

**OVERVIEW OF**  
**FLORIDA'S SUNSHINE LAW**

Review for Superintendent's District Advisory Panel for ESE

September 27, 2021

# Introductory Remarks

Luis M. Garcia  
Deputy School Board Attorney



School Board Attorney's Office  
Walter J. Harvey, Esquire  
School Board Attorney



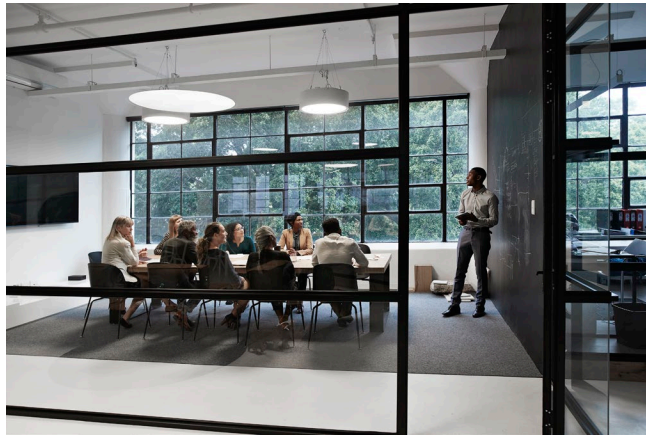
## Other Topics:

- ❖ Public Records Act [Chapter 119]
- ❖ Code of Ethics [Chapter 112]





# Meetings Under the Sunshine



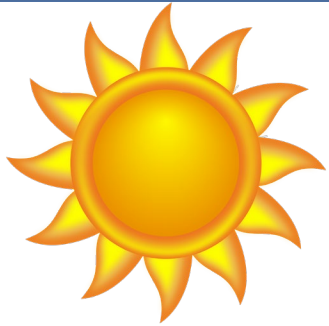
- ❖ Any gathering, whether formal or informal, of two or more members of the same board or committee (**advisory committees included**) to discuss some matter on which foreseeable action will be taken by the public board or commission.



# Advisory Committees

- ▶ Advisory Committees that make recommendations to government entities must comply with Sunshine Law. AGO 98-13.
- ▶ Advisory Committee members must adhere to statutory voting requirements. AGO 2002-40.
- ▶ Advisory Committee members subject to criminal penalties for violating Sunshine Law. AGO 2001-84.

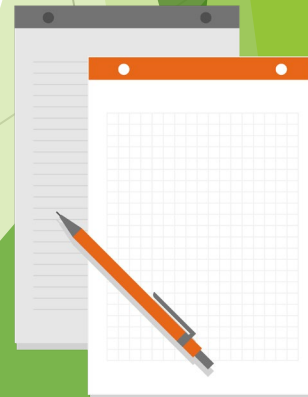




## The Basic Requirements of the Sunshine Law

Three basic requirements which would apply to any formal or informal Board meeting (or Board subcommittee meeting) where any vote, resolution, rule, formal action, or discussions about related matters will take place:

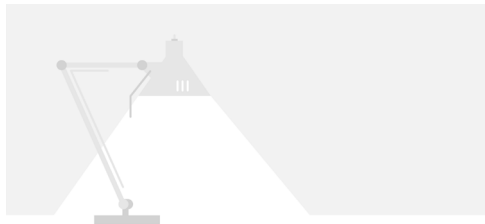
- Reasonable public notice of the meeting must be given;
- ▶ The meeting must be open to the public, in a location accessible to the public; and
- Minutes of the meeting must be taken and must be made available for public inspection following the meeting. The written minutes of meetings need not be verbatim transcripts.





# Written Correspondence Can Violate The Sunshine Law

- ❑ Written correspondence between committee members can amount to a violation of the Sunshine Law if it involves a topic that will be discussed at a future meeting.
- ❑ The same principles apply to **e-mail**: the Sunshine Law prohibits members from communicating via e-mail.





# Penalties for Violating The Sunshine Law

Compliance with the Sunshine Law's requirements is of paramount importance because a violation can lead to the invalidation of any action taken by a Board or Committee. Further, a civil fine of up to \$500 may be assessed for any violation of the Law, and criminal penalties may be imposed upon any member who knowingly violates the Sunshine Law.

# Public Records Act

## Types of Public Records:

- ❖ All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form. Chapter 119, Florida Statutes.

## What Constitutes a Public Record:

- ❖ All materials made or received by an agency or its employees/agents in connection with official business which are used to perpetuate, communicate or formalize knowledge. Email and social media posts are public records.



## Records Retention



- ❖ A public record may be destroyed or otherwise disposed of only in accordance with the applicable retention schedule.

# VOTING CONFLICTS & PUBLIC OFFICERS

NO COUNTY, MUNICIPAL, or other LOCAL PUBLIC OFFICER shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss, or which the officer knows would inure to the special private gain or loss of any PRINCIPAL by whom he or she is retained, of the PARENT ORGANIZATION or SUBSIDIARY of a CORPORATE PRINCIPAL by which he or she is retained, of a RELATIVE, or of a BUSINESS ASSOCIATE. The officer must publicly announce the nature of his or her interest before the vote and must file a memorandum of voting conflict on Commission Form 8B with the meeting's recording officer within 15 days after the vote occurs disclosing the nature of his or her interest in the matter. However, members of community redevelopment agencies and district officers elected on a one-acre, one-vote basis are not required to abstain.

See § 112.3143(3)(a), Fla.Stat. (2022).



# THE END



# THANK YOU!