

SUNSHINE LAW PUBLIC RECORDS LAW

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DISTRICT OPEN GOVERNMENT ACTIVITIES

- New Governing Board Members are briefed, upon appointment regarding legal requirements of the Sunshine and Public Records Law
- District wide and specialized staff and project manager training conducted several times a year
 - Trained over 1,000 employees in the last 8 years
- Ongoing counseling and advice on as needed basis.

THE CONSTITUTION

Article 1, Section 24

Access to public records and meetings

THE LAW

Sunshine Law:

Section 286.011, Florida Statutes

**Public meetings and records; public inspection;
criminal and civil penalties**

Public Records Law:

Chapter 119, Florida Statutes

WHAT IS SUBJECT TO THE SUNSHINE LAW?

All meetings of any board or commission . . . or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times

WHAT IS A MEETING?

A meeting is generally defined as:

- *any discussion* (in person, by phone or by e-mail)
- between or among two or more members of a collegial body (*e.g., board, committee, working group, etc.*)
- about any matter upon which foreseeable action will be taken

EXAMPLES OF DISTRICT PUBLIC MEETINGS

- Governing Board meetings
- Governing Board Committee meetings
- WRAC meetings
- WRAC Subcommittee Meetings
- Meetings to evaluate contractor proposals
- Lake Belt Committee meetings
- Peer Review Meetings
- Not for Profit Leasing Corporation meetings



WHAT IS A BOARD OR COMMISSION?

- An entity that has received delegation of or assumes decision making authority normally reserved to the decision maker is a Sunshine body.
 - Also applies to an entity created to make recommendations to a decision maker.
- Entities created *exclusively* for information gathering and reporting only and that are not comprised of the ultimate decision makers are not Sunshine committees.

STAFF EXCEPTION

A Sunshine violation does not occur when a public officer uses staff for fact finding and advisory function in fulfilling his or her duties.

COMPLIANCE

- No communications about official business between or among members except at Publicly Noticed Meeting
- Publicly Accessible Facility
- Minutes of the Meeting
- Agenda – *(not required by Sunshine Law; required by Sec. 120.525, Florida Statutes)*

PENALTIES FOR VIOLATION

- Invalidation of the action found to have been taken in violation of the law, including an award of attorney fees to the party proving the violation
- A fine in an amount not to exceed \$500 or a criminal penalty (i.e., jail time), if a person is found to have knowingly violated the law.

PUBLIC RECORDS LAW

What are public records?

The Florida Supreme Court has interpreted this definition to encompass all materials:

Made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge

WHAT CONSTITUTES A PUBLIC RECORD?

- MAPS
- BOOKS
- TAPES
- SOFTWARE
- EMAIL
- DATA FILES
- DRAFTS/NOTES
- PLANS

Law establishes different retention periods for these and other types of public records.

PUBLIC RECORDS REQUESTS

- Unless exempt and/or confidential, all of the records of the District are public.
- If records are requested by anyone, they must be produced promptly.
- The only delay permitted when records are requested is the limited reasonable time allowed the custodian to retrieve the record and delete those portions of the record the custodian asserts are exempt.

WHO IS THE RECORDS CUSTODIAN OF THE DISTRICT?

Whoever has possession of the record.

WHAT IS THE RECORDS CUSTODIAN'S ROLE?

To protect the records from alteration, damage, or destruction and to ensure that the reviewer is not constrained from reviewing the documents.

THE DISTRICT IS NOT REQUIRED TO:

- Provide personnel to answer questions regarding public records.
- Create a new record to respond to a public records request.
- Reformat its records in a particular form as demanded by a requestor.

EXAMPLES OF SOME EXEMPTIONS

- Employee medical files and employee assistance program files;
- All Social Security numbers
- Some employee personal addresses and telephone numbers
- Copyrighted materials
- Attorney work product and transcripts of strategy meetings (*time limited*)
- Offers, counteroffers appraisal reports and information related to land acquisition (*time limited*)

DISTRICT PUBLIC RECORDS REQUEST PROCESS

- District takes its responsibilities very seriously
- Established Public Records Office to better assist requestors
- Compliance with law is important because if it is not followed:
 - Citizens or organizations can file a civil suit.
 - Agency could be liable for attorneys' fees and costs.

CAN A PERSON GO TO JAIL FOR NOT COMPLYING WITH THE PUBLIC RECORDS LAW?

Yes, if the person knowingly violates the law, then he or she may be subject to a \$1,000 fine and up to one year in jail, or both.