

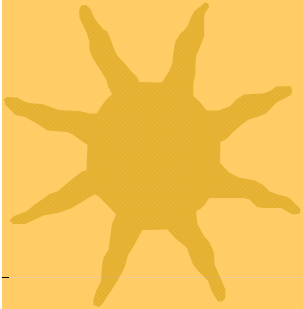


Overview of Sunshine Laws in the Search Process



I. Open Meetings Law

- Triggered if two or more members of a "board or commission" meet. In the UF setting, this means ALL committees (with a few exceptions that are not relevant here).
- University search committees, even as purely advisory committees, specifically have been found to be subject to the open meetings law.





I. Open Meetings Law

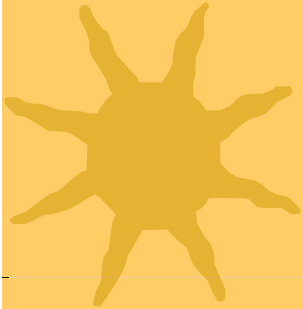


- Notice of meetings -- Staff to the committee and the chair must ensure this is done properly.
- Minutes should be kept; need not be taped or verbatim.
- Need to outline discussion points and any decisions.
- Minutes are to be retained.



I. Open Meetings Law

- If using subcommittees to vet candidates, note that subcommittees are subject to open meetings law and so if they meet they should follow same process as full committee.
- Media or others (including public or candidates) who attend meetings are not permitted to participate, but may observe. If any particular issues of concern come up, chair of committee can call GC office.





I. Open Meetings Law

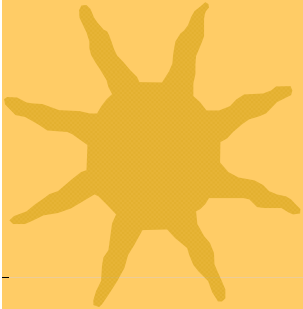


- Committee's deliberations about candidates are open. Accordingly, positive comments are most constructive.
- Board or commission cannot vote by secret ballot. If voting occurs, must be in the open.
- Many committees choose to develop consensus recommendation about what three or four candidates will be recommended, not in rank order.



I. Open Meetings Law

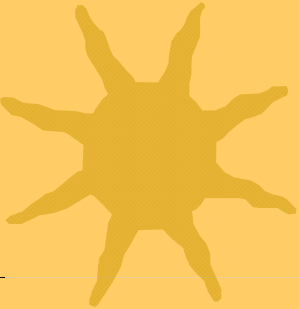
- Conversations between search committee members about the search or about a candidate, when done outside the committee meetings, are problematic.
- Single member of committee can talk to staff or to search consultant outside a meeting; cannot be used as a way to take a secret ballot, etc.





II. Open Records Law

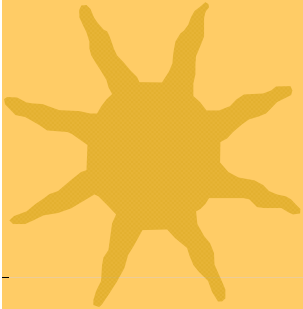
- Allows access by media and public, as well as candidates, of all records made, received or generated in the course of the search.





II. Open Records Law

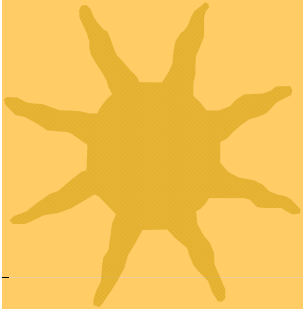
- "Confidential" letters of recommendation received by committee are not confidential.
- Chair can call writer and explain, but cannot return letter once received. Therefore, committee should not solicit confidential letters.





II. Open Records Law

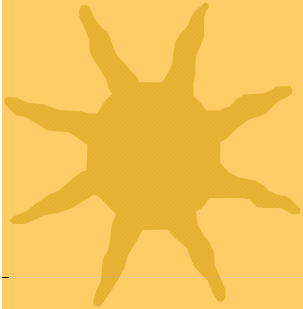
- Letters of nomination are public records.
- Thus, when a person is nominated, even if nominee has not accepted or indicated a wish to be a candidate, letter is public upon request.





