



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

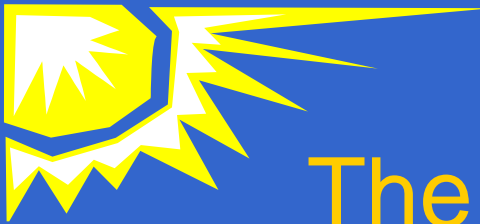
CRA Advisory Committee





This presentation highlights the requirements of the following three laws and how they relate to Board appointed committees.

- ❖ The Sunshine Law,
- ❖ The Public Records Law,
- ❖ and the Florida Code of Ethics.



The City has a legal obligation to comply with:

- ❖ The Sunshine Law,
- ❖ The Public Records Law,
- ❖ and the Florida Code of Ethics.

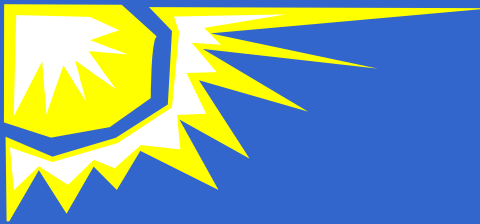


# The Laws

## ❖ 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

## ❖ 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 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.

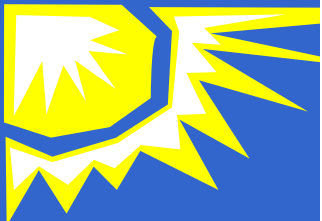
*(F. S. 112, Part III, Code of Ethics for Public Officers and Employees and the Fl. Constitution Art. II, Sec. 8)*



Committee type determines the applicability of these laws.

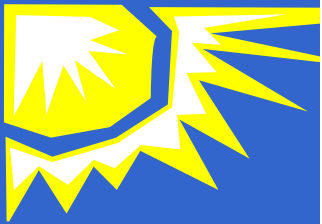
There are two types of committees:

1. **Decision Making Committees like the Code Enforcement Board and the Board of Adjustment**
2. **Advisory Committees established through a Resolution of the City Commissioners**



1. Decision Making Committees become part of the Board's decision making process and:

- **Choose alternatives and direction; narrow or eliminate options for the Board's consideration.**
- **Make final decisions that have financial or property right impacts.**
- **Make recommendations to the Board directly or through staff. May Create bylaws.**



2. Advisory Committees provide a source of community input and factual resources; and:

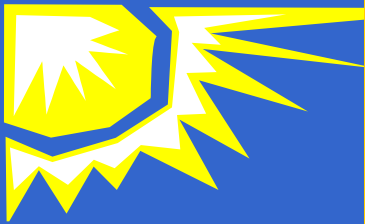
- Do not have authority to make final decisions affecting property or assess fines. Can not create bylaws.
- Provide individual input, data and factual findings, ultimately as part of a recommendation to the City Commission.
- Maintain a brainstorming focus. (Examples include the Community Wide Council, the CRA Advisory Committee and the WRAC)



# The Sunshine Law --

Gives the public access to meetings of “any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision” *AND*

- **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.**
- **Applies to Board appointed committees.**
- **An AG opinion advises it also applies to an individual Board member, appointed to negotiate, narrow decisions, or make decisions for the full Board.**



# Meetings subject to the Sunshine Law --

include formal or casual discussions about a matter on which the Board or Committee may foreseeably take action, between:

- ☀ Two or more Board members, or
- ☀ 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

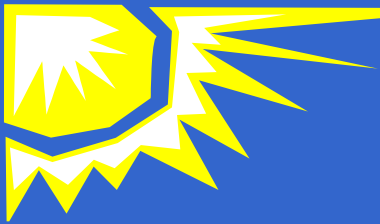
1. Reasonable notice of meetings subject to the Sunshine Law must be given.

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. Contact the County Attorney’s office for guidance.



# The Sunshine Law imposes three Obligations of Openness

2. Public must be allowed to attend meetings; however there is no obligation to allow the public to participate.
  - ⚙ Meetings cannot be held at exclusive or inaccessible facilities.
  - ⚙ No evasive actions are allowed, such as:
    - Circulating written reports to elicit responses or positions on issues.
    - Using staff, lobbyists, or other means to seek other members' positions about issues.



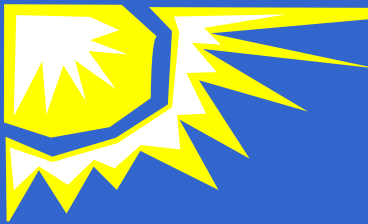
# The Sunshine Law imposes three Obligations of Openness

3. Minutes of the meetings are required. 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 are public records.
  - Minutes must record the votes.



# The Sunshine Law applies when --

- ❖ Two or more members of a governing board (such as the City Commission) discuss a matter that may foreseeably come before the governing board.



