

The Office of the
ATTORNEY GENERAL

To: Alan Hardman, Speaker of the Senate

CC: Matt McCann, Student Body President
Ashley Tinstman, Public Relations Coordinator
Erica Desanti, Pro Tempore
Michael Preston, SGA Advisor
Shane Juntunen, SGA Advisor

From: Cortez J. Whatley, Attorney General

Date: October 6, 2011

Subject: Official Opinion Regarding The Signature Requirement for Resolutions

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 Speaker of the Senate Alan Hardman, and all other interested parties:

Inquiry:

Accordingly, the following questions are to be examined:

1. What happens to a Senate Resolution if neither the Speaker and/nor the Pro Tempore signs the Resolution?

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 IV (I) of the Constitution of the University of Central Florida:

- II. The Student Senate shall... "Establish its own meeting times, rules and procedures."

Article II, Section IV (B) of the Constitution of the University of Central Florida:

- III. The Student Senate shall.... "Express the will and/or sentiments of the Student Senate in Resolution form."

Senate Rule 5.01(B)(1):

- IV. Resolution shall be.. "Every measure dealing with the rules and procedure of the Senate."

Title III, Chapter 304.3(C) of the Student Body Statutes:

- V. "Signing: The Speaker of the Senate or Senate President Pro Tempore shall sign all measures, writs, warrants and subpoenas of, or issued by order of, the Senate."

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

- VI. The President shall... “Sign or veto all measures passed by the Senate within ten (10) school days of the passage from the Senate. No action by the Student Body President in ten (10) school days shall constitute approval of the measure by the Student Body President.”

Article I, Section IV Definitions of the Constitution of the University of Central Florida:

- VII. “The current edition of Black’s Law Dictionary, unless otherwise stated in the Constitution, Statutes of the student Body or Senate Rules and Procedures, shall be used in understanding the terms contained within the Student Government Association, Statutes and Senate Rules and Procedures.”

Black Law Dictionary 9th Edition:

- VIII. Shall-
- a. Has a duty to; more broadly, is required to.

Examination:

The question above concerns the procedure of a resolution that has been passed through the Student Senate. While Statutes are very specific about what constitutes as a resolution as well as how they are to proceed through Senate, they are very ambiguous in regards to the authority of approval required for them to be validated.

Statutes require that all resolutions passed through Senate have to be signed by either the Speaker of the Senate or the Pro Tempore. The requirement of a signature from an authoritative figure on a measure typically implies that their signature is directly correlated with the approval or rejection of that measure. In many cases this is true. For example, Statutes gives the Student Body President the power and option to sign or veto a measure that has been passed through Senate. Interestingly enough, the power to reject a measure is not directly given to the Speaker of the Senate or Pro Tempore with regards to resolutions. In fact, language in Statutes seems to restrict the signing power of the Speaker and Pro Tempore with regards to resolutions as just a procedural requirement and not a “check” on the Senate.

In addition, when the Student Body President fails to act on a measure, the measure is automatically approved. Similarly, the same concept can be applied to resolutions that do not receive the signature of the Speaker of the Senate nor the Pro Tempore.

By inserting the word “shall” in Statutes, it is a requirement that either the Speaker of the Senate or Pro Tempore sign a resolution. Failure to do so may lead to disciplinary actions against one or both persons occupying those positions for failing to comply with Statutes. Statutes suggest that since the Speaker of the Senate nor the Pro Tempore have any authority to reject a resolution, their signature is purely a reflection of Senate sentiments whether or not the persons holding the positions agree with the measure or not. Furthermore, there is an important distinction in language that must be addressed. That distinction is the difference between a signature being the requirement for a measure to be valid, and a person being required to produce a signature. In regards to Senate resolutions statutes suggest the latter rather than the former of the two.

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Official Opinion:

It is the opinion of the Office of Attorney General that any measure not signed by the Speaker of the Senate nor the Pro Tempore is still valid.