



## MEMORANDUM

**TO:** Members, Innovation and Online Committee Advisory Group

**FROM:** Vikki R. Shirley, General Counsel

**DATE:** April 14, 2014

**RE:** Open Meetings and Public Records Requirements

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The following is a brief summary of Florida's open meetings and public records requirements.

### Open Meetings

Article I, section 24 of the Florida Constitution requires all meetings of any public board or commission of a state agency to be open and noticed to the public. This requirement has been interpreted by the Florida Supreme Court to apply to advisory committees created pursuant to law or established by an agency that are charged with the responsibility of making recommendations to a public entity.

The Open Meetings requirements apply to any gathering of two or more members of the Advisory Group, whether formal or casual, to discuss or deliberate on any matter on which the Advisory Group may take action. Consequently, any gathering of this type must occur in the context of a meeting that has been noticed and is open to the public.

The purpose of this requirement is to prohibit "closed door" decision-making and to ensure public access to the decision-making process of public entities. "Meeting" has been broadly interpreted to include not just face-to-face communications, but also written, telephonic, and electronic communications between members relating to board business, and "decision-making" includes every step of the process involved in arriving at a board decision, and not merely the meeting where the final vote is taken.

The procedural requirements for a Sunshine meeting are straightforward: the public must be given reasonable notice of the meeting, all meetings must be held in a location that is accessible by the public, and minutes of the meeting must be taken. While

“reasonable notice” has been held by one court to be as few as three days’ notice, the better practice is to provide more advance notice, if possible.

Civil and criminal penalties attach to a violation of the Open Meetings law. Section 286.011, Florida Statutes, provides that any member of a public board who “knowingly violates” the Open Meetings law by attending a meeting that is not held in accordance with the law or by engaging in conduct outside of the state that constitutes a “knowing violation” is guilty of a second degree misdemeanor (punishable by a term of imprisonment not exceeding 60 days or a fine of \$500). Section 286.011 also provides for a civil fine not to exceed \$500 for a public officer’s violation of any provision of section 286.011. Therefore, it is important for all Advisory Group members to be fully apprised of the Open Meetings law and to observe its requirements at all times.

The Attorney General’s Office has prepared an excellent Sunshine Law Manual for use by state and local governmental bodies. The Manual is available at [www.myfloridalegal.com/sun.nsf/sunmanual](http://www.myfloridalegal.com/sun.nsf/sunmanual).

### **Public Records**

Article I, section 24 of the Florida Constitution provides all persons with the right to inspect or copy any public record that is made or received in connection with the official business of any public body. The statutory definition of “public records” is broad and includes, among other things, all documents, papers, letters, emails, memoranda, and other materials, regardless of the physical form or means of transmission, which are made or received in connection with the transaction of official business by any governmental entity.

Accordingly, any letters, memos, emails or other documents, including drafts of documents, that the board may send or receive relating to official Advisory Group business constitute public records and, as such, are subject to disclosure to the public upon request.