# The Sunshine Law applies when --

- ❖ **A governing board moves any part of its decision making process to a committee or group, thereby appointing an “alter ego.”**

**According to an AG opinion, this may also include an individual Board or Committee member appointed formally or informally to negotiate, narrow or eliminate options or decisions for the full Board or Committee.**



# The Sunshine Law does not apply to --

- ❖ Private Committees or groups like a homeowners association
- ❖ Board created focus groups or other such committees that:
  - Only provide individual input, data and facts as part of staff's development in its advisement to the Board

*The Sunshine Law is broadly construed –  
Exemptions are narrowly construed*



# Sunshine Law: Penalties for Noncompliance

*(Also apply to Decision Making Committees)*

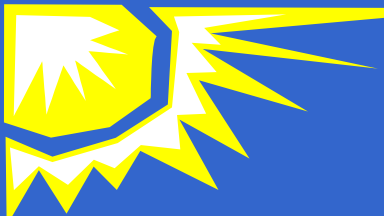
***A violation of the Sunshine Law  
by the Board or a Decision  
Making Committee, can nullify  
Board decisions.***

## 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.



# 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. *(Fl. Stat. Chapter 119)*

The Public Records Law Applies to:

- Records developed by the Board, Board Appointed Committees, and employees
- All types of records including written communications, letters, notes and e-mails.

Numerous exemptions are identified in  
Fl. Stat. 119.07 and other statutes.



# Florida Code of Ethics

## Addresses:

- ☀ Standards of Conduct
- ☀ Voting Conflict
- ☀ Financial Disclosure

- Applies to:
  - ☀ County or City Commissioners.
  - ☀ Board Employees.
  - ☀ Board Appointed Committees.
- 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.



# Voting Conflicts of Interest

- ❖ Requires no County, municipal, or other Local Public Officer (including members of Board appointed committees) 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 as defined in the Fl. Stat. 112.312(2), or to any relative or business associate.

- ❖ **Requires that public officers, including members of decision making committees:**

- 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 Decision Making Committees.***



# Financial Disclosures

**Board appointed committee members with land-planning, zoning or natural resources responsibilities must file an annual financial statement.**



# Which Laws Apply to Which Committees?

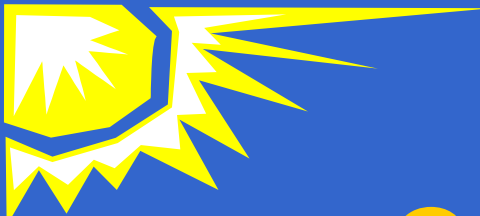
Florida Laws	Focus Group	Decision Making Committee
☀ Sunshine Law		U
Public Records Law	U	U
Code of Ethics:		
Standards of Conduct	U	U
Voting Conflict		U
Financial Disclosure		☀☀U

☀ *Includes discussions about a matter which may foreseeably come before the Committee: between one or more Committee member(s), or involving subcommittees or an individual Committee member who has been formally or informally authorized to exercise any decision-making authority or to reduce options for the Committee's consideration.*

☀☀ *Committees with land-planning, zoning, or natural resources responsibilities.*



A day in Florida Government  
is a day in the Sunshine!



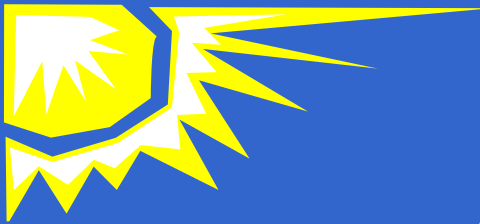
# Committee Training Review Questions

Now, Let's Review What You Have Learned!



# Committee Training Review Questions

- 1. As it relates to Board appointed Committees, this Committee has an obligation to comply with what three laws?**

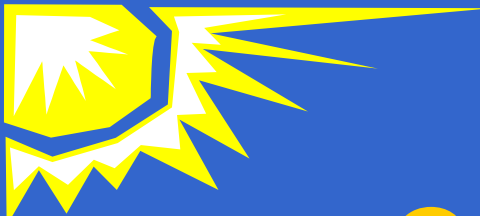


# Committee Training Review Questions

## Answer #1:

**City of Fort Pierce must comply with the following laws:**

- ❖ **Sunshine Law ( F.S. Sec. 286.011)**
- ❖ **Public Records Law (F.S. Chapter 119)**
- ❖ **Code of Ethics Law ( F.S. 112)**



# Committee Training Review Questions

**2. What are three Obligations of Openness imposed by the Sunshine Law?**



# Committee Training Review Questions

Answer #2:

**The Sunshine Law imposes three  
Obligations of Openness:**

- ❖ Reasonable notice of meetings
- ❖ Public must be allowed to attend
- ❖ Minutes of meetings are required



# Committee Training Review Questions

**3. In accordance with the Sunshine Law, what are the two types of committees?**



# Committee Training Review Questions

Answer #3:

