

## Advisory Boards and Committees

Thank you for your interest in Indian River County Advisory Boards and Committees. Citizen's participation, by way of community input, advice, and/or recommendations regarding matters to be brought before the Board for approval, is important in developing Indian River County's programs and policies, and in providing quality, effective, and efficient delivery of public services to the community. This is an opportunity for residents to get involved in an advisory capacity.

Any resident of Indian River County who would like to be considered for appointment to one of the boards, councils, or committees listed on this Web site should click on the "Application for Membership" link on the committee page. We recommend that residents research the various advisory boards and their meeting schedules to determine what time commitment is involved for committee members. We also recommend that residents interested in serving on a board or committee review the following presentation to gain an understanding of State of Florida laws regarding government in the sunshine, public records, and ethics.

For more information about advisory committees and position openings, please contact the Board of County Commissioners office at 226-1490.



**Board Appointed Committees  
and the  
Florida Sunshine,  
Public Records,  
and  
Code of Ethics Laws**

**This educational tool is recommended for all citizens interested in serving on committees.**



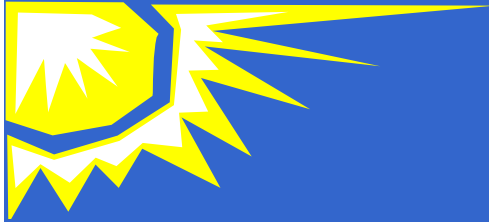
**This presentation highlights the requirements of the following three laws and how they relate to Board appointed committees.**

- ❖ **The Sunshine Law,**
- ❖ **The Public Records Law,**
- ❖ **and the Florida Code of Ethics.**



**Indian River County has a legal obligation to comply with:**

- ❖ **The Sunshine Law,**
- ❖ **The Public Records Law,**
- ❖ **and the Florida Code of Ethics.**

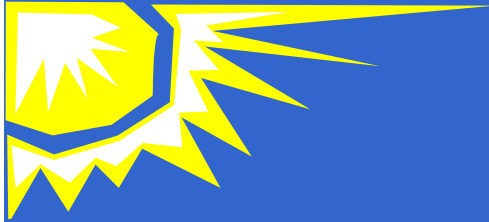


# The Laws

## ❖ **SUNSHINE LAW**

Protects the public from “closed door” decision making and provide a right of access to governmental meetings.

*(F. S. Sec. 286.011 (“Sunshine Law”) and Fl. Constitution Art. I, Sec. 24)*

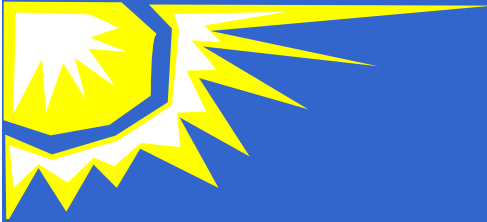


# The Laws

## ❖ **PUBLIC RECORDS LAW**

**Creates a right of access to records made or received in connection with official business of a public body.**

*(F. S. Chap. 119)*

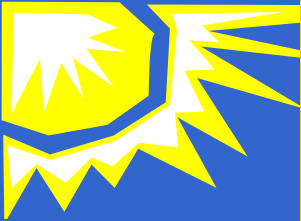


# The Laws

## ❖ **CODE OF ETHICS**

Protects against conflict of interest and establishes standards for the conduct of elected officials and government employees in situations where conflicts may exist.

*(F. S. 112, Part III, Code of Ethics for Public Officers and Employees and the Fl. Constitution Art. II, Sec. 8)*

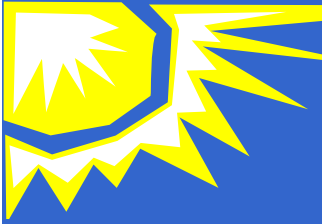


**Committee type determines the applicability of these laws.**

**There are two types of committees:**

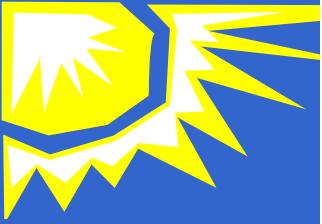
- 1. Committees with decision making authority such as the Code Enforcement Board and the Planning & Zoning Commission**
- 2. Advisory Committees established by State Statute, County Code or Resolution of the Board of County Commissioners**





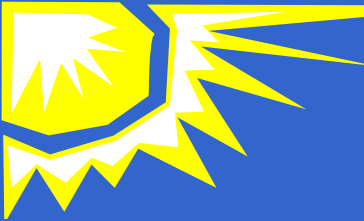
# **1. Decision Making Committees become part of the Board's decision making process and:**

- Choose alternatives and direction; narrow or eliminate options for the Board's consideration.
- Make final decisions by voting that affect either money (Code Enforcement fine) or property rights (Planning & Zoning Commission).
- Make recommendations to the Board directly or through staff.



