



# EXECUTIVE BRANCH

OFFICE OF THE ATTORNEY GENERAL

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## Caitlin G. Moore

**To:** The Office of the Senate President Pro Tempore  
**CC:** Daniella Lopez, Student Body President  
Xelayris Martinez, Student Body Vice President  
Emma Custis, Senate President  
Brodie Taylor, Student Government Coordinator  
**From:** Caitlin Moore, Attorney General  
**Date:** July 14<sup>th</sup>, 2022  
**Subject:** Opinion on Public Record Exemptions Under the Sunshine Law

I, Attorney General Moore, in accordance with the Constitution, Statutes, and Senate Rules of the Student Body of the University of Central Florida, hereby issue the following opinion to the Office of the Senate President Pro Tempore (formerly, Pro Tempore Samantha Ciresi) and all other interested parties:

Here, the question is whether Student Government Agents' depositions may be considered private records, when being interviewed for internal investigative purposes, not including impeachment proceedings under Title VII: The Impeachment and Removal Statutes, and therefore, exempt from Florida's Sunshine Law? The answer is *no*, the information collected remains a public record.

This question arose from an informal investigation into actions by members of the Student Body Senate conducted by former Pro Tempore Samantha Ciresi. Ciresi interviewed Student Body Senators and "confidentiality was promised" to them before any statements were made. Ciresi noted that "an investigation has never been conducted before," and no formal procedures have ever been laid out for an investigation of this nature. Ciresi sent the documents collected to the Senate President, Emma Custis, and the Senate Advisor, Brodie Taylor, "to ensure an unbiased decisions [*sic*]."

### I.

The purpose of authoring this opinion is to provide an answer, followed by information and resources from the Office of Attorney General Ashley Moody on the Public Records Law (Chapter 119 of Florida Statutes) and the Sunshine Law (Chapter 286 of Florida Statutes). As Attorney General of UCF Student Government, it's my job to provide and share such information and to educate Student Government Agents on what relevant portions of these laws contain (Title IV: The Executive Branch, Chapter 402.1, Section J and Title XII: Student Government in the Sunshine Act, Chapter 1207.1). However, I'm *not* an attorney, and outside my discussion of Title IV, VII, and XII, my opinion on this matter is one of an advisory and educational nature. This opinion is *not* legal advice nor should it be treated as such. That is not to say the holding isn't true, but rather to clearly distinguish that the Sunshine Law, unlike the



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governing documents specific to UCF, are under the jurisdiction of the Florida Legislature and Florida Attorney General.

## II.

From the Office of Attorney General Ashley Moody, “Florida began its tradition of openness back in 1909 with the passage of Chapter 119 of the Florida Statutes or the ‘Public Records Law.’ This law provides that any records made or received by any public agency in the course of its official business are available for inspection, unless specifically exempted by the Florida Legislature. Over the years, the definition of what constitutes ‘public records’ has come to include not just traditional written documents such as papers, maps and books, but also tapes, photographs, film, sound recordings and records stored in computers.

“Florida’s Government-in-the-Sunshine Law was enacted in 1967. Today, the Sunshine Law regarding open government can be found in Chapter 286 of the Florida Statutes. These statutes establish a basic right of access to most meetings of boards, commissions and other governing bodies of state and local governmental agencies or authorities.”<sup>1</sup>

The Office of Attorney General Ashley Moody has addressed the following questions regarding public records law in Florida,

**“What qualifies as a meeting?”** The Sunshine law applies to all discussions or deliberations as well as the formal action taken by a board or commission. The law, in essence, is applicable to any gathering, whether formal or casual, of two or more members of the same board or commission to discuss some matter on which foreseeable action will be taken by the public board or commission. There is no requirement that a quorum be present for a meeting to be covered under the law.

**“What is a public record?”** The Florida Supreme Court has determined that public records are all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge. They are not limited to traditional written documents. Tapes, photographs, films and sound recordings are also considered public records subject to inspection unless a statutory exemption exists.”<sup>2</sup>

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<sup>1</sup> See Moody, A. (n.d.). *Open Government - The "Sunshine" Law*. Florida attorney general - the "Sunshine" law. Retrieved July 14, 2022, from <https://myfloridalegal.com/pages.nsf/Main/DC0B20B7DC22B7418525791B006A54E4>, for more information on the Sunshine Law.

<sup>2</sup> See Moody, A. (n.d.). *Open Government - Frequently Asked Questions*. Florida attorney general - frequently asked questions. Retrieved July 14, 2022, from <http://www.myflsunshine.com/pages.nsf/Main/321B47083D80C4CD8525791B006A54E3#7>, for a list of frequently asked questions and answers regarding the Sunshine Law.

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Outside statutorily prescribed exemptions to the Public Records Law or Sunshine Law—either within the exemptions section(s) of the Florida Statutes or the Student Body Constitution or Statutes—“any agency document, however it may be prepared, if it is circulated for review, comment or information, is a public record regardless of whether it is an official expression of policy or marked ‘preliminary’ or ‘working draft’ or similar label.”<sup>3</sup> (See Section 119.011(12) of Florida Statutes).

### III.

Title XII stipulates that all Student Government Agents are required to uphold the requirements of the Public Records and Sunshine Laws (Chapter 1200.1). Student Government meetings are public and subject to these laws. Unless otherwise stated, statements and documents produced as a result of such meetings or investigative proceedings are subject to these laws (Chapter 1201).

### IV.

Additionally, there are no statutorily prescribed restrictions within the Student Body Constitution or Statutes that would exempt the records in question from the Public Records or Sunshine Laws. This determination is not affected by Ciresi’s promise of confidentiality to those being interviewed prior to them making their statements.

As a final note, Ciresi stated, when referring to sharing the investigative findings with Speaker Custis and Brodie Taylor, these documents would now be “public record [*sic*] even though confidentiality was promised.” It’s important to note—the documents and conversations in question were already public records when they transpired between two Student Government Agents, not upon being sent to other individuals.

For the foregoing reasons, it is the opinion of the Office of the Attorney General that the content of the Public Records and Sunshine Law, coupled with a lack of exemptions within the Student Body Constitution or Statutes for an informal investigation, results in the information collected as the creation of public records.

It is so ordered,

**Caitlin G. Moore**  
Attorney General  
University of Central Florida

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<sup>3</sup> See Advisory Legal Opinion - AGO 2010-55 by former Attorney General of Florida, Bill McCollum, from <http://www.myfloridalegal.com/ago.nsf/Opinions/BDC2D02AF2E6B90485257808007B8D9E>, for information about public employee's personal notes under public records laws.

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