



Pennsylvania Office of Open Records

Pennsylvania's Sunshine Act



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Why Public Meetings Matter



A Story in Four Parts



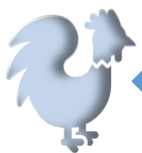
“Chick-fil-A proposed for Camp Hill, but residents voice concerns about traffic”



“Chick-fil-A plan denied in Camp Hill; developer vows appeal”



“Council broke open-meetings law in Chick-fil-A talks, ex-Camp Hill manager says in court filing”



“Camp Hill’s rejection of Chick-fil-A plan upheld by state court”



Notice



The Office of Open
Records does not
provide legal advice



The OOR has no legal
authority on Sunshine
Act matters



No content in this
presentation is legally
binding



When in doubt, use common sense.



Roadmap for Discussion

Today's Topics

- Why a Sunshine Act?
- Advertising Requirements
- Posting of Agenda
- Public Observance of Deliberations and Final Actions
- Challenging Alleged Violations

Why a Sunshine Act?

Give the Public Opportunity to Observe and Engage in Government Deliberation

Not in the U.S. Constitution or Bill of Rights

Movement for open meetings began slowly at state level in 1950

All states and federal government had open meeting laws in place by 1976



Penn State Board of Trustees

History of PA's Sunshine Act

Enacted in 1986

- Last amended in 2021
- Still no provisions directly addressing virtual meetings

“the right of the public to be present at all meetings of agencies and to witness the deliberation, policy formulation and decision making of agencies is vital to the enhancement and proper functioning of the democratic process and that secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society.”

Essence of Sunshine Act

Deliberations and final actions performed by a quorum of a governing body, the Board of Trustees, must occur at a meeting that was advertised to the public





Facets of the Sunshine Act

The public has a right to:

- Know how to attend
- Know what is being discussed
- ~~Allow public to speak before~~
~~vote~~ *(school districts and municipalities only)*
- Observe deliberations of a quorum *(with limited exceptions)*
- Observe final actions
- Object to alleged violations and seek relief from court

Advertising Requirements

Public Notices



Regular meeting schedule posted at least three days before first meeting of year



Date, time, and location (including virtual link)



Newspaper of general circulation

Notice is hereby given that the East Lampeter Township Board of Supervisors will hold a Special Meeting on Monday, August 25, 2025, beginning at 7:30am. The meeting will be held in-person at the Township office at 2250 Old Philadelphia Pike, Lancaster, PA 17602 as well as virtually utilizing the Zoom platform. All interested persons are welcome to attend. Anyone requiring special accommodation should contact the Township Office (717-393-1567) so that appropriate arrangements can be made. Please see the Township's website at www.eastlampetertownship.org for information on how to attend via livestream.

Tara Hitchens

Township Manager

EAST LAMPETER TOWNSHIP

Public Notice - published 08/22/2025

LNP Media Group, Inc.



Unfulfilled Advertising May Require Cancellation

“Judge officially rules XXX School District meeting violated Sunshine Act”

The meeting, which was to discuss the furloughing of over 200 district employees, had 'technical difficulties' making it impossible for the meeting to be viewed by the public.



Special/Added Meetings

At least
24 hours
before
meeting

Date, time,
and location
(including
virtual link)

Newspaper
of general
circulation

Emergency Meetings

There must be a real or potential emergency involving a clear and present danger to life or property

Does not require public notice

Still must be open

Agenda Requirements

Posting Requirements

At least 24 hours
before meeting
begins

At meeting place,
main agency office,
and agency website

Hard copies available
at meeting





Does Not Apply To



Conferences



Executive
Sessions



Work
Sessions

Specificity of Agenda

Related case history:

Description of the agenda item must be “*of sufficient specificity to inform...that there is, in reality, a specific, discrete matter or area which the board has determined should be discussed (deliberated and/or decided by official action).*” In sum, avoid general cryptic terms and provide as many specific concrete details as possible.

Consequences to Violating Agenda Provisions

Sunshine Act violation could delay XX City Habitat for Humanity project

“What otherwise would have been a brief, routine meeting on Thursday evening turned into a lengthy discussion of the legal requirements and possible ramifications of the violation — all because the board failed to post the meeting's agenda in a timely fashion.”

