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Sunshine Law Requirements

Florida Statute

286.011 Public Meetings and records; public inspection; criminal and civil penalties.

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

What is the scope of the law?

- ★ *Applies to any gathering of two or more members of the same Board; discussion of a matter that will foreseeably come before that Board for action.*
- ★ *All meetings of the Board must be open to the public.*
- ★ *Reasonable notice must be provided as to the time and place of the meetings.*
- ★ *Minutes of the meetings must be taken.*

Who must comply with the rules?

- ★ *Any member of a Board or Commission of any state, county, city or other political subdivision of the state must comply.*
- ★ *A meeting of staff for a Board is not normally subject to the law.*

Are advisory boards which make recommendations subject to the Sunshine Law?

- ★ *Yes, any group that helps narrow the issue for the sunshine-required board or commission.*



What about fact finding committees?

- ★ *Not sunshine bodies if they are just conducting fact finding and not narrowing an issue.*
- ★ *No formal actions taken – merely informational*

What is a meeting?

- ★ *The law is applicable to any gathering, whether formal or casual, of two or more members of the same Board to discuss some matter on which foreseeable action could be taken by the Board.*
- ★ *Written correspondence initiating comment from other board members.*
- ★ *Any conversation, including telephone, e-mail or text conversations regarding a subject that will come before the Board.*
- ★ *Communication using social media.*
- ★ *Use of staff or other liaisons to effect a discussion between Board members is also included.*

Meeting Requirements

- ★ *Generally there must be reasonable notice depending on the nature of the meeting.*
- ★ *There is no agenda requirement.*
- ★ *Meeting must be held in facilities that do not discriminate or unreasonably restrict access.*

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Canvassing Board Meeting Requirements

(Section 102.141(2), Florida Statutes)

- ★ ***Canvassing Board must meet in a building accessible to the public in the county where the election occurred.***
- ★ ***Public notice of the time and place at which the Canvassing Board shall meet to canvas absentee elections' ballots and provisional ballots shall be given 48 hours in advance.***

Canvassing Board Meeting Schedule – Pinellas County Supervisor of Elections

General and Municipal Elections – November 8, 2016

Date	Meeting Time	Activity
October 19, 2016	10:00 a.m.	Pre-election test of precinct, early voting, mail/absentee and provisional ballot scanning equipment [F.S. 101.5612]
October 26, 2016	10:00 a.m.	Second test of mail/absentee and provisional ballot scanning equipment [F.S. 101.5612]; Canvass mail/absentee ballots (No earlier than 15 days prior to election) [F.S. 101.68(2)]
October 27 - November 6, 2016	10:00 a.m.	Canvass mail/absentee ballots [F.S. 101.68(2)] <i>(Meetings If Necessary)</i>
November 7, 2016	10:00 a.m.	Canvass mail/absentee ballots [F.S. 101.68(2)]; Early voting and mail/absentee processing [F.S. 102.141(4)(a)]
November 8, 2016	10:00 a.m.	Canvass mail/absentee ballots [F.S. 101.68(2)]
	7:00 p.m.	Election Day processing Release unofficial results (does not include provisional ballots and 10-day overseas mail/absentee ballots)
	7:30 p.m.	Deadline to begin reporting early voting and mail/absentee ballot results to the State [F.S. 102.141]
November 9 - 10, 2016	10:00 a.m.	Canvass provisional ballots [F.S. 101.048] <i>(Meetings If Necessary)</i>
November 11, 2016	10:00 a.m.	Deadline to file Unofficial Election Returns with the State (does not include 10-day overseas mail/absentee ballots) [F.S. 102.141(5)] (No later than Noon of the 4 th day after election) <i>(Meeting If Necessary)</i>
November 12 - 16, 2016	10:00 a.m.	<i>(Meetings if Necessary)</i>
November 17, 2016	10:00 a.m.	Deadline to file 2 nd Unofficial Election Returns with the State (if necessary) [F.S. 102.141(7)(c)] (No later than 3 p.m. of the 9 th day after election) <i>(Meeting If Necessary)</i>
November 18, 2016	10:00 a.m.	Deadline for receipt of 10-day overseas mail/absentee ballots [Rule 1S-2.013; F.S. 101.6952] (No later than 10 days from the date of the election) <i>(Meeting If Necessary)</i>
November 19, 2016	10:00 a.m.	<i>(Meeting if Necessary)</i>
November 20, 2016	10:00 a.m.	Deadline to file Official Election Returns and Conduct of Election Report with the State [F.S. 102.112(2)] (Noon on the 12 th day after election) [F.S. 102.141] <i>(Meeting If Necessary)</i>
November 21 – 23, 2016	10:00 a.m.	<i>(Meetings if Necessary)</i>

Public Meetings – Right to be Heard

- ★ *Section 286.0114 requires boards or commissions to give members of the public a “reasonable opportunity to be heard on a proposition” before official action is taken.*



Public Meetings – Right to be Heard

- ★ *Do canvassing boards act on “propositions”?*
- ★ *Are canvassing board actions related to ballots and certifying the results of an election quasi-judicial?*

Public Meetings – Right to be Heard

- ★ *Boards or commissions may maintain orderly conduct or proper decorum in the public meeting.*
- ★ *May adopt rules or policies governing the opportunity to be heard that address:*
 - *The amount of time allotted each speaker;*
 - *Group representation;*
 - *Forms to be filled out indicating opposition, support or neutrality on the proposition;*
 - *Designate a specified time for public comment.*

Public Meetings – Right to be Heard

- ★ *If board or commission adopts such rules or policies, compliance therewith will be deemed compliance with Section 286.0114.*
- ★ *Circuit court has jurisdiction to enforce.*
- ★ *Court **MAY** assess attorney's fees if violation found.*
- ★ *Actions taken in violation of Section 286.0114 are **NOT VOID.***

Canvassing Board Disqualifications

Section 102.141, Florida Statutes, provides that any member of the canvassing board who is a candidate with opposition in the election being canvassed, or is an “active participant” in the campaign or candidacy of any candidate in the election may not serve.

- ★ **What about active participants in support or opposition of a referendum question?**

DE 08-10

A contribution by a canvassing board member to a candidate in a contested race to be canvassed by the canvassing board DOES NOT disqualify that member.



DE 09-07

The following specific actions have been deemed “active participation” by the Division of Election and therefore disqualify a canvassing board member from serving:

- ★ **Being chair or a member of an election or re-election committee**



DE 09-07

★ ***Wearing a campaign t-shirt***



DE 09-07

- ★ *Public endorsement (with or without financial support).*
- ★ *Signing an endorsement card.*



DE 09-07

- ★ **Public display of support, such as holding a campaign sign.**





DE 09-07

★ *Attending a fundraiser.*



PENALTIES

- ★ **Anyone who knowingly violates the Sunshine law is guilty of a Second Degree Misdemeanor, Florida Statutes, Section 286.011(3)(a)(b), which allows for a \$500 fine and up to 60 days in jail.**
- ★ **Removal from office is an alternative inclusive penalty.**
- ★ **A Board found guilty will be subject to paying the attorney fees of the member of the public challenging the Board action.**
- ★ **Any action taken by the Board in violation of the Sunshine law is voidable.**

EXCEPTIONS

- ★ **Collective bargaining**
- ★ **Risk Management programs**
- ★ **Security systems**
- ★ **Pending litigation – Section 286.011, F.S.**
 - **Announce in advance**
 - **Court reporter**
 - **Scope – “settlement negotiation” or strategy session related to litigation expenditures**
 - **Limited attendance**
 - **Open and close in public meeting**

QUESTIONS?

