




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 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)

5



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)

6



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.

8



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.

In other words - telephone or e-mail communications, or exchanges during workshops, social events, football games and neighborhood barbeques are to be avoided as they may violate sunshine.

9



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.

10



The Sunshine Law imposes three Obligations of Openness

2. Public must be allowed to attend meetings; given opportunity to comment through "Public Comment" section of Agenda
 - 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.

11



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.

12



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

15



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.

16



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.

17




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.

19



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.

20