## **2. Advisory Committees provide a source of community input and factual resources and:**

- Do not have authority to make final decisions affecting property or assess fines.
- Can not create bylaws.
- Provide input, data and factual findings in its advisement to the Board.
- Derive their powers and duties from State Statute (Tourist Development Council), County Ordinance (Children's Services Advisory Committee) or by Resolution of the Board of County Commissioners (Agricultural Advisory Committee).



## **The Sunshine Law --**

Gives the public access to 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” *AND*

- **Allows the public to observe each preliminary step leading to the final decision.**
- **Prevents the Board from creating closed committees that narrow the Board’s decisions.**
- **Applies to Board appointed committees.**
- **An AG opinion advises it also applies to an individual Board member, appointed to negotiate, narrow decisions, or make decisions for the full Board.**



# Meetings subject to the Sunshine Law --

include communication, whether formal or casual about a matter on which the Board or Committee may foreseeably take action, between:

- ☀ Two or more Board members, or
- ☀ Two or more members of a Decision Making Committee.

**Communication may occur through telephone or e-mail communications, or exchanges during social events, football games and neighborhood barbeques.**



# **The Sunshine Law imposes three Obligations of Openness**

## **1. Reasonable notice of meetings subject to the Sunshine Law must be given.**

Requires giving the public reasonable and timely notice so they can decide whether to attend. What is “reasonable” or “timely” depends on the circumstance. Does not necessarily require a newspaper advertisement. Contact the County Attorney’s office for guidance.



# **The Sunshine Law imposes three Obligations of Openness**

**2. Public must be allowed to attend meetings; however there is no obligation to allow the public to participate.**

**☀ Meetings cannot be held at exclusive or inaccessible facilities.**

**☀ No evasive actions are allowed, such as:**

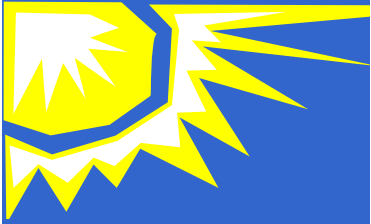
- Circulating written reports to elicit responses or positions on issues.
- Using staff, lobbyists, or other means to seek other members' positions about issues.



# **The Sunshine Law imposes three Obligations of Openness**

**3. Minutes of the meetings are required. Written minutes must be taken and made available promptly.**

- Sound recordings may also be used, in addition to written minutes.
- Minutes may be a brief summary of meeting's events.
- Minutes are public records.
- Minutes must record the votes.



# **The Sunshine Law applies when --**

- ❖ **Two or more members of a Committee or governing board (such as the BCC) discuss a matter that may foreseeably come before the governing board.**





# **The Sunshine Law still applies when --**

- ❖ **A governing board or committee moves any part of its decision making process to a sub-committee or group, thereby appointing an “alter ego.”**

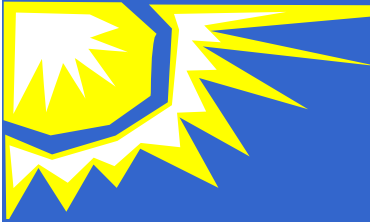
**According to an AG opinion, this may also include an individual Board or Committee member appointed formally or informally to negotiate, narrow or eliminate options or decisions for the full Board or Committee.**



# The Sunshine Law does not apply to --

- ❖ Private committees or groups such as homeowners in associations, condominium associations or committees formed by private entities that do not receive public funds.
- ❖ Board created focus groups or other such committees that:
  - Only provide individual input, data and facts as part of staff's development in its advisement to the Board
  - Do not narrow options.

