

# GOVERNMENT IN THE SUNSHINE

FLORIDA ATTORNEY GENERAL





Office of the  
**Attorney General of Florida**  
**Bill McCollum**



- ✘ The Attorney General's Office plays a key role in keeping Florida's government open to all Floridians.
- ✘ Florida Attorney General Bill McCollum firmly believes in the principle that government must be accountable to the people.

# GOVERNMENT IN THE SUNSHINE MANUAL

## GOVERNMENT-IN- THE-SUNSHINE MANUAL



**2008 Electronic Edition**

*A Reference For  
Compliance with Florida's  
Public Records and Open  
Meetings Laws*

**Volume 30**

A Public Policy of Open Government



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Citizen Safety Center  
Crime Prevention  
Crime Victims' Services  
AG Opinions  
Open Government  
Advance Directives  
Annual Reports  
Government Links

**Hurricane Preparedness**

**June 1<sup>st</sup> is the start of Hurricane Season.**  
**Are you prepared?**  
**[www.floridadisaster.org](http://www.floridadisaster.org)**

**In the News:**

[Attorney General Praises New Florida Law Giving Victims of Child Pornography Voice in Court Proceedings](#) (06/17/2008) [\[en Español\]](#)

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**Other Interests:**

**CYBER CRIME** Attorney General McCollum fights internet crimes against children. [Learn More](#)

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**SAFE STREETS** Florida's Attorney General is building a strategy to reduce gangs. [Learn More](#)

**Access links and information for protecting yourself from Identity Theft.** [Learn More](#)

**Sexual Offender Search** Search for sexual predators or offenders living in your neighborhood. [Learn More](#)

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# GOVERNMENT IN THE SUNSHINE PAGE

June 18, 2008

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Florida's Open Government Laws

Programs and Units

Consumer Protection

Consumer Alerts

En Español

News Releases

Child Safety

Citizen Safety Center

Crime Prevention

Crime Victims' Services

AG Opinions

Open Government

Advance Directives

Annual Reports

Government Links

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## Government in the Sunshine



In Florida, every person has been granted the Constitutional right to inspect or copy any public record with some exemptions, and the Sunshine Law provides a right of access to government proceedings at both the state and local levels. These essential laws afford citizens of our state the ability to see behind the curtain of government and remain involved in the processes that affect their lives. Without this access there is little accountability, and accountability is vital for good government.

- [About the Sunshine Law and Public Records Law](#)
- [Frequently Asked Questions About Florida's Open Government Laws](#)
- [View and Search Government-in-the-Sunshine Manual](#)
- [Download an abridged version of the Government-in-the-Sunshine Manual](#)
- [How to obtain a published copy of Government-in-the-Sunshine Manual](#)

The Attorney General's Office plays a key role in keeping Florida's government open to all Floridians. The office is charged with mediating disputes involving access to public records and provides a mediation program to that effect - a resource which can be requested by any member of the public and was put into action more than 75 times in 2007. The mediation program involves an impartial individual who encourages and facilitates the resolution of a dispute involving access to public records. The mediators assist the participants in fostering joint problem-solving and exploring settlement alternatives. By allowing parties to resolve issues in an informal mediation process, we prevent expensive and time-consuming litigation which is often not an option for a citizen who is merely trying to hold his or her government accountable and responsible for its actions.

- Members of local government entities or law enforcement agencies seeking to resolve public records

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# WHAT IS GOVERNMENT IN THE SUNSHINE?

- ✘ The Sunshine Law establishes a basic right of access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities.
- ✘ The comprehensive breadth and scope of our sunshine law have served for many years as a model for the rest of the nation.
- ✘ Disclosure is the standard, unless the Legislature concludes that the public necessity compels an exemption from our strong open government laws.



# FLORIDA CONSTITUTION

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- ✘ Article I, Section 24, Florida Constitution
- ✘ (b) All meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution

# FLORIDA CONSTITUTION

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## Article I, Section 24, Florida Constitution

- ✘ Most meetings of boards, commissions and governing bodies of state and local governmental agencies or authorities
- ✘ Official acts are to be taken or where public business of such body is to be transacted or discussed
- ✘ OPEN and NOTICED to the PUBLIC
- ✘ Unless exempted by legislature or specifically closed by this Constitution



# **FLORIDA STATUTE CHAPTER 286**

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286.011, Florida Statutes:

- ✘ (1) meetings of public boards or commissions must be open to the public
- ✘ (2) reasonable notice of such meetings must be given
- ✘ (3) minutes of the meetings must be taken



# AGENCIES COVERED UNDER THE SUNSHINE LAW

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- ✖ Local and state public collegial bodies within this state
  - + Elected and appointed boards or commissions
  - + Advisory boards created by law or ordinance or established by public agencies
  - + Members-elect of boards or commissions
  - + Non-voting member

## NON-MEMBERS OF BOARDS

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- ✘ Sunshine Law applies to meetings between a board member and non-board members who is being used as a liaison between, or to conduct a de facto meeting of, board members.