Council meeting canceled for Sunshine Act violation

Borough Council fails to post agenda, not for the first time



Changes to Agenda Within 24 Hours

Must be:

- Emergency business, or
- De minimus, and doesn't involve the expenditure of funds or entering into a contract

Coleman vs Parkland School District

Commonwealth Court held that if an item is not included on a properly published meeting agenda per the Sunshine Act, an agency cannot take official action unless

It's an emergency involving a clear and present danger to life or property; or

The matter is minor and does not involve the expenditure of funds or entering contracts; or

The matter is raised by a taxpayer during the meeting and does not involve the expenditure of funds or entering contracts.

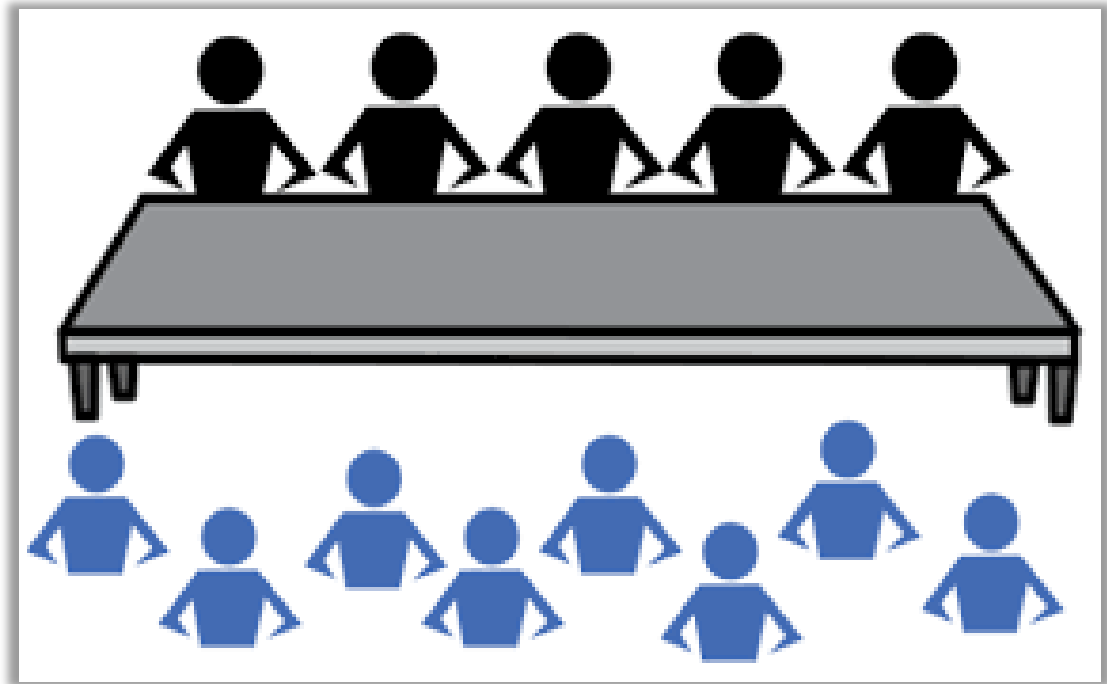


Supreme Court decision expected soon.

Observing Deliberations and Final Actions

What is a Meeting?

"Any **prearranged** gathering of an agency which is attended or participated in by a **quorum** of the members of an agency held for the purpose of **deliberating agency business or taking official action.**"



What is Official Action?



Recommendations made by an agency pursuant to statute, ordinance or executive order.



The establishment of policy by an agency.



The decisions on agency business made by an agency.



The vote taken by any agency on any motion, proposal, resolution, rule, regulation, ordinance, report or order



Agency Business vs. Administrative Action



Agency Business

"the framing, preparation, making or enactment of laws, policy or regulations, the creation of liability by contract or otherwise or the adjudication of rights, duties and responsibilities."



Administrative Action

the execution or carrying out of previously approved official action or policies

What Constitutes Deliberation?



"Discussion of agency business held for the purpose of making a decision."

When Can a Quorum Assemble Outside of Public Meeting?

Administrative
Action

Conference/
Work Session
(with no deliberation or
official action)

Executive
Session
(as allowed, no official action)

What is a Conference?

Any training program or seminar, or any session arranged by State or Federal agencies for local agencies, organized **and conducted for the sole purpose of providing information to agency members** on matters directly related to their official responsibilities.



Characteristic of a Conference/Work Session

No deliberation or
weighing of
opinions

No final action

No requirement
of advertising or
inclusion of public



May Choose to Include Public in Conference/Work Session



Wyoming Valley West School District

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Office of the Superintendent

August 28, 2024

PUBLIC NOTICE

The Wyoming Valley West School District Board of Directors has scheduled a **Work Session** on **Wednesday, September 4, 2024**, at 7:00 p.m. The meeting will be held at the Middle School, Kingston, is open to the public and also on Zoom.