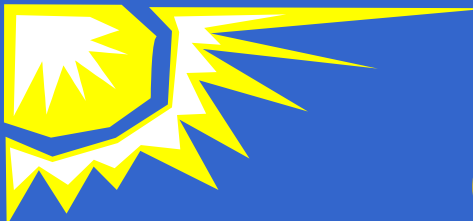
**Under the Sunshine Law, the two types of committees are:**

- **Decision Making Committee**
- **Fact Finding/Focus Group Committee**



# Committee Training Review Questions

**4. Is the Sunshine law applicable to Focus Group Committees engaged only in fact-finding activities?**



# Committee Training Review Questions

Answer #4:

**No. The Sunshine Law does not apply to committees or groups engaged only in fact-finding activities.**



# Committee Training Review Questions

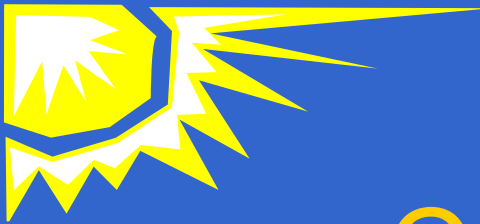
- 5. Are informal or casual discussions at a backyard barbeque between two or more members of a Decision Making Committee, regarding matters to be discussed at a future meeting, subject to the Sunshine Law?**



# Committee Training Review Questions

Answer #5:

**Yes. These informal or casual discussions regarding matters to be discussed at a future meeting may be subject to the Sunshine Law.**



# Committee Training Review Questions

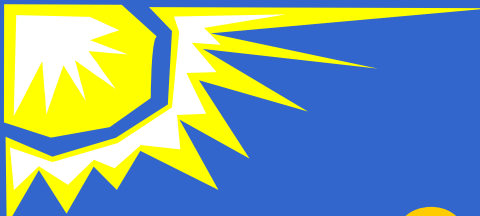
**6. What are the criminal penalties associated with violation of the Sunshine Law?**



# Committee Training Review Questions

Answer #6:

- 1. Second Degree Misdemeanor**
- 2. Fine up to \$500 and/or 60 days imprisonment.**



# Committee Training Review Questions

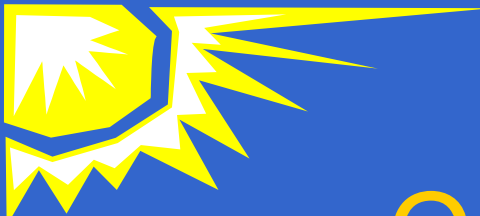
**7. Are the notes taken and/or documents distributed at Board appointed committee meetings subject to the Public Records Law?**



# Committee Training Review Questions

## Answer #7:

**Yes. The Public Records Law applies to all types of records including written communications, letters, notes and e-mails.**



# Committee Training Review Questions

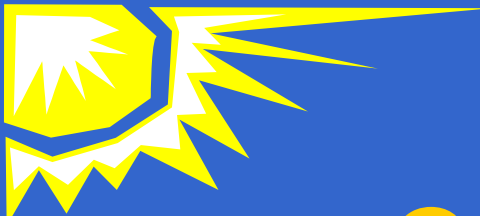
**8. As it relates to Board appointed Committees, what are the three areas addressed by the Code of Ethics Law?**



# Committee Training Review Questions

Answer #8:

- 1. Standards of Conduct**
- 2. Voting Conflict**
- 3. Financial Disclosure**



# Committee Training Review Questions

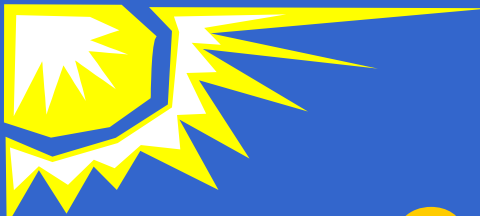
- 9. May a Board appointed committee member solicit or accept gifts or unauthorized compensation used to influence a vote or other official action?**



# Committee Training Review Questions

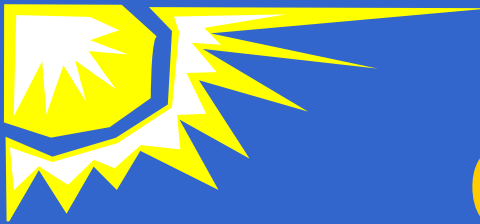
**Answer #9:**

**No. Standards of Conduct prohibit such actions.**



# Committee Training Review Questions

**10. Under the Voting Conflict of Interest, are stakeholders allowed to vote on matters that will inure to their special private gain or loss?**



# Committee Training Review Questions

## Answer #10:

**No. Stakeholders may not vote on matters that will inure to their special private gain or loss. Due to potential conflict of interest, Leon County discourages the appointment of Stakeholders to Decision Making Committees.**



A day in Florida  
Government  
is a day in the Sunshine!