

BOARD OF COMMISSIONERS OF NORTH BROWARD HOSPITAL DISTRICT

Training for Government in the Sunshine Law and
Florida's Public Records Act





Florida's Government in the Sunshine Law

Section 286.011, Florida Statutes



What is the purpose of the Sunshine Law?


The purpose of the Sunshine Law is to protect the public from “closed door” discussions and decision making and to provide a right of access to the public.



Who is subject to the Sunshine Law?

This law is applicable to the Board of Commissioners as well as Committee Members and those who the Board delegates decision making authority.

What constitutes a meeting under the Sunshine Law?



Any time two or more persons on the same board or committee communicate about any foreseeable matter that may come before the board or committee, it is considered a meeting under the Sunshine Law.

What types of communications qualify as a “Sunshine” Meeting?



- Face-to-Face
- Written Correspondence
- Telephone
- Email
- Hand Signals
- Through an Intermediary (a person who separately speaks to both board or committee members and tells one what the other says regarding a matter that may come up before the board or committee).



Can members meet socially without Public Notice?

Yes. Members of a public board or commission are not prohibited under the Sunshine Law from meeting together socially, provided that matters which may come before the board or commission are not discussed at such gatherings.



Sunshine Law and telephone conversations, written correspondence, and electronic communications

As mentioned, the Sunshine Law is not only applicable to in-person communications, but it is also applicable to telephone conversations, written correspondence, and electronic communications.



Telephone Conversations

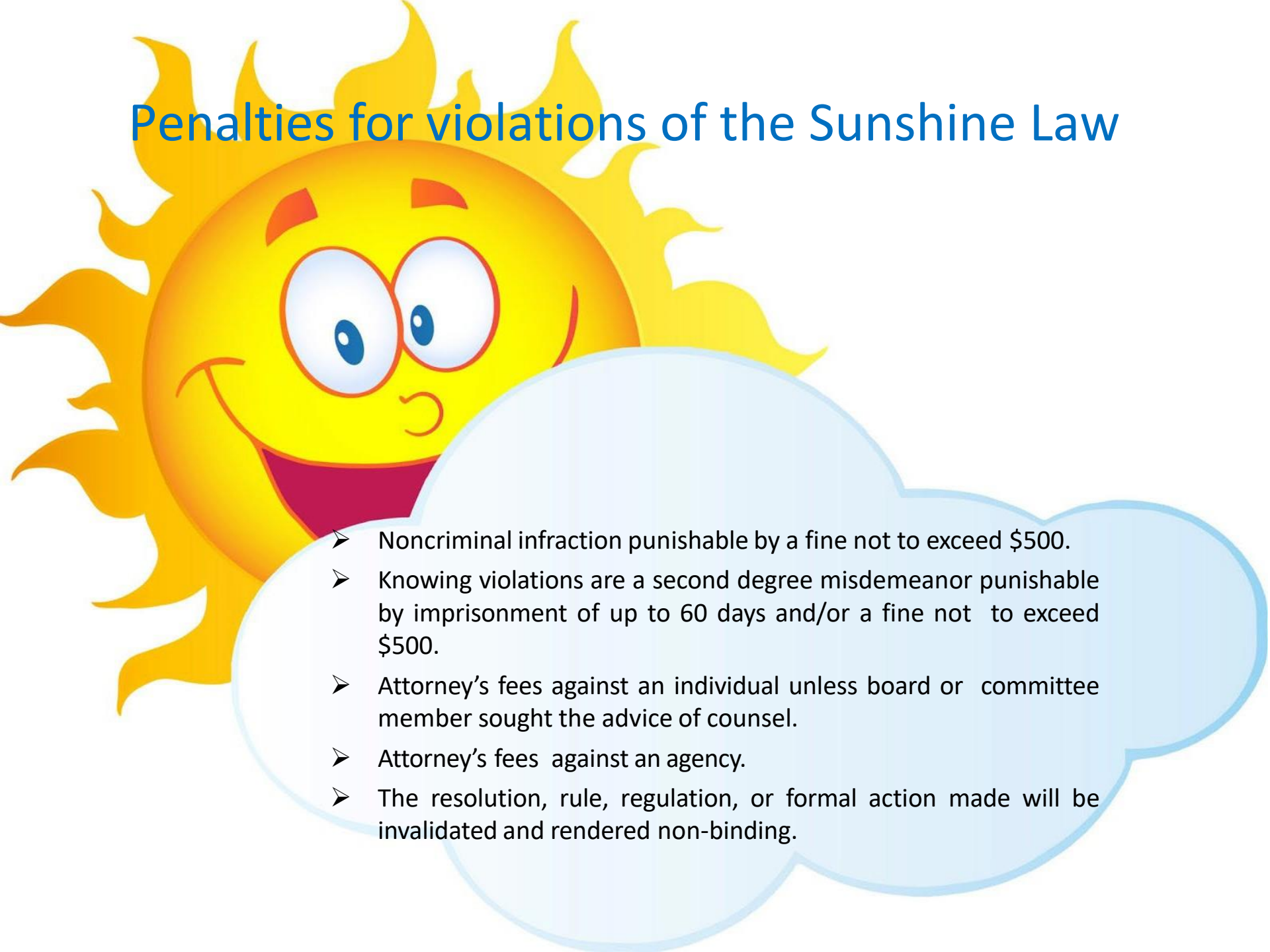
Private telephone conversations between board or committee members to discuss matters which foreseeably will come before that board or committee for action violate the Sunshine Law.



