

Sunshine Law and Open Meetings

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The Sunshine Law

- The Sunshine Law has two primary areas:
 - Public records law, Chapter 119, F.S., provides the public the right to access, inspect, and copy public records.
 - Public meetings/Sunshine law, Section 286.011, F.S., provide the public a right of access to government proceedings and recordkeeping.
- Open Meetings Law, often referred to as the “Sunshine Law,” protects the public from closed-door decision making and provides a right of access to governmental meetings.

Who is Covered by the Sunshine Law?

- Local government boards, school boards, special district boards, direct support organization boards.
- Private companies doing business on behalf of a government agency.
- Advisory boards and committees.
- One person acting on behalf of a board or commission.

Open Meetings Requirements

- Chapter 286, F.S., applies to all meetings of “any board or commission of any state agency or authority...at which official acts are taken...” or public business is transmitted.
- If the Sunshine Law is applicable, it requires:
 - All meetings must be *open meetings*.
 - *Reasonable notice* of meetings must be given.
 - *Minutes of meetings* must be kept and open for public inspection.

What is an Open Meeting?

- Must be open to the public; public has a right to attend and to comment.
- Includes any discussions or deliberations, formal or casual, between two or more members of a board when discussing matters on which the covered entity might take action.
- Includes workshops, telephone conversations, email communications, social media or other interactions where covered material is exchanged, including social gatherings.

Reasonable Notice and Meeting Location

- Reasonable Notice of Meetings:
 - Ample notice given to the public and media which reasonably and timely conveys all information necessary to enable them to choose to attend.
 - “Reasonable” depends upon situation’s circumstances.
- Meetings may not be held at facility/location inaccessible to the public or which discriminates due to presence of physical barriers.

Meeting Minutes

- Minutes must be recorded and open to public inspection.
- Minutes are not a verbatim transcript, but a brief summary of the meeting's events.
- Sound recordings may be used in addition to written minutes, but if used, must be retained. This is not normally recommended by OGC.

What Meetings at FSCJ are Subject to the Sunshine Law?

- Any committee meeting where the District Board of Trustees has delegated its authority such that decision making or policy making is performed (or it is foreseeable that it will be performed).
- The search and selection committee for the College President is an example of this type of "delegated authority" meeting for FSCJ employees.
- Collective bargaining negotiations are also an example of covered public meetings.

Written Correspondence

- The use of a written report by one Board member to inform other members of a subject which will be discussed at a public meeting is not a violation of the Sunshine Law if prior to the meeting, there is no interaction related to the report among the members.
- In such cases, the report, which is subject to disclosure under the Public Records Act, is not being used as a substitute for action at a public meeting as there is no response from or interaction among the commissioners prior to the meeting.

Florida Institute of Government, *Florida's Code of Ethics, Sunshine Law and Public Records Act*

Computer Meetings

- Board members may conduct informal discussions and workshops over the Internet, provided that proper notice is given and interactive access by the public is provided. However, the use of an electronic bulletin board to discuss matters over an extended period of days or weeks, which does not permit the public to participate online, violates the Sunshine Law by circumventing the notice and access provisions of that law.
- In addition, for meetings where a quorum is necessary for action to be taken, physical presence of the members making up the quorum would be required in the absence of a statute providing otherwise.

Florida Institute of Government, *Florida's Code of Ethics, Sunshine Law and Public Records Act*

Be Careful with Exemptions

- An exemption from Chapter 119 (Public Records Law) does not imply an exemption from Chapter 286 (Open Meetings Law).
- There are exemptions allowing out of the Sunshine meetings with counsel (e.g., collective bargaining negotiations; settlement offers in litigation), however, they are narrow exemptions.
- Caution is advised. Contact the OGC with any questions regarding exemptions.

Sunshine Law Principles

- Sunshine Law broadly construed, exemptions narrowly construed.
- No use of evasive devices, such as:
 - Circulation of written reports.
 - Single staff member reporting *to one member* what the other members think about an issue which may foreseeably come before the entire body for vote.

Votes and Ballots

- Votes must be publicly taken.
- No secret ballots are allowed.
- Roll call vote is not required.
- All members must vote (unless they have a conflict of interest) and the Meeting Minutes must so reflect by recording of the vote *or* counting a vote for each member.

FSCJ and DSO Meetings

- Committee meetings (e.g., faculty/staff or tenure and promotion meetings) at the College are generally not open because those committees/groups are fact-finders.
- If the Board or President delegates decision or policy making authority to a committee, such meetings are open (e.g., Presidential search committees).
- Per AG Opinion, meetings of boards of Direct Support Organizations (DSOs) (e.g., the Foundation) are “in the sunshine.”

Penalties for Noncompliance

- Second degree misdemeanor to knowingly violate Sunshine Law.
- Possible removal from office/position.
- Fine of \$500 or less.
- Reasonable attorneys' fees.
- Declaratory and injunctive relief.
- Action taken at illegal meeting invalid.

Legal References

- [Article I, Section 24, Florida Constitution](#)
- [Section 286.011, Florida Statutes](#)
- [Government-in-the-Sunshine Manual](#)
- [Florida Office of the Attorney General](#)

Any questions about the Sunshine Law and Open Meetings may be directed to the Office of the General Counsel.

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