

THE UNIVERSITY OF FLORIDA STUDENT GOVERNMENT
CONSTITUTION, RATIFICATION OF CONSTITUTIONAL
AMENDMENTS, AND ABSTENTIONS

As an introduction to this important topic, this portion of the ballot provides a brief history of the University of Florida Student Government. The University of Florida Student Government was established over a century ago in 1909. It was founded with one main mission: to represent and act in the interests of the students. Student Government (SG) has created an academic and extra-curricular environment benefiting students through its programs and works to sustain and improve them each year. SG's power is balanced among three branches: Executive, Legislative, and Judicial.

The University of Florida Student Government Constitution (the Constitution) represents the framework through which this important mission is to be accomplished. Drafted with the structure of the United States Constitution in mind, the UF SG Constitution is comprised of a series of articles, each of which is further subdivided into sections. Each article and section is a blue print for the way our student government operates. Specifically, each article and subsection create the different branches of student government and define their responsibilities while also outlining the extent of their power.

Recognizing that the Constitution would be around for centuries to come, its drafters recognized that there may come a day when the different provisions they had written might not apply in the same way as they did then or that additional provisions needed to be added in order to better serve the UF students. As such, the drafters provided a means for amending the Constitution so that students in the future would be able to ensure that its contents are geared

toward providing the best Student Government possible for all student members of the Gator Nation.

Article VIII of the Constitution provides a variety of avenues for amending the same. First, Article VIII Section 1 of the Constitution allows for modification by the Student Government Senate (the Senate) provided that certain procedures are followed. That section provides as follows:

The Student Senate may propose amendments to the constitution by a two-thirds vote in two regular meetings occurring not later than twenty-eight days before the ratification election. Each amendment proposed shall embrace only one subject and matter directly connected to that subject.

Second, Article VIII Section 2 of the Constitution allows for modification by initiative, whereby students may propose amendments by submission of a petition to the Chief Justice of the Supreme Court joined by ten percent of the electorate not later than twenty-eight days before the ratification election. Just like in the case of a proposal by the Student Senate, “[e]ach amendment proposed shall embrace only one subject and matter directly connected to that subject.”

Third, Article VIII Section 3 of the Constitution provides for modification by the Constitution Revision Commission. This procedure, however, can only be utilized once every 10 years beginning with 2019.

Article VIII Section 4 of the Constitution provides the requirements for ratification of a Constitutional Amendment proffered through any of the above avenues. That Section provides as follows:

A three-fifths approval vote of those voting in the spring general election is necessary to ratify all constitutional amendments. Unless otherwise specified in the amendment, a ratified amendment shall be effective at 8:00 p.m. on the first day of May following the spring general election.

Finally, Article VIII Section 5 states that Section 5 introduces a publication requirement to the amendment process, stating that the text of all amendments and the ballot summary shall be published in a campus-wide print media publication one week before and on both days of the election.

Our elections process at the University of Florida provides students with three options in voting: (1) Yes; (2) No; or (3) Abstain. The definition of the first two options is wholly obvious. A vote of “yes” means that a student votes in favor of the constitutional amendment in question. A vote of “no” means that a student votes against the amendment proffered on the ballot. The definition of “abstention,” on the other hand, is not as widely known. Generally, an abstention is defined as “a formal refusal to vote on something.”¹ The abstention option has further been explained by polyas.com,² stating that:

Abstention from voting is a form of exercising one's right to vote. When someone confirms that they are abstaining from voting, it means they are voting neither for nor against the motion at hand. They are nevertheless taking part in the election through expressing neither approval nor disapproval for a particular candidate, party or motion. An individual can either actively abstain by checking the “abstain” box on a ballot or passively abstain by refraining from voting on an option, candidate, etc. altogether.

¹ <https://www.merriam-webster.com/dictionary/abstention>

² <https://www.polyas.com/election-glossary/abstained-votes>

Regardless of whether a voter chooses to passively abstain or actively abstain, the effect of the action is the same. Our election system at the University of Florida allows for either of these options. For example, an individual can positively abstain by selecting “abstain” as their choice when voting on a Constitutional amendment instead of choosing the “yes” or “no” options. A student can negatively abstain in voting for specific candidates by not selecting any of the candidate options. This option is available in both fall elections—where students elect candidates for the geographical areas in which they live—and spring elections—where students select representatives based on their year in school, college, or professional designation. A student can also negatively abstain by choosing not to write-in a candidate where no candidates have chosen to slate with a party or run as an independent. Regardless of which of the three above options a voter opts for, that does not change the fact that they are a voter and have cast a vote by submitting a ballot.