The **Regular September Board Meeting** is scheduled for **Wednesday, September 11, 2024** at 7:00 p.m. The meeting will be held at the Middle School, Kingston, is open to the public and also on Zoom.

The agenda will be on the WVW website for public review. A link to join the virtual meeting will be posted on the WVW website. Any member of the public may view the meeting by using that link. The meeting will be live streamed through YouTube and that link will be on the District website.

Individuals wishing to address the Board must sign in five (5) minutes prior to the start of each meeting.

A handwritten signature in cursive script that reads "Jennifer Bullock".

Jennifer Bullock
Board Secretary
Wyoming Valley West School District

Miscellaneous

Committees that take official action or provide advice on agency matters are subject to all provisions of the Sunshine Act

Public can record meetings

Agency must maintain minutes of meetings, but not recordings



Executive Sessions

Allowable Reasons for Executive Sessions



Discuss Personnel matters (hiring, firing, discipline)



Discussing labor negotiations



Considering purchasing, leasing or selling property



Consulting with counsel about litigation



Avoiding violating privilege or confidentiality



Discussing university admission standards



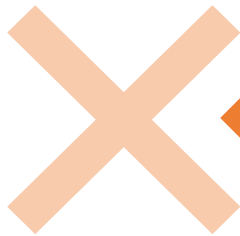
Discuss emergency preparedness

Public Not Completely Shut Out



Can be held before, during, or after an open meeting, or announced for some future time.

Specific reason for executive session must be announced



No official action can be taken during an Executive Sessions – votes must occur in a public session

How Specific Should Reason for Executive Session Be?

Commonwealth Court quoted Supreme Court of Mississippi in relevant case:

"The reason given, of course, must be meaningful. It must be more than some generalized term which in reality tells the public nothing. To simply say "personnel matters" or "litigation" tells nothing. The reason stated must be of sufficient specificity to inform those present that there is, in reality, a specific, discrete matter or area which the board had determined should be discussed in executive session"



How Specific Should Reason for Executive Session Be?



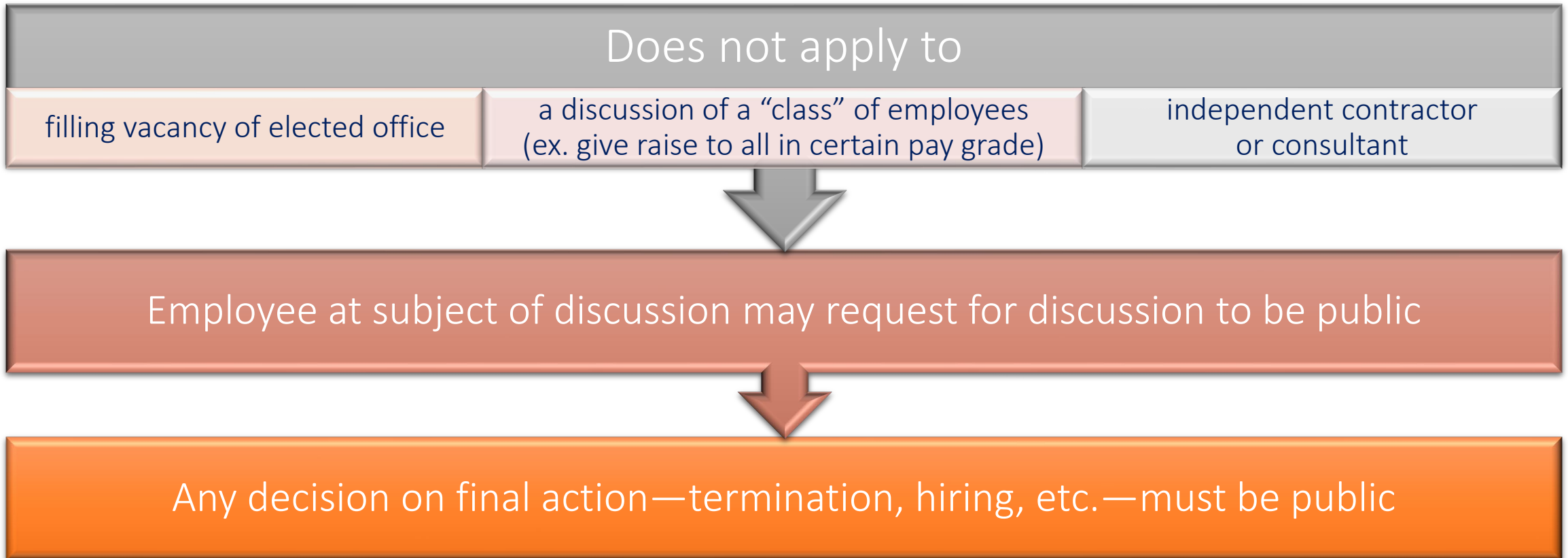
For litigation matters, the Commonwealth Court has approved of a trial court's order that the agency must name the parties, docket number of the case, and the court in which it was filed. For identifiable complaints or threatened litigation, the agency was required to state the nature of the complaint, but not the identity of the complainant.

