

First Amendment Foundation Sunshine Seminar

Access to PUBLIC MEETINGS in Florida

State Policy: Florida's Sunshine (Open Meetings) Law, section 286.011, Florida Statutes, requires that all meetings of state agencies and local government boards or commissions be open to the public unless there is a specific statutory exemption.

Application: Generally applies to any meeting of two (2) or more officials of any public agency, any private company doing business on behalf of a public agency, and any advisory board or committee with the power or authority to make recommendations to a public agency. NOTE: The *function* of a board or committee, as well as its composition, can trigger application of the Sunshine Law.

Procedural Requirements:

Reasonable Notice: Notice must be sufficient so as to inform members of the public who might be interested in attending the meeting.

Timing

Placement

Content

Minutes: Minutes of all meetings must be taken. Generally, minutes become a public record at the conclusion of the meeting.

Public Participation: Members of the public and press cannot be asked to leave an open meeting unless disruptive. Also, unobtrusive camera and video equipment cannot be prohibited.

Exemptions: There is a presumption of openness in Florida, meaning that all meetings between two or more members of the same board or commission are presumed subject to the Sunshine Law unless there is a specific statutory exemption. Only the legislature can create an exemption to the law.

Sanctions: An unintentional violation of the Sunshine Law is a noncriminal infraction, punishable by a fine of up to \$500. A *knowing* violation of the law is a second degree misdemeanor, carrying a jail term of up to 60 days and/or a fine of not more than \$500. Any action taken at a meeting held in violation of the Sunshine Law will be voided by the court.

Access to PUBLIC RECORDS in Florida

State Policy: Chapter 119, Florida Statutes, stipulates that all state, county, and municipal records shall be open for inspection and copying by any person.

Definition: "Public records" are defined as "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form, characteristics, or means of transmission, made or received . . . in connection with the transaction of official business by any agency." [s. 119.011(1), F.S.]

Fees: Generally, a public agency may charge no more than 15 cents a page for paper copies up to 8½ x 14 inches, plus and additional 5 cents for two-sided copies. For large-sized paper and non-paper copies (diskette, CD Rom, tape recordings, video tapes, etc.) an agency may charge only the *actual cost of duplication*, defined as the actual cost of materials used in making the copies. [s. 119.07(1)(a), F.S.] However, if a public records request requires the *extensive use* of agency resources (personnel or information technology, or both), an agency may charge, in addition to the cost of copying, a reasonable fee based on the actual costs incurred in copying the requested records. [s. 119.07(1)(b), F.S.] NOTE: Some agencies have statutory authority to charge a per record fee. If you don't understand how a fee was calculated, ask for a justification of the fee, including the specific statutory authority to charge the fee quoted.

Exemptions: There is a general presumption of openness under the Public Records Law, meaning that all records are presumed subject to public inspection and copying unless there is a specific statutory exemption. Only the Legislature can create an exemption to the public access requirements of chapter 119. The Public Records Law requires that an agency claiming an exemption for a public record or a portion of a public record state the basis for the exemption including its statutory citation. The denial must be put in writing if requested. [s. 119.07(2), F.S.]

Sanctions: There are two types of sanctions provided for violations of the Public Records Law. First, a public officer who *knowingly* violates s. 119.07(1), F.S., is subject to suspension and removal or impeachment, and is guilty of a first degree misdemeanor punishable by a definite term of imprisonment not exceeding one year and a fine of up to \$1,000. Second, a public officer who violates any provision of chapter 119 is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500; a willful and knowing violation of any provision is a first degree misdemeanor.

Helpful Citations

Constitutional Amendment: Article I, section 24

Sunshine Law: Section 286.011, Florida Statutes

Public Records Law: Chapter 119, Florida Statutes

Legislative Records: Section 11.0431, Florida Statutes

Judicial Records: Florida Rule of Judicial Administration 2.420

Helpful Publications

Government-in-the-Sunshine Manual

Cost: \$15.95

Florida Public Records Handbook

Cost: \$24.95

Quick Reference Guide

Cost: \$5.95

Reporter's Notebook

Cost: \$3.95

For order information, log on to the First Amendment Foundation website at www.floridafaf.org.

Helpful Contacts

First Amendment Foundation/FOI Hotline

In Florida: (800) 337-3518

Toll Free: (850) 222-3518

The Brechner Center for Freedom of Information, University of Florida

(352) 392-2273

Florida Attorney General's Office/Open Government Mediation Program

(850) 245-0157

Florida Office of Open Government

(850) 921-6099