*The Sunshine Law is broadly construed –  
Exemptions are narrowly construed*



# **Sunshine Law: Penalties for Noncompliance**

*(Also apply to Decision Making Committees)*

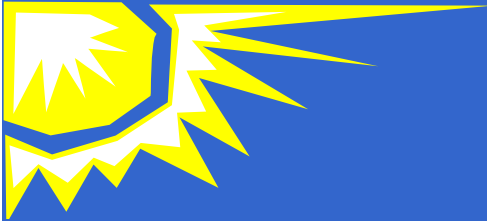
*A violation of the Sunshine Law by the Board or a Decision Making Committee, can nullify Board decisions.*

## **Criminal Penalties:**

- It is a second degree misdemeanor to knowingly violate the Sunshine Law.
- Punishable with a fine of up to \$500 and/or up to 60 days imprisonment.

## **Other Penalties Include:**

- Removal from position.
- Payment of attorney's fees incurred by the challenging party, as well as declaratory and injunctive relief.



# A Penalty Example

BASED ON LOCAL NEWS REPORTS

## Childers To Prison

*No restitution ordered*



Former Florida Senate President W.D. Childers, 69, was sentenced in Crestview today to 3 1/2 years in state prison after last month's jury verdict on charges of bribing former Escambia County commissioner Willie Junior. Childers allegedly bribed Junior to vote for purchasing the former soccer complex in Pensacola at a price of \$3.9 million.

After he completes his sentence, Childers also will have to perform 250 hours of community service and serve 1 1/2 years on probation.

Prosecutors sought the maximum penalty of 10 years, five years on each count and more than \$1 million in restitution. Prosecutors also asked the judge to order restitution of more than a million dollars to cover alleged county losses on the real estate deal. However, the judge declined to order restitution. Childers maintained he has a negative net worth.

Childers, 69, also has been [serving a 60-day county jail sentence](#) for violations of Florida's open-government "sunshine" law. He will begin serving the 3 1/2 year prison sentence once he completes the jail term.

The "Banty Rooster," as he was known over a 30-year career as a state legislator in Tallahassee, decided to run for county office as a Republican in 2000 because he was term-limited under a new Florida law. Childers' challenge to the term limits law also was turned away by the courts.

Childers was accused of bribing Junior, a Pensacola Democrat, with at least \$90,000 in checks. Junior testified Childers handed him the money pot following the vote but that he returned \$40,000 in exchange for a cashier's check.

Childers denied giving Junior any cash and testified the checks were loans secured by Junior's equity in a funeral home. He produced two handwritten promissory notes they had signed. Assistant State Attorney John Simon argued that Childers never filed the notes with the court clerk in order to enforce them, which he had often done with other loans, including those to family members.

**Sentenced to Jail for Sunshine Law Violations:** Suspended Escambia County Commissioner W.D. Childers was sentenced to 60 days in jail for discussing redistricting in a telephone conversation while fellow commissioner listened on a speaker phone, and pleaded no contest for talking with two fellow commissioners about county building projects in front of a staffer.

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# Public Records Law

**Public Records include:** All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form or means of transmission made or received pursuant to law in connection with transaction of official business by the agency. *(Fl. Stat. Chapter 119)*

## The Public Records Law Applies to:

- Records developed by the Board, Board Appointed Committees, and employees
- All types of records including written communications, letters, notes and e-mails.

Numerous exemptions are identified in  
Fl. Stat. 119.07 and other statutes.



# Public Records Requests

## Can be made:

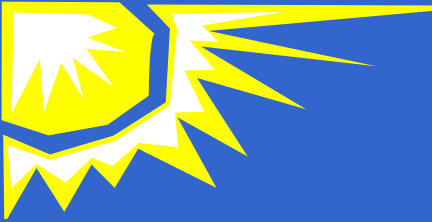
- Verbally or in writing,
- By any person.

## The Board or Board Appointed Committee:

- Has a “reasonable” time to respond.
- Can charge for the cost of retrieving records if the amount requested is voluminous.
- Can charge 15 cents/page for photocopies.

## The Public Records Law does not require:

- The retention of records (this is covered under the State’s records retention policy)
- The creation of records or the provision of records in the format requested
- An explanation of the records.



# Florida Code of Ethics

## Addresses:

- ☀ Standards of Conduct
- ☀ Voting Conflict
- ☀ Financial Disclosure

- **Applies to:**

- ☀ County Commissioners.
- ☀ Board Employees.
- ☀ Board Appointed Committees.
- **Prohibits certain actions or conduct.**
- **Requires certain disclosures be made to the public.**



# **Standards of Conduct Prohibit Public Officials, including Board Appointed Committee Members, from . . .**

- ❖ **Soliciting and Accepting Gifts.** May not solicit or accept anything of value that is based on an understanding that their vote, official action, or judgment would be influenced by such a gift.
  - ❖ **Accepting Unauthorized Compensation.** May not accept any compensation, payment, or thing of value that is given to influence a vote or other official action.
- ❖ **Misusing Their Public Position.** May not corruptly use their official position to obtain a special privilege for themselves or others.
  - ❖ **Disclosing or Using Certain Information.** May not disclose or use information not available to the public and obtained by reason of their public positions for the personal benefit of themselves or others.





