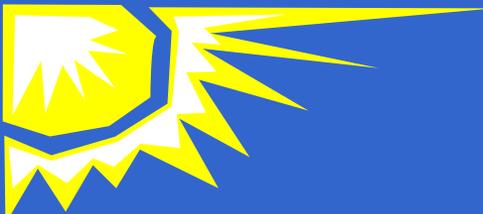




Board Appointed Committees
and the
Florida Sunshine,
Public Records,
and
Code of Ethics Laws

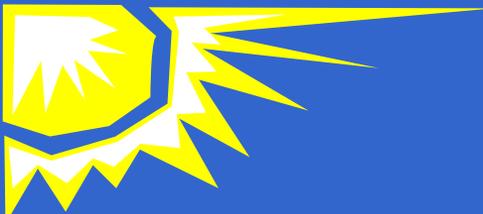


The Laws

❖ SUNSHINE LAW

Protects the public from “closed door” decision making and provide a right of access to governmental meetings.

*(F. S. Sec. 286.011 (“Sunshine Law”)
and Fl. Constitution Art. I, Sec. 24)*

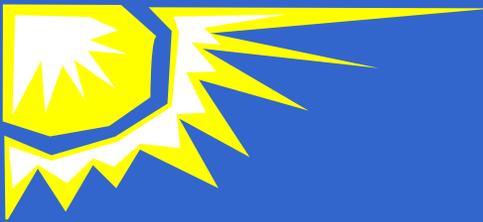


The Laws

❖ CODE OF ETHICS

Protects against conflict of interest and establishes standards for the conduct of elected officials and government employees in situations where conflicts may exist.

(F. S. 112, Part III, Code of Ethics for Public Officers and Employees and the Fl. Constitution Art. II, Sec. 8)

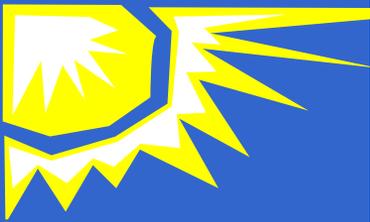


The Laws

❖ PUBLIC RECORDS LAW

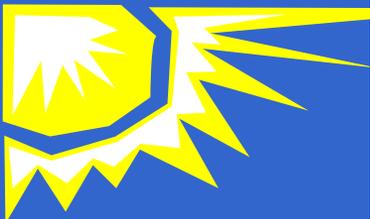
Creates a right of access to records made or received in connection with official business of a public body.

(F. S. Chap. 119)



The Sunshine Law

- ❖ **Applies when:**
 - ❖ **two or more members of a governing board (such as the BCC) discuss a matter that may foreseeably come before the governing board.**
 - ❖ **When a governing board moves any part of its decision making process to a committee or group, thereby appointing an “alter ego.”**



The Sunshine Law

Applying Sunshine Law to Board appointed committees:

- **Allows the public to observe each preliminary step leading to the final decision.**
- **Prevents the Board from creating closed committees that narrow the Board's decisions.**



Meetings subject to the Sunshine Law --

- ❖ formal or casual discussions about a matter on which the Committee may foreseeably take action, between two or more members of a Decision Making Committee.
- ❖ **Discussions may occur through telephone or e-mail communications, or exchanges during workshops, social events, football games and neighborhood barbeques.**



The Sunshine Law imposes three Obligations of Openness

1. Reasonable notice of meetings subject to the Sunshine Law must be given.

Requires giving the public reasonable and timely notice so they can decide whether to attend.

What is "reasonable" or "timely" depends on the circumstance.

Does not necessarily require a newspaper advertisement.

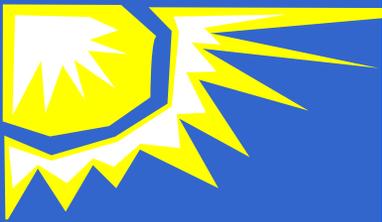


The Sunshine Law imposes three Obligations of Openness

2. Public must be allowed to attend meetings;

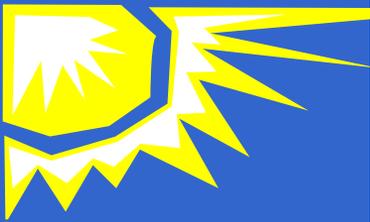
Meetings cannot be held at exclusive or inaccessible facilities.

