



## Legislation Details (With Text)

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### Summary

To: Finance Board  
From: Stefan Massol, Director of Support Services  
Date: 11/21/2019

#### Subject:

Refresher on Sunshine Law

#### Summary:

The Sunshine Law will be reviewed along with some commonly asked questions

**Background/Problem Discussion:** Florida's Government-in-the-Sunshine law provides a right of access to governmental proceedings at both the state and local levels. It applies to any gathering of two or more members of the same board to discuss some matter which will foreseeably come before that board for action. There is also a constitutionally guaranteed right of access.

Below are some commonly asked questions and answers as provided by the Florida Attorney General's Office:

#### 1) What qualifies as a meeting?

The Sunshine law applies to all discussions or deliberations as well as the formal action taken by a board or commission. The law, in essence, is applicable to any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter on which foreseeable action will be taken by the public board or commission. There is no requirement that a quorum be present for a meeting to be covered under the law.

#### 2) Can a public agency hold closed meetings?

There are a limited number of exemptions which would allow a public agency to close a meeting. These include, but are not limited to, certain discussions with the board's attorney over pending litigation and portions of collective bargaining sessions. In addition, specific portions of meetings of some agencies (usually state

agencies) may be closed when those agencies are making probable cause determinations or considering confidential records.

3) Does the law require that a public meeting be audio taped?

There is no requirement under the Sunshine law that tape recordings be made by a public board or commission, but if they are made, they become public records.

4) Can a city restrict a citizen's right to speak at a meeting?

Public agencies are allowed to adopt reasonable rules and regulations which ensure the orderly conduct of a public meeting and which require orderly behavior on the part of the public attending. This includes limiting the amount of time an individual can speak and, when a large number of people attend and wish to speak, requesting that a representative of each side of the issue speak rather than every one present.

5) As a private citizen, can I videotape a public meeting?

A public board may not prohibit a citizen from videotaping a public meeting through the use of nondisruptive video recording devices.

6) Can a board vote by secret ballot?

The Sunshine law requires that meetings of public boards or commissions be "open to the public at all times." Thus, use of preassigned numbers, codes or secret ballots would violate the law.

7) Can two members of a public board attend social functions together?

Members of a public board are not prohibited under the Sunshine law from meeting together socially, provided that matters which may come before the board are not discussed at such gatherings.

There are special considerations to observe related to written correspondence, E-mail and text messages. The Sunshine Law requires boards to meet in public; boards may not take action on or engage in private discussions of board business via written correspondence, e-mails, text messages, or other electronic communications. Thus, members of an advisory committee created to make recommendations to the superintendent on school attendance boundaries violated the Sunshine Law when they exchanged private electronic communications (emails and Facebook messages) relating to committee business. *Linares v. District School Board of Pasco County*, No. 17-00230 (Fla. 6th Cir. Ct. January 10, 2018). See also AGO 89-39 (members of a public board may not use computers to conduct private discussions among themselves about board business).

If you have any questions or would like more information you can download a copy of the 2019 Sunshine Manual from [myfloridalegal.com](http://myfloridalegal.com). You may also request information from Christine Nicole, the Town Clerk.

**Recommendation:** This item is for discussion purposes only.