# **Standards of Conduct**

## **Prohibit Public Officials, including Board Appointed Committee Members, from . . .**

- ❖ **Doing business with their agency.** A public official's agency may not do business with a business entity in which the public official, or their spouse or child own more than a 5% interest.
- ❖ **Engaging in Conflicting Employment or Contractual Relationships.** A public official may not be employed or contract with any business entity regulated by or doing business with his or her public agency.



# Voting Conflicts of Interest

- ❖ Requires no County, municipal, or other Local Public Officer (including members of Board appointed committees) shall vote in an official capacity upon any measure which would inure to the special private gain or loss of themselves, any principal or entity by whom they are retained, other than an agency as defined in the Fl. Stat. 112.312(2), or to any relative or business associate.
  
- ❖ **Requires that public officers, including members of decision making committees:**
  - Must announce the nature of the conflict before the vote; abstain from voting; and file a memorandum of voting conflict
  - May not participate in the discussion without first disclosing the nature of their interest in the matter (either in writing prior to the meeting, or orally as soon as they become aware that a conflict exists)

***Becomes an issue when stakeholders are appointed to Decision Making Committees.***



# Financial Disclosures

Members of the Code Enforcement Board and the Planning and Zoning Commission must file a Limited Financial Disclosure form annually as long as they serve on the board.



# Which Laws Apply to Which Committees?

## Florida Laws

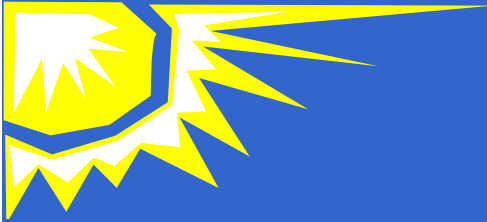
## Decision Making Committee

- ☀ Sunshine Law
- Public Records Law
- Code of Ethics:
  - Standards of Conduct
  - Voting Conflict
  - Financial Disclosure



☀ *Includes discussions about a matter which may foreseeably come before the Committee: between one or more Committee member(s), or involving subcommittees or an individual Committee member who has been formally or informally authorized to exercise any decision-making authority or to reduce options for the Committee's consideration.*

☀☀ *Committees with land-planning, zoning, or code enforcement responsibilities.*

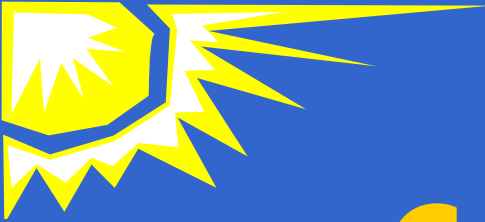


**On [ ], the Board adopted Resolution No. [ ], Board-Appointed Advisory Committees: Establishment, Appointment Function, Operation, and Dissolution.**

The policy was adopted to assure:

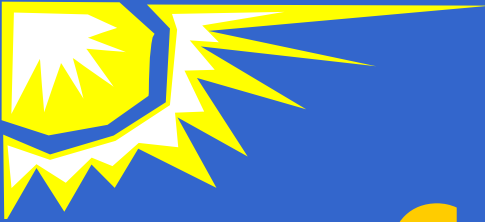
- ❖ **Consistency and legal compliance in the formation, selection, and appointment of Committees.**
- ❖ **Formal orientation and training on the applicability of Florida laws.**
- ❖ **A reduction in potential liability to Indian River County and its citizen volunteers.**

**This resolution does not apply to all committees.**



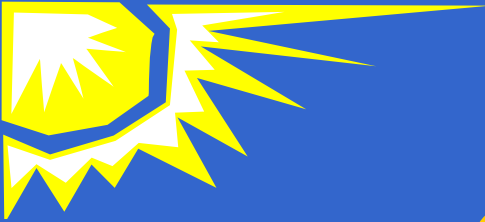
# **Committee Training Review Questions**

**Now, Let's Review What  
You Have Learned!**



# **Committee Training Review Questions**

- 1. As it relates to Board appointed Committees, Indian River County has an obligation to comply with what three laws?**



