

# GOVERNMENT-IN-THE- SUNSHINE LAW

## “SUNSHINE LAW”

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## “SUNSHINE LAW”

- **Pertains to public meetings**
- Florida Statutes, Section 286.011: “**All 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...at which official acts are to be taken are declared to be public meetings **open to the public** at all times....The board or commission must provide **reasonable notice** of all such meetings...The **minutes of a meeting...shall be promptly recorded**, and such records shall be open to public inspection.”
- Florida Constitution, Article 1, Section 24: “All meetings of **any collegial body** of the executive branch of state government...or of a county [etc.]...at which official acts are to be taken or at which public business is to be transacted or discussed **shall be open** and **noticed** to the public...”

## BASIC REQUIREMENTS

1. Meetings of public “entities” must be open to the public; and,
2. Reasonable notice of the meetings must be given; and,
3. Minutes of the meetings must be taken and made available for public inspection.

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## “GENERAL RULE”

### • DON’T:

- 1. “Conduct business”
- 2. On a “Workforce Florida” topic
- 3. With other Workforce Board members
- 4. Outside a publicly noticed meeting
- 5. In the absence of recorded minutes

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## BASIC PURPOSE

- All public business will take place:
  1. **Exclusively** at meetings open to the public;
  2. Only after the public (& media) have been given **adequate notice and opportunity** to attend;
  3. When a **written record** (minutes) of the meeting can be taken and **preserved for the public's inspection**

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## WHAT PUBLIC “ENTITIES” ARE SUBJECT TO THE SUNSHINE LAW?

- F.S., Section 445.004(1): “The Legislature determines, however, that public policy dictates that **Workforce Florida, Inc.**, operate in the most open and accessible manner consistent with its public purpose. To this end, the Legislature specifically declares that **Workforce Florida, Inc.**, its board, councils, and any advisory committees or **similar group created by Workforce Florida, Inc.** are subject to the provisions of chapter 119 [Public Records Law] and...chapter 286 [Sunshine Law]

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## WHAT IS A “MEETING”?

1. Two or more **members**
2. Of the **same** public “entity”
3. Discussing matters that **are** before the Board or **foreseeably may be** before the Board
4. Applies to **formal** meetings (even in absence of a quorum) and **informal** encounters

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## EXAMPLES OF DIFFERENT FORMS OF “MEETINGS”

- Telephone calls (not just conference calls)
- Written correspondence to/between Board members:
- E-mails and other computer correspondence
- A single member of the Board, delegated authority to speak for the Board, meeting with non-Board members
- Communicating through a liaison
- Generally, for the all of the above:
  - Reporting of facts/no response-NOT A MEETING
  - Response to report-YES, IS A MEETING
  - Solicitation of ideas or responses-YES, IS A MEETING
  - Discussions, deliberations, official business-YES, IS A MEETING

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## “REASONABLE” NOTICE

- No required type of notice, timing of notice or placing of notice mandated by Sunshine Law
- **Type:** Notice should contain time, place and subject matter of meeting.
- **Timing:** Should be sufficiently in advance of meeting to allow media and general public to attend meeting.
- **Placing Notice:** At least displayed outside place where meeting routinely held; more notice may be necessary under the circumstances.

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## “MINUTES”

- Generally, a written summary of events occurring at the meeting. Minor exclusions not a Sunshine Law violation.
- Minutes must be open to public inspection within reasonable time.
- Need not record the whole meeting.
- If meeting recorded, transcription of recording can be minutes.
- If meeting recorded, recording becomes public record and subject to Public Records retention law.

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## LEGISLATIVE CONSEQUENCES OF “SUNSHINE LAW” VIOLATION

- “no resolution, rule or formal action shall be considered binding” Section 286.011(1)
- actions taken in violation of Sunshine Law **void** *ab initio* (but not to Board’s benefit)
- “intent” to violate law not required
- violation “cured” only by full open meeting
- “perfunctory” ratification insufficient

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## PERSONAL CONSEQUENCES OF “SUNSHINE LAW” VIOLATION

- “*knowingly*” violating the law is punishable by 60 days and/or fine up to \$500
- suspension and/or removal from office
- noncriminal fine up to \$500
- payment of prosecutor’s attorney fees (unless relying on attorney’s advice)
- civil actions for injunctive/declaratory relief

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