# SINGLE INDIVIDUAL

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- ✘ Sunshine Law relates to the discussions of a single individual who has been delegated decision-making authority on behalf of a board or commission.

# WHO IS NOT COVERED UNDER THE SUNSHINE LAWS?

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- \*Any agency created under federal law that operate with the state
- \*Fact-Finding committees whose sole purposes are to gather and report information
- \*Officials Attending a Privately-Sponsored Community Forum
- \*Meetings of Staff

## MEMBERS OF PUBLIC BOARDS WHO SERVE AS ADMINISTRATIVE OFFICERS OR EMPLOYEES

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- ✖ Members of public boards also serving as administrative officers or employees
  - + Sunshine Law not applicable to discussions of those individuals when serving as administrative officers or employees, provided such discussions do not relate to matters which will come before the public board on which they serve.



## STAFF MEMEBERS

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- ✘ Meetings of staff of boards or commissions covered by the Sunshine Law are not ordinarily subject to section 286.011, Florida Statutes.

EXCEPT

# STAFF SUBJECT TO SUNSHINE LAW

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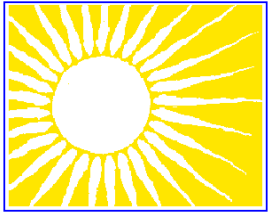
- ✘ Staff member ceases to function in staff capacity and
- ✘ is appointed to committee delegated authority normally within the public board or commission,
- ✘ staff member loses identity as staff while working on the committee and Sunshine Law applicable to the committee.

# PRIVATE ENTITIES

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- ✖ Sunshine Law does not apply to private entity, UNLESS private entity:
  - + Created by public entity,
  - + Delegated public entity's governmental functions, or
  - + Private organization plays integral part in the decisionmaking process of public entity.





# MEETINGS SUBJECT TO SUNSHINE LAW

- ✗ ANY gathering
- ✗ Two or more members of the same board or commission
- ✗ Discuss some matter on which foreseeable action will be taken by the public board or commission.

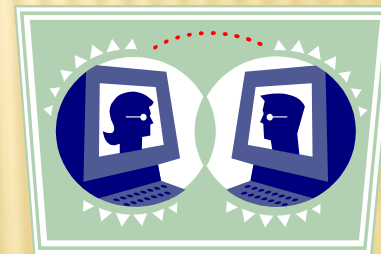


# ANY GATHERING

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## FORMAL OR INFORMAL

- ✗ Telephone
- ✗ During breaks
- ✗ Green Room
- ✗ Computers
- ✗ Video Conference
- ✗ TXT MSGS
- ✗ Breakfast

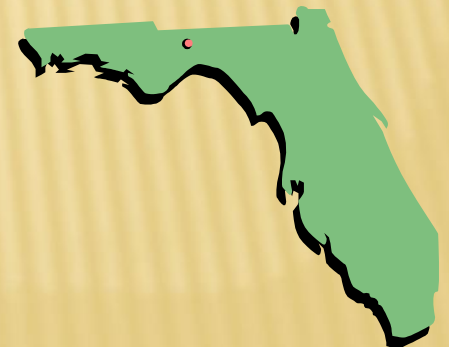


# ELECTRONIC MEETINGS

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## State Agencies

- ✖ May conduct meetings via telephone conference or other electronic means
  - + Compliance with uniform rules of procedure adopted by the Administration Commission





# ELECTRONIC MEETINGS

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## Local Governments

- ✕ Participation of absent member by telephone conference
  - + Absence due to extraordinary circumstances
  - + Quorum of local board must be physically present

# ELECTRONIC MEDIA

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- ✖ Electronic media may be used to conduct workshops and informal meetings , when:
  - + Meetings noticed
  - + Conducted at a particular time
  - + Public afforded opportunity to participate directly in the discussion of issues

# INSPECTION TRIPS

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Members of public board or commission may conduct inspection trips.





