

State Sunshine Law and Public Records Law



OVERVIEW

Through the Government in the Sunshine and Public Records laws, the State of Florida leads the nation in government transparency. To build public trust, these laws establish the right of citizens to observe decision-making at the state and local government levels. In practice, this generally means that all communications and records related to City business are for the benefit of the public, and therefore must be accessible and/or made available upon request.

SUNSHINE LAW

The Sunshine Law applies when two or more individuals on the same board discuss an issue that could come before their board. Under the Sunshine Law, any communication with another board member regarding issues that may come before your board must occur only at a meeting noticed to the public and press. This means you and other board members cannot discuss outside of noticed meetings any issues your board may potentially consider. Thus, you should avoid discussing issues with fellow board members (1) in the meeting room before or after a public meeting, (2) via email, texts, social media, telephone, or letters, (3) during casual gatherings or chance encounters, or (4) by using third party liaisons to communicate between each other.

The Sunshine Law applies to all board meetings, including committees and sub-committees. Additionally, the Sunshine Law applies to a single board member when that member acts as the sole decision maker for the board as a whole, such as the negotiation of contract terms or vendor selection.

The Sunshine Law has three basic requirements :

- Discussion must take place at meetings open to the public;
- Reasonable notice of such meetings must be given; and
- Minutes must be taken and promptly recorded.

HIGHLIGHTS

- ❑ **ONLY discuss issues at publicly noticed meetings.**
- ❑ **ASK thoughtful questions during public meetings before voting to avoid the appearance that things have been already decided and to let citizens see your thought process.**
- ❑ **AVOID side-bar conversations during a meeting.**
- ❑ **AVOID conversation while entering and exiting the board meeting, even if you have already voted on an issue.**
- ❑ **Individual board members CAN discuss issues with employees of the City and other agencies**
- ❑ **Individual board members CAN share relevant information with other board members between meetings. ASK your board staff to send a one-way email.**
- ❑ **Two or more board members CAN attend and speak at a publicly noticed meeting held by a different board, but they cannot engage with each other.**

You are responsible for ensuring that public meetings for your board comply with the Sunshine Law, including (1) the posting and distribution of meeting notices in a reasonable time prior to meetings and (2) taking of written minutes at all meetings. City staff assigned to your board typically handle the posting and distribution of meeting notices and the taking of minutes. However, you are responsible for confirming this is occurring. If no City staff is at your public meeting, you must take minutes yourself.

Requirements for notices and minutes :

1. Notices should be posted 7 days before a regular meeting, and at least 24 hours before a special or emergency meeting.
2. Notices must include a date, start time, and location of the meeting. When possible, notices should also include an agenda or list of topics to be addressed at the meeting.
3. Written minutes must be recorded and available for inspection.

The Sunshine Law also requires that the public has an opportunity to comment before any final action is taken by your board.

Violating the Sunshine Law could result in fines up to \$500, 60 days in jail, and civil suits that may invalidate board decisions and an award of attorney's fees.

PUBLIC RECORDS

All records related to the transaction of government business are public records and must be made available to the public upon request. This includes all emails, text messages, social media postings, documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, and handwritten notes related to your board business – regardless of whether they are in their final form and regardless of where they are kept. *Even personal notes and draft documents intended for personal use become public records if they are communicated to anyone else.*

To help preserve records related to your board, you should keep a binder of all board records to provide to the City at the end of your board service. You should also forward all emails regarding board business to the City staff that supports your board. If you receive any request for records related to your board, immediately forward the request to the board staff so the request can be handled correctly and in a timely fashion.

Penalties for destroying or failing to maintain public records can include maximum of one year in jail and criminal fines; civil penalties, including \$500 fine.

- DO NOT prevent the public from attending public meetings.**
- DO NOT ask anyone to leave a public meeting.**
- DO NOT begin the meeting early, not even by one minute.**
- ASK the Ethics Office if you are not sure**

REQUIREMENTS

- Should provide notice 7 days in advance whenever possible.**
- Public meetings MUST be in buildings that are accessible to all members of the public, including persons with disabilities**
- Allow public COMMENT before final action is taken.**

PUBLIC RECORDS

- DO NOT destroy or delete records related to City business.**
- ANY RECORDS related to City business that are located in personal e-mail accounts or on personal devices (including cell phones) are public records, including text messages and emails.**
- CREATE A SYSTEM to store your public records so they can be easily retrieved, such as scanning documents and saving texts.**
- BE PREPARED to respond to requests for public records.**