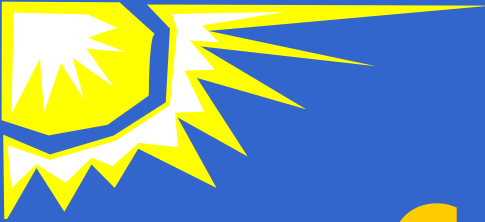
# Committee Training Review Questions

## **Answer #1:**

**Indian River County must comply with the following laws:**

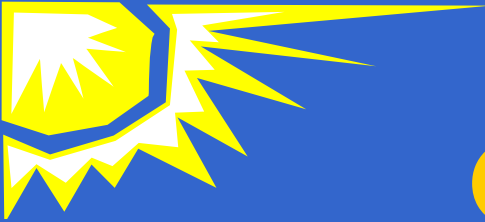
- ❖ **Sunshine Law ( F.S. Sec. 286.011)**
- ❖ **Public Records Law (F.S. Chapter 119)**
- ❖ **Code of Ethics Law ( F.S. 112)**





# **Committee Training Review Questions**

**2. What are three Obligations of Openness imposed by the Sunshine Law?**

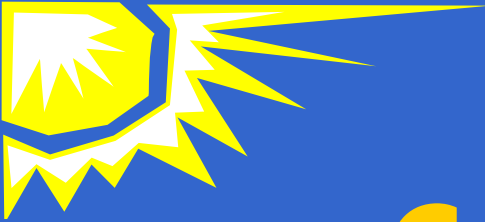


# Committee Training Review Questions

## Answer #2:

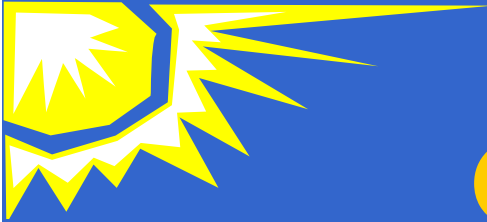
The Sunshine Law imposes three  
Obligations of Openness:

- ❖ Reasonable notice of meetings
- ❖ Public must be allowed to attend
- ❖ Minutes of meetings are required



# **Committee Training Review Questions**

**3. In accordance with the Sunshine Law, what are the two types of committees?**

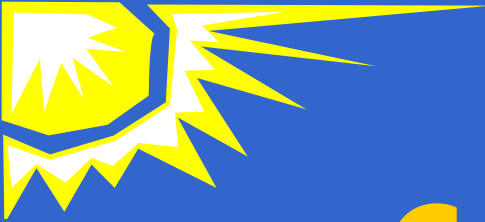


# Committee Training Review Questions

## Answer #3:

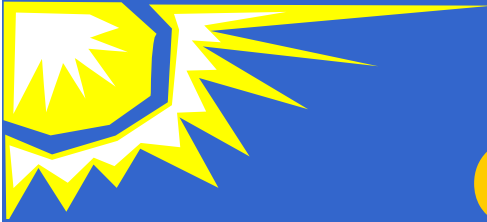
Under the Sunshine Law, the two types of committees are:

- Decision Making Committees
- Advisory Committees



# **Committee Training Review Questions**

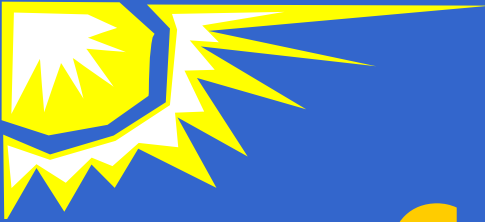
- 4. Are informal or casual discussions at a backyard barbeque between two or more members of a Decision Making Committee, regarding matters to be discussed at a future meeting, subject to the Sunshine Law?**



# **Committee Training Review Questions**

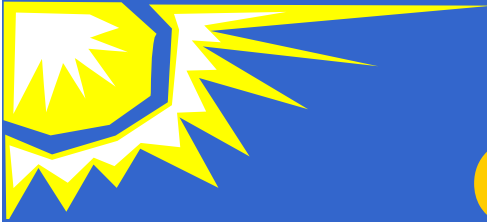
## **Answer #4:**

**Yes. These informal or casual discussions regarding matters to be discussed at a future meeting may be a violation of the Sunshine Law.**