The option to abstain has been described as a useful political opportunity for individuals unsure of which way to vote. To set the stage on this issue, imagine being asked by a friend whether you like an essay, thesis, or dissertation they wrote about an issue that, though they are very passionate about, you do not share the same level of enthusiasm. On one hand, you could read the entire thing and tell them that you sincerely enjoyed it. On the other, you could read it and decide that it is not your cup of tea and tell them that you did not like it and that they should go back to the drawing board for further development and revision. However, your thoughts on this essay may well be that you do not have an opinion on it. And that’s totally okay. There are a variety of reasons that you do not have an opinion. Maybe you did not read it all and did not give it the consideration it deserves. Or maybe it is difficult to say yes or no on. But if your friend tells you that you must give them a “yes” or “no” answers, you will likely be unable to comply—

a serious predicament indeed. Needless to say, selecting either of these options would be very far from the truth and not give your friend the feedback on whether they should continue on the path they are contemplating or go back to the drawing board.

This situation occurs all the time in voting—a noticeably more important undertaking than whether you like your friend’s essay. Enter, the option to abstain. Rather than having to vote “yes” or “no” an issue, individuals may choose to “not vote.” This option avoids the individual dilemma of being stuck between a rock and a hard place on an issue on which someone either does not know enough about to feel comfortable voting or if the issue is not of great importance to that person. To force an individual to vote in the affirmative or in the negative on such an issue would be entirely undemocratic and not at all indicative of the electorate’s sentiment on an issue or candidate.

The option to abstain is widely accepted in American politics. For example, in the United States House of Representatives, members have the option to vote “present” instead of voting for or against a bill or resolution, which has the exact same effect of an abstention. So too is the case in the United States Senate. There, the Presiding Officer calls each senator’s name, after which the senator announces their vote. If they choose to abstain, they must give a reason for doing so. Nevertheless, the option is still present. When a senator is nominated for a position that requires confirmation by the senate itself and on which that same senator must vote, the senator is *expected* abstain (by voting “present” as was just mentioned).

The abstention is similarly commonplace on the international level. For example, in the United Nations Security Council, the representatives for the five countries who have a veto power have the option to abstain on a measure on which they do not wish to vote for or against.

Members of the Council of the European Union are granted the exact same option during their voting procedures.

All this to say, the option to abstain is by no means unique to the University of Florida Student Government political process. Truly, our election procedures stand proudly amongst those of other long-standing institutions.

In its June 25, 2006 decision, Interpretation of The University of Florida Constitution: Section 4 of Article VIII, the Supreme Court of the University of Florida Student Government explained the relationship with the above-quoted language in our Constitution and the opportunity to abstain in our elections. That case involved whether a host of constitutional amendments had to be invalidated after many years had come and gone since their passing because of an oversight in the way the language of the Constitution was to be applied. The Chief Justice, in a unanimously-decided opinion (but for one justice who did not take part in the consideration of the case), stated that:

At issue is whether Section 4 of Article VIII of the University of Florida Constitution (the “Constitution”) permits the ratification of proposed amendments which receive three-fifths approval of the total ballots cast, or three-fifths approval of ballots cast for or against a particular ballot line item. In relevant part, Section 4 of Article VIII provides “[a] three-fifths approval vote of those voting in the spring general election is necessary to ratify all constitutional amendments.” UF CONST. art. VIII, § 4.

It is a fundamental rule of Constitutional interpretation that the plain meaning of a term is given effect in the absence of any indication to the contrary.

Here, § 4 clearly and unambiguously states a proposed amendment must receive three-fifths approval of “those voting in the spring general election” to be ratified. UF CONST.

art. VIII, § 4. Given its plain meaning, we hold § 4 permits ratification of an amendment where the amendment is ratified by three-fifths approval vote of the total ballots cast “in the spring general election.”

Based on this language, it is clear that sixty percent of the votes cast in an election must be “yes” in order for an amendment to become part of our Constitution. As such, the Court recognized that a number of amendments had been mistakenly ratified. Those included a 2008 amendment, a 2010 amendment, a 2014 amendment, and a 2016 amendment.

We hope that you will take all of this material into consideration as you cast your vote this semester.