Senate and an error was noticed by Comptroller Miller. Subsequently, a recommendation for a presidential veto was issued. At the following Senate meeting, Chair Simons made a motion to amend a measure previously adopted. The motion was heard, and Bill 43-119 was brought back to the floor and amended to correct the previous error that was within the bill.

**Examination:**

This opinion does not answer whether or not Comptroller Miller was justified in issuing a recommendation for a Presidential veto. That is a previously established and undisputed fact. The question being examined today concerns the implied powers granted to each of the three branches of the Student Government Association (SGA). More specifically, this opinion will answer whether or not a motion to amend a measure previously adopted is in compliance with the Constitution of the University of Central Florida, Student Body Statutes, and/or Senate Rules.

In accessing this matter, it is important to take into consideration the roles that each branch of the Student Government Association plays in relation to one another. In addition, it is essential to understand the concept of separation of powers and understand how that notion affects the three different branches.

The motion that was made is a proper motion as outlined in Robert's Rules of Order. In that regard the motion is in order under parliamentary law, and is a recognized motion in dealing with many different situations for different entities. However, while SGA is guided by the rules of parliamentary procedure, some of those rules do not coincide with how SGA operates. (i.e. the requirement of a second) In addition, chapter 200.3 states that, "Robert's Rules of Order shall be the authority only over those questions which have not been specified by general law or university regulations or by the Constitution of the Student Body of the University of Central Florida, Student Body Statutes, or Senate Rules and Procedures."

While it is understood that the Senate has the authority over all legislative matters, it is also understood that the time allowed to hear, amend, or correct measures is limited to the three readings that are outlined in Senate Rules. Rule 6.01(C) states that, "Measures on Third Reading: After the amending process has taken place on second reading, a measure shall be moved to third reading for final debate." This implies that after a measure leaves Senate it can no longer be brought back for debate. Furthermore, since debate is required for amending purposes, this provision limits additional amendments to bills after they have left 3<sup>rd</sup> reading. Consequently, I find the use of this particular motion does not coincide with the operations of SGA and the Statutes governing the organization.

While the practice and usage of this motion may seem to only be advantageous to the functions and operations of SGA, there are many problems associated with the allowing this motion to be practiced in SGA. The first issue is the slippery slope effect that the execution of this motion could have. This practice could seriously harm the traditional workings of Senate and would undermine the hearing process set forth in Senate Rules. Knowing that a measure can simply be brought back to the Senate floor will undoubtedly reduce the amount of scrutiny that each bill will receive even less than is employed currently. It is for the reasons of efficiency that three readings of a single measure are permitted, and for a serious examination of the contents within, that no more are allowed.

*The Office of the*  
**ATTORNEY GENERAL**

The second issue deals with the consideration of this specific matter. This bill was originally brought before the Senate with the understanding that the organization for which the bill was for, did not receive any previous funds. That detail in and of itself is substantial in any consideration to the funding of the organization, which effects the bill in its entirety. As this particular motion is heard, there is no need, nor was there ever any motion to vote on the bill in its entirety again. The insertion of any amendment changes the bill as a whole, and could influence the feelings a Senator has about the bill as a whole or any part, such as the amount funded. The fact that the bill was not voted on again in its entirety is itself an unacceptable practice for SGA.

The third and most pressing issue is in the encroachment of a power specifically granted to the Executive Branch: the Presidential veto. Any and all measures that pass through Senate should be received by the Executive Branch as correct. For any measure that is incorrect, inconsistent with any governing documents, or a problem is seen by the President, he has the authority to veto that measure. With the usage of the motion in question, the need for the Presidential veto is in question. If any measure can simply be brought back to Senate, the actual application of a Presidential veto is almost eliminated. All measures could be sent back to Senate to fix. While this seems like a “quick fix” solution and it well may be, this is a very thin line to walk. Anytime any branch is asserting their power at the expense of the power of another branch, a question concerning a violation of checks and balances must be raised. In this instance, it is one branch asserting an assumed power at the expense of a power clearly outlined in Statutes. It is in an essence “tilting the scale” in a sense. It is in our preservation of the notion of separation of powers, and a practice of checks and balances that I also find this motion unacceptable for SGA.

**Official Opinion:**

It is the opinion of the Office of the Attorney General that an amendment to amend a measure previously adopted after it has been passed through the Student Senate is inconsistent with the Constitution of the University of Central Florida, Student Body Statutes, and/ or Senate Rules.

**Official Recommendation:**

It is the recommendation of the Office of the Attorney General that Bill 43-119 should subsequently be vetoed for reasons stated in this opinion.

---

Cortez Whatley  
Attorney General  
University of Central Florida