Personnel Matters



To *discuss any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of performance, promotion or disciplining of any specific prospective public officer or employee* or current public officer or employee employed or appointed by the agency, or former public officer or employee, provided, however, that the individual employees or appointees whose rights could be adversely affected may request, in writing, that the matter or matters be discussed at an open meeting. The agency's decision to discuss such matters in executive session shall not serve to adversely affect the due process rights granted by law, including those granted by Title 2 (relating to administrative law and procedure). The provisions of this paragraph shall not apply to any meeting involving the appointment or selection of any person to fill a vacancy in any elected office.

Personnel Matters Exception

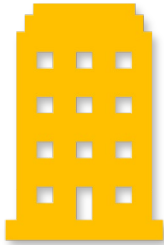


Collective Bargaining



To hold information, strategy and negotiation sessions related to the negotiation or arbitration of a collective bargaining unit, related to labor relations and arbitration.

Property Procurement



To **consider** the purchase or lease of real property up to the time an option to purchase or lease the real property is obtained or up to the time an agreement to purchase or lease such property is obtained if the agreement is obtained directly without an option.

Property Procurement Exception

Does not explicitly permit negotiation sessions, like the collective bargaining exception

No more executive session once option or agreement reached

Any decision on final action—ex. purchase at X price—must be public



Litigation



To consult with its attorney or other professional advisor regarding information or strategy in connection with litigation or with issues on which identifiable complaints are expected to be filed.

Litigation Exception

1

An attorney or other professional advisor must be present in order to use the exception. However, the presence of any other party may render the exception inapplicable.

2

Mere possibility of litigation being filed may not justify moving discussion to executive session.

3

Any decision on final action—ex. filing lawsuit—must be public.

Confidential Information



To review and discuss agency business which, if conducted in public, would violate a lawful privilege or lead to the disclosure of information or confidentiality protected by law, including matters related to the initiation and conduct of investigations of possible or certain violations of the law and quasi-judicial deliberations.

Confidential Information Exception



Limited to information made confidential by law that is relevant to agency business

Academic Admission or Standings



For duly constituted committees of a board or council of trustees of a State-owned, State-aided or State-related college or university or community college or of the Board of Governors of the State System of Higher Education to discuss matters of academic admission or standings.

Public Safety



To discuss, plan or review matters and records that are deemed necessary for emergency preparedness, protection of public safety and security of all property in a manner that if disclosed would be reasonably likely to jeopardize or threaten public safety or preparedness or public protection.

Public Safety Exception

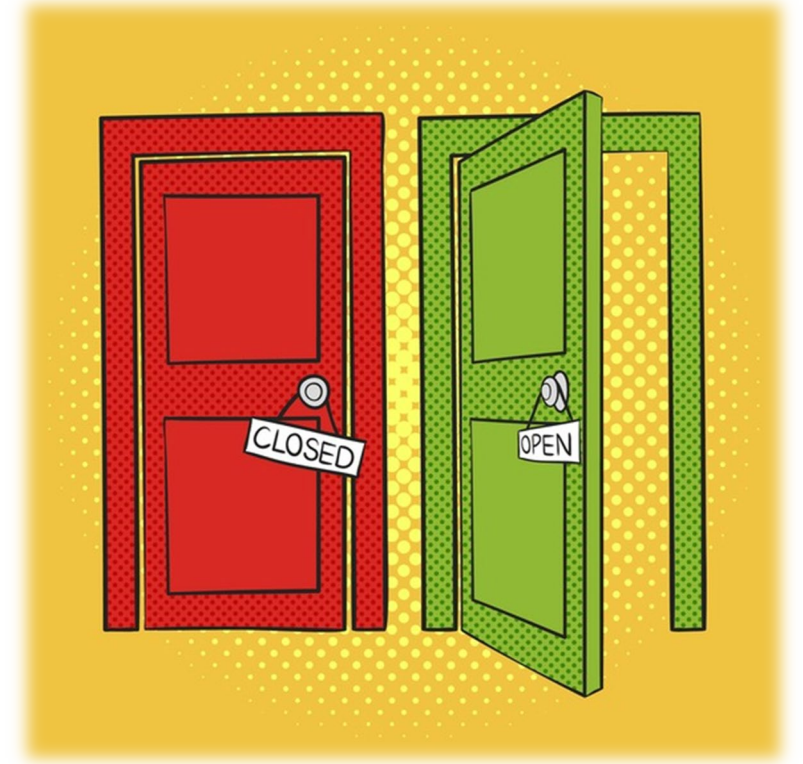
Many aspects of public safety
still should be discussed publicly