# **Committee Training Review Questions**

**5. What are the criminal penalties associated with violation of the Sunshine Law?**

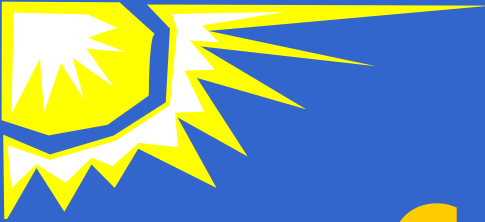


# **Committee Training Review Questions**

## **Answer #5:**

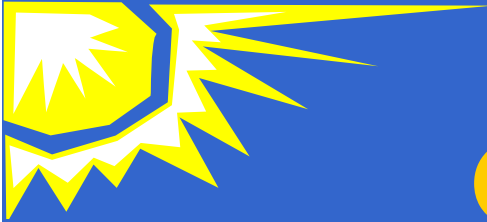
- 1. Second Degree Misdemeanor**
- 2. Fine up to \$500 and/or 60 days imprisonment.**





# **Committee Training Review Questions**

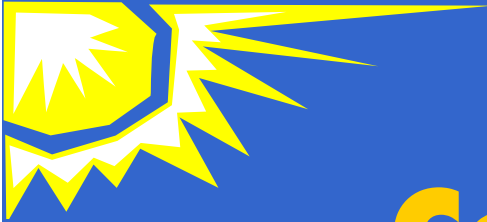
- 6. Are the notes taken and/or documents distributed at Board appointed committee meetings subject to the Public Records Law?**



# **Committee Training Review Questions**

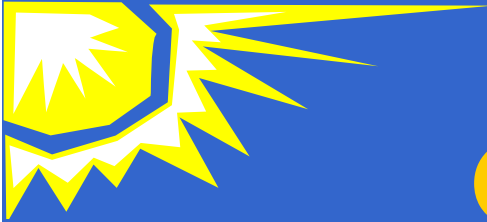
## **Answer #6:**

**Yes. The Public Records Law applies to all types of records including written communications, letters, notes and e-mails.**



# **Committee Training Review Questions**

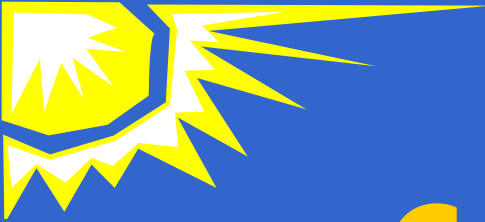
**7. As it relates to Board appointed Committees, what are the three areas addressed by the Code of Ethics Law?**



# **Committee Training Review Questions**

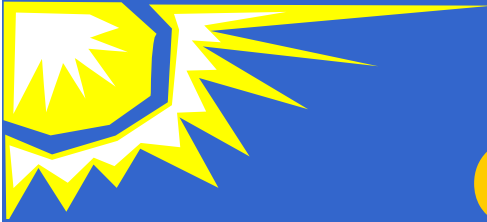
## **Answer #7:**

- 1. Standards of Conduct**
- 2. Voting Conflict**
- 3. Financial Disclosure**



# **Committee Training Review Questions**

- 8. May a Board appointed committee member solicit or accept gifts or unauthorized compensation used to influence a vote or other official action?**



# Committee Training Review Questions

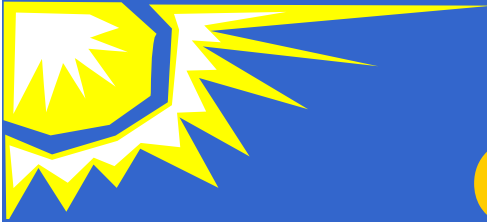
## **Answer #8:**

**No. Standards of Conduct prohibit such actions.**



# **Committee Training Review Questions**

- 9. Under the Voting Conflict of Interest, are committee members allowed to vote on matters that will inure to their special private gain or loss?**



# **Committee Training Review Questions**

## **Answer #9:**

**No. Committee members may not vote on matters that will inure to their special private gain or loss. [Due to potential conflict of interest, Indian River County discourages the appointment of Stakeholders to Decision Making Committees.]**





**Thank you for participating in  
this training for Board  
Appointed Committees.**

*Please complete the application and certification  
form and mail to:*

*Board of County Commissioners  
1801 27<sup>th</sup> Street, Building A  
Vero Beach, FL 32960*

*Should you have any questions, please contact the Board of  
County Commissioners at 226 1490.*



**A day in Florida  
Government  
is a day in the  
Sunshine!**