

To: Chair Simons, LJR Chair
CC: Matthew McCann, Student Body President
Alan Hardman, Speaker of the Senate
Ashley Tinstman, Public relations Coordinator
Michael Preston, SGA Advisor
Shane Juntunen, SGA Advisor

From: Cortez J. Whatley, Attorney General

Date: October 10, 2011

Subject: Official Opinion Regarding Senate Retreat

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 Simons, and all other interested parties:

Inquiry:

Accordingly, the following questions are to be examined:

1. If a Senator-Elect cannot attend the Senate Retreat before they are sworn in, what is the consequence? Can they be resigned before they are sworn in?
2. Can a Senator-Elect attend part of the retreat and meet the statutory requirement that they attend?
3. Do Statutes allow for the absences to be expunged on the floor at the first Senate meeting following the swearing-in of the 44th Senate?

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."

Title III, Chapter 310.7 of the Student Body Statutes:

- II. "All newly-elected Senators are required to attend the Fall Senate Retreat as scheduled by the Speaker of the Senate."

Attorney General Proia:

- III. Official Opinion On Senate Retreat

Senate Rule 4.03 (Y) of the Daily Order:

- IV. "Miscellaneous Business and Communications"

The Office of the
ATTORNEY GENERAL

Examination:

The issues being examined in this opinion concern Senate retreat. Due to the time sensitive nature of this opinion, brevity was used. The following is an excerpt from Attorney General Proia on the same subject.

“In answering the first inquiry, it is important to chronologically layout the installation process granted to all individuals elected to serve on Senate. Due to statutory changes, the requirement mandated in 309.7* will occur prior to the installation of Senators to their respective seats. As Black Law states, an individual must relinquish their seat in order to fulfill the elements of a “resignation” and said Senate must hold a seat to be relinquish it....”

Attorney General Proia concludes that a Senator cannot relinquish a seat that they do not hold. I concur with Attorney General Proia’s examination.

Statutes, in stating that a Senator must attend retreat are very vague about the consistency in which a Senator must be present in order to have “attended” the retreat. Using the most broad term of attend is to simply be present. Since Statutes do not specifically state that a Senator is required to be present for the entire retreat, it is appropriate to use the term attend in its broadest context. Therefore, being present for part of the retreat would fulfill the requirements provided in Statutes.

Lastly, Senate Rules designate a specific time for miscellaneous business of the Senate. All business that would normally take place in a committee can be heard at this time. Since expunging absences are typically dealt with in the Executive Committee meetings it is appropriate to bring them to the senate floor is necessary. The LJR Chair or Vice Chair can make the proper motion to expunge any individual absence on the floor, while following the same procedure that is outlined in Rule One: The Executive Committee.

Official Opinion:

It is the opinion of the Office of Attorney General that Senator Elects cannot be resigned before they are sworn in.

It is the opinion of the Office of Attorney General that attending part of the Senate Retreat fulfils the necessary requirements outlined in Statutes.

It is the opinion of the Office of the Attorney General that Senate absences can be expunged on the Senate floor.

Cortez Whatley
Attorney General
University of Central Florida

*Later re-numbered to 310.7