II. Open Records Law

- Rating forms used by committee, if any, are public records.
- Internal candidates- Personnel files, with exception of certain information such as academic evaluations (*e.g.* promotion and tenure information), social security numbers, etc., are open and might be requested by media (or other nominees).





II. Open Records Law



➤ Email is generally just like hard copy document: it is public. Be aware that email commonly is requested. A telephone call is sometimes better.



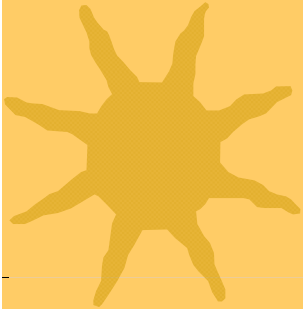
➤ Personal notes kept by committee members are not public records unless: 1) filed in the file to memorialize something or serve as a permanent record; or 2) circulated to chair or others. Rather, notes are just memory refreshers kept for the convenience of the maker.





II. Open Records Law

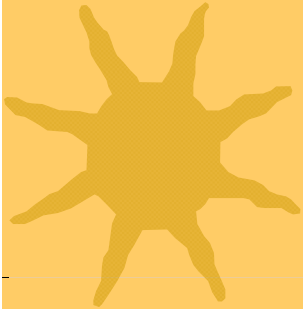
- Even if certain documents are not public records, like notes, they are subject to subpoena.
- Thus, if you keep notes after the end of process or after they are useful to you, be aware that if an unsuccessful candidate sues, they could be discovered. Same for notes taken on margins of CVs; if make notes on CVs, don't put things like "53 years old".





II. Open Records Law

- As to CVs etc, the chair should keep the official set, committee members need not keep their own sets after search is completed.
- Applicant lists are public and usually requested from time to time by media.





III. Penalties for Noncompliance



➤ Possible lawsuit; stop process; invalidate process.



➤ Criminal sanctions.



➤ Embarrassment to institution.



IV. Other Helpful Information



➤ Extending application deadline- If there is one, can be done with reposting; check with EO office.

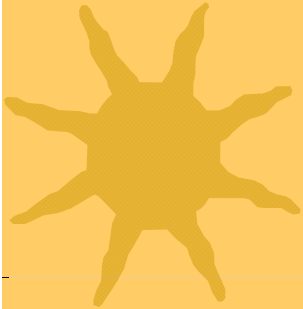


➤ Converting nominee into applicant status - Before application deadline, nominee should be called to determine whether would like to become applicant. If so, can be considered applicant within application deadline. Nominee need not write letter; chair can simply make a note and include person on applicant list.





IV. Other Helpful Information



➤ Conduct search in manner designed to protect anonymity of candidates.

➤ Maintain distinct categories:

➤ Prospects

➤ Applicants

➤ Nominees

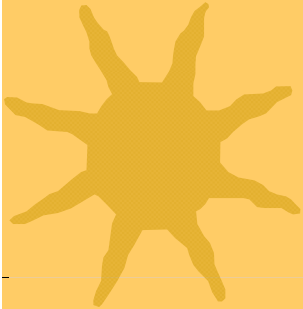
➤ Candidates

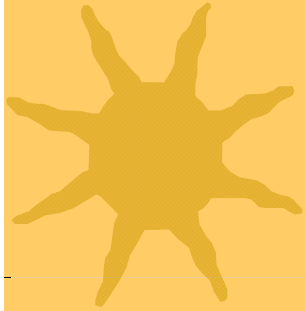




IV. Other Helpful Information

- Dealing with media.
 - Although any member of committee can talk to media if called, usually members prefer to designate chair as point person.
 - Up to committee to decide
- Office of General Counsel glad to work with chair if any questions arise during search process and often do so.





QUESTIONS????

