



## **Application of Florida's Sunshine Law and Public Records Law to SACs**

School Advisory Councils are public bodies subject to the requirements of Florida's public meetings law (commonly referred to as "Sunshine Law") and public records laws.

The Florida Attorney General website provides a practical overview of each law for your reference at <http://www.myflsunshine.com/>. You are encouraged to review these materials.

### **Overview**

- All SAC meetings are public meetings. The public is entitled to attend each meeting. • The public must be given reasonable notice of each SAC meeting.
- No conversation or communication (verbal or written) may occur between two or more members of a SAC on any matter which foreseeable action will be taken by the SAC. In short, no SAC member should discuss any past or future SAC issue or matter with a fellow SAC member unless that conversation occurs at a duly scheduled and noticed SAC meeting.
- Assume all notes, emails, documents or other records created by a SAC member during or outside of a SAC meeting are a public record subject to inspection by the public. If you create any such record, you are responsible for providing the original or a copy of it to school improvement contact for your school.
- After review of these materials, if you have any questions regarding the Sunshine Law or records law, please contact the school district's chief counsel, Michael Dyer, at 386-734-7190, ext. 20254.

For additional reference, below is a partial excerpt from the Florida Attorney General's website of frequently asked questions regarding these laws:

The following questions and answers are intended to be used as a reference only -- interested parties should refer to the Florida Statutes and applicable case law before drawing legal conclusions.

- What is the Sunshine Law?

*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 foresee ably come before that board for action. There is also a constitutionally guaranteed right of access. Virtually all state and local collegial public bodies are covered by the open meetings requirements with the exception of the judiciary and the state Legislature which has its own constitutional provision relating to access.*

- What are the requirements of the Sunshine law?

*The Sunshine law requires that 1) meetings of boards or commissions must be open to the public; 2) reasonable notice of such meetings must be given, and 3) minutes of the meeting must be taken.*

- What agencies are covered under the Sunshine Law?

*The Government-in-the-Sunshine Law applies to "any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation or political subdivision." Thus, it applies to public collegial bodies within the state at both the local as well as state level. It applies equally to elected or appointed boards or commissions.*

- Does the Sunshine Law apply to members-elect?

*Members-elect of public boards or commissions are covered by the Sunshine law immediately upon their election to public office.*

- 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.*

- 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.*

- 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.*

- Can a city [or school district] 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.*

- 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.*

- 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.*

- 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.*

- What is a public record?

*The Florida Supreme Court has determined that public records are all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge. They are not limited to traditional written documents. Tapes, photographs, films and sound recordings are also considered public records subject to inspection unless a statutory exemption exists.*

- Can I request public documents over the telephone and do I have to tell why I want them?

*Nothing in the public records law requires that a request for public records be in writing or in person, although individuals may wish to make their request in writing to ensure they have an accurate record of what they requested. Unless otherwise exempted, a custodian of public records must honor a request for records, whether it is made in person, over the telephone, or in writing, provided the required fees are paid. In addition, nothing in the law requires the requestor to disclose the reason for the request.*

- Does an agency have to explain why it denies access to public records?

*A custodian of a public record who contends that the record or part of a record is exempt from inspection must state the basis for that exemption, including the statutory citation. Additionally, when asked, the custodian must state in writing the reasons for concluding the record is exempt.*

- When does a document sent to a public agency become a public document?

*As soon as a document is received by a public agency, it becomes a public record, unless there is a legislatively created exemption which makes it confidential and not subject to disclosure.*

- Can an agency refuse to allow public records to be inspected or copied if requested to do so by the maker or sender of the documents?

*No. To allow the maker or sender of documents to dictate the circumstances under which documents are deemed confidential would permit private parties instead of the Legislature to determine which public records are public and which are not.*

- Is an agency required to give out information from public records or produce public records in a particular form as requested by an individual?

*The Sunshine Law provides for a right of access to inspect and copy existing public records. It does not mandate that the custodian give out information from the records nor does it mandate that an agency create new records to accommodate a request for information.*

- What agency can prosecute violators?

*The local state attorney has the statutory authority to prosecute alleged criminal violations of the open meetings and public records law. Certain civil remedies are also available.*

Source:

<http://myfloridalegal.com/pages.nsf/Main/321B47083D80C4CD8525791B006A54E>

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