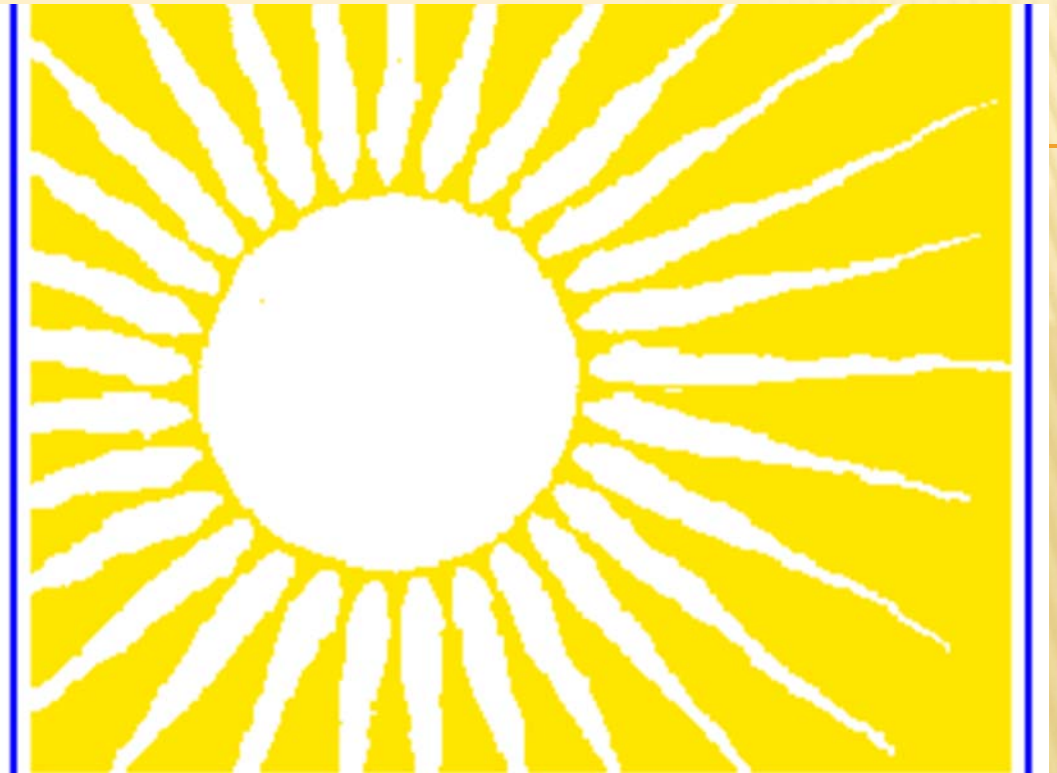
# INSPECTION TRIPS

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- ✘ If discussions relating to the business of the board will occur between board members during an inspection trip,

## SUNSHINE LAW APPLIES

- ✘ All requirements of Section 286.011, Florida Statutes, must be met.



# COMMUNICATIONS FORUMS

# WRITTEN CORRESPONDENCE

- ✖ Board member may send documents on matters coming before the commission for official action to other board members, PROVIDED
  - + No response from, or
  - + Interaction related to documents among, the commissioners prior to the public meeting
  - + Public Record



# E-MAILS

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- ✖ E-mails of factual background information from one city council member to other council members permitted, if
- ✖ No exchange of council members' comments or responses on subjects requiring council action
- ✖ Public Record

# BLOGS

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- ✘ Website blogs or message boards that solicit comment from other members of board or commission by their response on matters that would come before the board trigger the requirements of the Sunshine Law.

# COMMUNITY FORUMS

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- ✘ Sunshine Law does not apply to political forum sponsored by private civic club where county commissioners express their position on matters that may foreseeably come before the commission, so long as the commissioners avoid discussions among themselves on these issues.





# STATUTORY EXCEPTIONS TO THE SUNSHINE LAW

# ATTORNEY-CLIENT DISCUSSIONS



- ✗ 286.011(8), Florida Statutes
  - + Pending Litigation
  - + Governmental entity's attorney advise entity at public meeting desires advice concerning litigation
  - + Meeting confined to settlement negotiations or strategy sessions related to litigation expenditures

- +Session recorded by a certified court reporter
- +Transcript part of public record at conclusion of litigation
- +Reasonable public notice of time and date of the attorney–client session and names of persons attending session
- +Only persons listed in statutory exemption may attend session



- +Session commences at open meeting
- +Meeting chair announces commencement, estimated length of session, persons attending
- +Meeting reopened at conclusion of session,
- +Meeting chair announces termination of session