(ex. hiring of security consultant)

May Not Stay Behind Closed Doors

“Leaked audio: XX school board conspired to deliberate privately on superintendent search”

Board President XX arranged a series of one-on-one telephone conversations with members in a deliberate attempt to avoid public scrutiny and circumvent the open-meetings law, the audio recording of a closed-door meeting held Thursday night, Jan. 28, reveals.



Situations That Might Violate Sunshine Act

Quorum
deliberating in an
email chain

Deliberation at a
conference or work
session

Executive session
evolving beyond
scope of announced
topic

Conducting one-on-
one deliberation
with each member
to avoid deliberating
as a quorum

Quorum Problems

“XX DA Will Investigate Commissioner’s Breakfasts”

It will investigate allegations that two county commissioners -- who formed a bipartisan alliance after they were elected -- may have violated Pennsylvania's "Sunshine Law" because of twice-a-month breakfast meetings at a XX area restaurant.

“Supervisors Violated Sunshine Act: District Attorney”

The board members violated the Sunshine Act by agreeing to hire a management consultant through a private e-mail vote

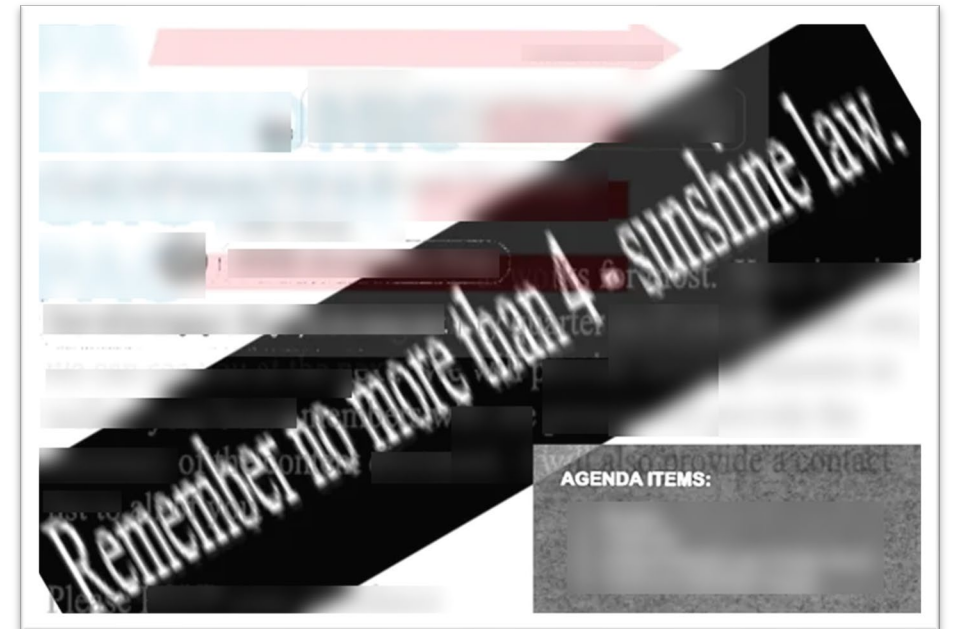
COUNTY COMMISSIONERS' WORK SESSION MINUTES

VIOLATION

Consider Spirit of Law

“PAC met secretly with board members from across XX County, documents show”

“Remember, no more than 4 – sunshine laws,”



Alleging Violations



Scope

Civil and criminal penalties may be pursued by individual

Fines and fees may be imposed

Decisions found to violate law may be voided

Civil complaint must be filed within 30 days of discovery of perceived violation



Additional Resources



www.OpenRecords.pa.gov

- Sunshine Act
- FAQ
- Recorded Trainings



717.346.9903



