

FLORIDA INTERNATIONAL UNIVERSITY

# GENERAL COUNSEL PRESENTATION

## *Training*

**FIU**

**Board of  
Trustees**



# SUNSHINE LAW

- **Sunshine Law - Chapter 286, Florida Statutes - Overview**
  - The Sunshine Law “was enacted in the public interest to protect the public from ‘closed door’ politics and, as such, the law must be broadly construed . . . .”  
Wood, et. al. v. Marston, et. al., 442 So. 2d 934, 938 (Fla. 1983).
  - The Sunshine Law applies to “[a]ll 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 . . . .” § 286.011(1), Fla. Stat. (2017)(**emphasis added**).
- **Chapter 286 - Three basic requirements**
  - All meetings of the Committee must be open meetings.
  - Reasonable notice of meetings must be given.
  - Minutes of meetings must be kept. §§ 286.011(1) & (2), Fla. Stat. (2017).

# SUNSHINE LAW REQUIREMENTS

- **Meetings**
  - Meetings include any discussions or deliberations (in person or by phone), formal or casual, between two or more board members about a matter on which the board might foreseeably take action. E.g., Sarasota Citizens for Responsible Government, etc., et al. v. City of Sarasota, Florida, 48 So. 3d 755, 764 (Fla. 2010).
- **Reasonable Notice**
  - Reasonable notice is not defined by §286.011, Fla. Stat.; however, the Attorney General's office has provided guidance (i.e., at least 7 days). Government-In-The-Sunshine Manual, at p. 40 (2017 ed.).
  - **Other Considerations**
    - Meetings may not be held at a facility/location inaccessible to public or which discriminates. § 286.011(6), Fla. Stat. (2017).
    - Votes must be publicly taken. § 286.012, Fla. Stat. (2017).
    - No secret ballots. *See* AGO No. 73-264.
    - Roll call vote not required. Ruff v. Sch. Bd. of Collier Cty, 426 So. 2d 1015 (Fla. 2<sup>nd</sup> DCA 1983).

# SUNSHINE LAW PENALTIES FOR NONCOMPLIANCE

- **Noncriminal Infraction**
  - Fine not exceeding \$500.00. § 286.011(3)(a), Fla. Stat. (2017).
- **Criminal and Other Penalties**
  - *Knowing* violation of Sunshine Law – misdemeanor of 2<sup>nd</sup> degree. § 286.011(3)(b), Fla. Stat. (2017).
  - Term of imprisonment not to exceed 60 days and/or fined up to \$500.00. §§ 775.082(4)(b) & 775.083(1)(c), Fla. Stat. (2017).
  - Suspension and/or removal from office. §§ 112.52(1) & (3), Fla. Stat. (2017).

# SUNSHINE LAW PENALTIES FOR NONCOMPLIANCE

- **Civil Action injunctive or declaratory relief**
- **Attorney's Fees**
  - Reasonable attorney's fees will be assessed against a board or commission found to have violated the Sunshine Law. § 286.011(4), Fla. Stat. (2017).
  - Reasonable attorney's fees may be assessed against individual members of the board, except in those cases when the board sought, and took, the advice of its attorney. § 286.011(4) & (5), Fla. Stat. (2017).