# RISK MANAGEMENT

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- ✗ 768.28(16)(c), Florida Statutes
  - + Portions of meetings and proceedings relating solely to evaluation of claims or offers of compromise of claims filed with risk management program of the state, its agencies and subdivisions

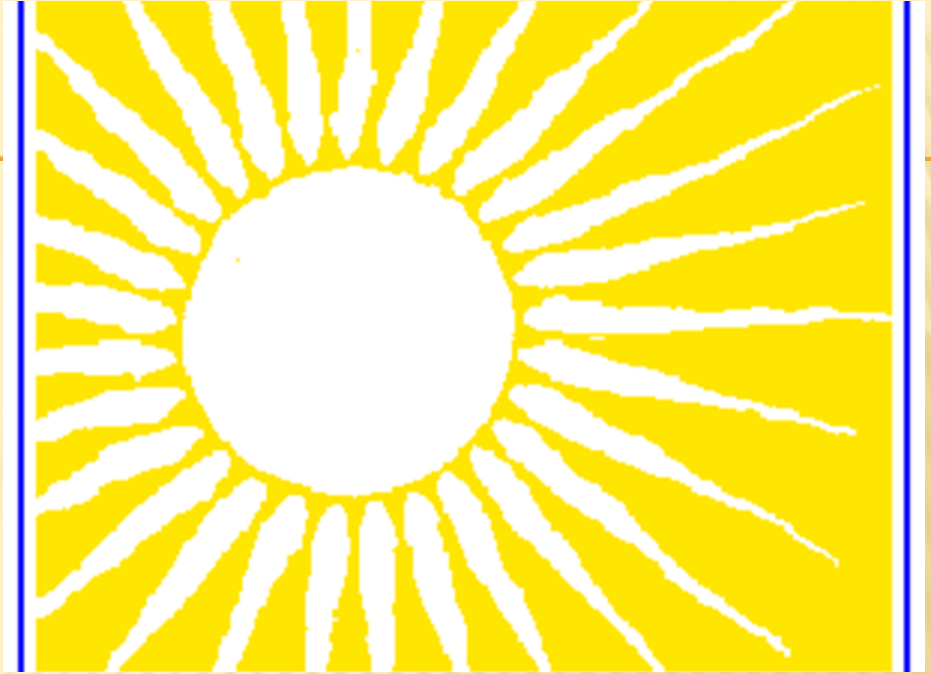
# COLLECTIVE BARGAINING DISCUSSIONS

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- ✗ 286.011, Florida Statutes
  - +Discussions between the chief executive officer of the public employer and the legislative body of the public employer relative to collective bargaining
  - +Actual and impending collective bargaining negotiations





# NOTICE

Reasonable notice of meetings  
must be given.



## MEETING LOCATION

- Accessible venue
- Sufficient size for turnout
- Facility cannot discriminate based on age, race, etc.
- Public access not unreasonably restricted
- Out of town meeting

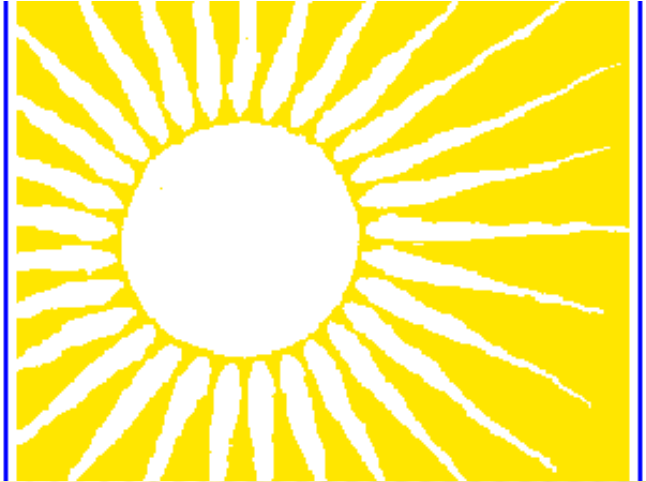


# MINUTES

Minutes of meetings must be promptly recorded and open to public for inspection.



# FAILURE TO COMPLY WITH SUNSHINE LAW



- × *Criminal penalties*
- × *Removal from office*
- × *Noncriminal infractions*
- × *Attorney's fees*
- × *Civil actions for injunctive or declaratory relief*
- × *Action taken in violation of the Sunshine Law is void, as if it never happened*

# ENFORCEMENT OF SUNSHINE LAW

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- ✘ Mediation through the Office of the Attorney General Open Government Mediation Program
- ✘ File complaint with local state attorney
- ✘ File suit in civil court
- ✘ First Amendment Foundation