Electronic Communications

- Email communications between members of a board or committee regarding matters which may come before the board or committee is prohibited.
- As such, if a board or committee member sends an email regarding an agenda item or something which may come before the board or committee, no board or committee member may reply to such an email.

Penalties for violations of the Sunshine Law

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- Noncriminal infraction punishable by a fine not to exceed \$500.
 - Knowing violations are a second degree misdemeanor punishable by imprisonment of up to 60 days and/or a fine not to exceed \$500.
 - Attorney's fees against an individual unless board or committee member sought the advice of counsel.
 - Attorney's fees against an agency.
 - The resolution, rule, regulation, or formal action made will be invalidated and rendered non-binding.

Florida's Public Records Law
Chapter 119, Florida Statutes



What is a public record?

Public records include all documents, papers, letters, maps, books, videos, photographs, films, sound recordings, data processing software or other material, regardless of the physical form, characteristics or means of transmission, made or received in connection with the transaction of official business of the District.



What is not a public record?

- Personal documents and media.
- Personal business unrelated to the district that is conducted using district resources.
- Notes related to district business made solely for personal use and the substance of notes and/or the notes themselves are not shared with any other individual.



What does it mean if something is a public record?

This means it is subject to Florida's Public Records Law, must be retained for a specific period consistent with Florida's Record Retention Schedules, and must be disclosed (with the exception of exempt material) to a requestor of such records.



Are documents created at the Board or Committee meeting public records?

Yes. If the documents are used to perpetuate, communicate or formalize knowledge then these are public records and should be retained consistent with Florida's Record Retention Schedules.



Are documents created outside of Board or Committee meetings public records?

Yes. If the documents are used to perpetuate, communicate or formalize knowledge then these are considered public records.



What if an email or text message regarding district business is sent from a personal email address or device?

It doesn't matter where the record originated from. If it was made or received in the course of official business, it will be subject to Florida's Public Records Law even if sent from a personal email address or device.



If there is a public records request, what has to be disclosed?

All records requested must be disclosed unless an applicable statutory exception applies. If there is a Florida Statute that exempts a portion of a record, those portions that are not exempt cannot be redacted and must be released.



What are the remedies for a requestor if Florida's Public Records Law is not complied with?

- A person seeking disclosure of a public record has the right to an immediate hearing.
- If the court rules in favor of disclosing the record, the agency must obey the court order within 48 hours, unless the court order specifies a different time frame for compliance.
- The person seeking disclosure of a public record will often receive court costs and attorney's fees if they prevail.



What are the penalties for not complying with Florida's Public Records Law?

- A fine of up to \$500.
- Suspension or removal from office for knowing violations.
- A first degree misdemeanor for knowing violations punishable by up to one (1) year in prison, a \$1,000 fine, or both.