However, there is no obligation to allow the public to participate.



The Sunshine Law imposes three Obligations of Openness

3. Written minutes must be taken and made available promptly.
 - Sound recordings may also be used, in addition to written minutes.
 - Minutes may be a brief summary of meeting's events.
 - Minutes must record the votes.



Sunshine Law: Penalties for Noncompliance

A violation of the Sunshine Law by a Decision Making Committee, can nullify subsequent Board decisions.

Criminal Penalties:

- It is a second degree misdemeanor to knowingly violate the Sunshine Law.
- Punishable with a fine of up to \$500 and/or up to 60 days imprisonment.

Other Penalties Include:

- Removal from position.
- Payment of attorney's fees incurred by the challenging party, as well as declaratory and injunctive relief.



Florida Code of Ethics

F.S. Chap 112, Pt. 3 addresses:

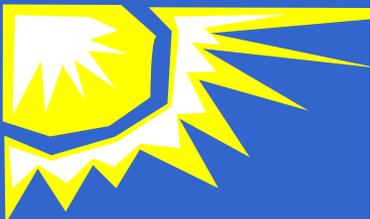
- ☀ **Standards of Conduct**
- ☀ **Voting Conflict**

Applies to:

- ☀ **County Commissioners and Board Employees**
- ☀ ***Board Appointed Committee Members***

Prohibits certain actions or conduct.

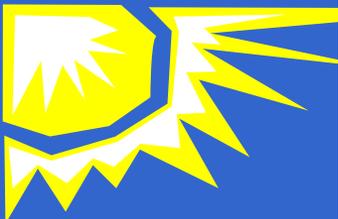
Requires certain disclosures be made to the public.



Standards of Conduct

Prohibit Public Officials, including Board Appointed Committee Members, from . . .

- ❖ Soliciting and Accepting Gifts. May not solicit or accept anything of value that is based on an understanding that their vote, official action, or judgment would be influenced by such a gift.
 - ❖ Accepting Unauthorized Compensation. May not accept any compensation, payment, or thing of value that is given to influence a vote or other official action.
- ❖ Misusing Their Public Position. May not corruptly use their official position to obtain a special privilege for themselves or others.
 - ❖ Disclosing or Using Certain Information. May not disclose or use information not available to the public and obtained by reason of their public positions for the personal benefit of themselves or others.



Standards of Conduct

Prohibit Public Officials, including Board Appointed Committee Members, from . . .

The full Board may waive these two prohibitions, as they relate to Board appointed committees.

- ❖ Doing business with their agency. A public official's agency may not do business with a business entity in which the public official, or their spouse or child own more than a 5% interest.
- ❖ Engaging in Conflicting Employment or Contractual Relationships. A public official may not be employed or contract with any business entity regulated by or doing business with his or her public agency.



Voting Conflicts of Interest

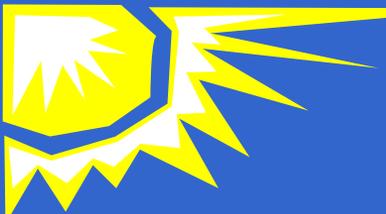
- ❖ Requires no member of a Board appointed committee shall vote in an official capacity upon any measure which would inure to the special private gain or loss of themselves, any principal or entity by whom they are retained, other than an agency , or to any relative or business associate.
 - The term “agency” means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; or any public school, community college, or state university
 - The term “relative” means any father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law



Voting Conflicts of Interest

- ❖ **Requires that a member of a Board appointed committee:**
 - ❖ Must announce the nature of the conflict before the vote; abstain from voting; and file a memorandum of voting conflict
 - ❖ May not participate in the discussion without first disclosing the nature of their interest in the matter (either in writing prior to the meeting, or orally as soon as they become aware that a conflict exists)

Becomes an issue when stakeholders are appointed to Board appointed Committee



Public Records Law

Public Records include:

- ❖ All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or means of transmission made or received pursuant to law in connection with transaction of official business by the agency

The Public Records Law Applies to:

- ❖ Records developed by a Board Appointed Committee and its members
- ❖ All types of records including written communications, letters, notes and e-mails.

Numerous exemptions are identified in F. S. 119.07 and other statutes.