

Florida Medical Examiners Commission

District Medical Examiner  
Search Committee Procedures  
Manual

2015 Edition

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## I. PURPOSE

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The purpose of this manual is to inform medical examiner districts about the process they are required to follow when seeking to fill a vacancy for district medical examiner. Florida's district medical examiners are public officers of the State and are subject to the provisions of the Code of Ethics for Public Officers and Employees, Chapter 112, Part III, Florida Statutes. District medical examiners are also bound by provisions in Chapter 406, Florida Statutes, and Rule 11G, Florida Administrative Code.

## II. DISTRICT MEDICAL EXAMINER — APPOINTMENT AND TERM OF OFFICE

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1. Section 406.06, Florida Statutes, provides for the appointment of district medical examiners in the State of Florida.
  - a. A district medical examiner shall be appointed by the Governor for each medical examiner district from nominees who are practicing physicians in pathology. Nominations are submitted to the Governor by the Medical Examiners Commission.
  - b. The term of office of each district medical examiner shall be three (3) years.
  - c. A gubernatorial appointment to fill a vacancy shall be for the unexpired portion of the term.
  - d. A physician member of the Medical Examiners Commission shall be eligible to serve as a district medical examiner upon approval by the Governor.
2. Rule 11G, Florida Administrative Code, provides additional guidelines relating to the term of office of medical examiners. For the purpose of administration, the 24 district medical examiners serve staggered terms, according to the following rotation:
  - a. First year — Districts 1 through 7
  - b. Second year — Districts 8 through 14
  - c. Third Year — Districts 15 through 24
3. Section 406.17, Florida Statutes stipulates that “[i]n home rule counties which have established medical examiners under provisions of a home rule charter or a code or ordinance enacted pursuant to the charter, the medical examiner shall also serve as the district medical examiner who would otherwise be appointed under this chapter.”

### III. GOVERNMENT IN THE SUNSHINE LAW

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Florida's "Government in the Sunshine Law" provides the right of citizen access to governmental proceedings at state and local levels. Provisions of the Sunshine Law are specified in Ss. 286.011 and 120.66, Florida Statutes.

Article I, Section 24(b), of the Florida Constitution, provides in pertinent part that "all meetings of any collegial body of the executive branch of government...at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public."

Section 286.011, Florida Statutes, also provides that "all meetings of any board or commission of any state agency...at which official acts are to be taken are declared to be public meetings open to the public at all times."

Advisory boards and committees created by public agencies may be subject to the Sunshine Law, even though their recommendations are not binding upon the entities that create them. The "dispositive question" is whether the committee has been delegated "decision-making authority," as opposed to mere "information-gathering or fact-finding authority." *Sarasota Citizens for Responsible Government v. City of Sarasota*, 48 So. 3d 755, 762 (Fla. 2010). "Where the committee has been delegated decision-making authority, the committee's meetings must be open to public scrutiny, regardless of the review procedures eventually used by the traditional governmental body."

"In determining whether a committee is subject to the Sunshine Law, the actual function of the committee must be scrutinized to determine whether it is exercising part of the decision making function by sorting through options and making recommendations to the governmental body." Inf. Op. to Randolph, June 10, 2010. Thus, if an advisory committee has a decision making function in addition to fact-finding, the Sunshine Law is applicable. See *Wood v. Marston*, 442 So. 2d 934, 938 (Fla. 1983), recognizing that while a "search and screen" committee had a fact-gathering role in soliciting and compiling applications, the committee also "had an equally undisputed decision-making function in screening the applicants" by deciding which of the applicants to reject from further consideration, and thus was subject to the Sunshine Law.

1. Three basic requirements apply to formal meetings and workshops, as well as any gathering, whether formal or casual, of two or more members, where some matter being discussed will foreseeably come before the Commission for action. This includes meetings of a district medical examiner candidate search committee. The requirements are:
  - a. Meetings of any board or commission must be open to the public.
  - b. Reasonable notice of meetings must be given.
  - c. Minutes of meetings must be taken and be open to public inspection.

2. The above requirements are equally applicable to elected and appointed boards, and apply whether the meeting or discussion is in person or by telephone.
3. Meetings between a Commission member and a non-Commission member are bound by these requirements if the non-Commission member is being used as a liaison or “go-between” with another Commission member.
4. No resolution, rule or formal action is binding except as taken or made at an open meeting. Courts have held that actions taken in violation of the Sunshine Law are void.
5. Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation or political subdivision who *knowingly* violates the Sunshine Law is guilty of a misdemeanor of the second degree.
6. Any public officer who commits any other violation is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500.

#### IV. MEDICAL EXAMINERS COMMISSION RESPONSIBILITIES

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1. The Commission will notify the Governor upon learning that a position has become vacant or is anticipated to become vacant.
2. The Commission shall also notify the state attorney(s), public defender(s), sheriff(s), police chief(s), county commission(s) and funeral home directors for that medical examiner district of the vacancy, and request that names of potential candidates for the position of district medical examiner be submitted to the candidate search committee.
3. Within 30 days of being notified of a vacancy or anticipated vacancy, the Chairman of the Commission shall call for a district candidate search committee to be established, and appoint a chairman
4. By majority vote at a scheduled meeting, the Commission shall nominate one or more candidates to the Governor to fill a district medical examiner vacancy. The nomination shall take place prior to the expiration of six months from the date of the vacancy.
5. The Commission’s consideration of candidates for nomination is not restricted only to those persons who may be recommended by a candidate search committee.
6. The Commission will notify each candidate in writing of the action taken by the Commission regarding their nomination as district medical examiner.
7. The Commission will notify the chairman of the candidate search committee in writing about action taken by the Commission regarding candidates submitted by the district to fill a district medical examiner vacancy.

8. If the Commission does not vote to nominate any of the candidates submitted by the candidate search committee, the chairman of the committee may be requested to submit other candidates. The Office of the Governor will be notified that none of the candidates submitted for that district were acceptable and that the position is still vacant.

## V. ESTABLISHING THE SEARCH COMMITTEE

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Rule 11G-5.004(3), Florida Administrative Code, requires the Chairman of the Medical Examiners Commission to call for a district candidate search committee to be established when a district medical examiner position becomes vacant. Under the rule, the district search committee is responsible for completing the interview process and candidate selection. The committee is also responsible for recommending a candidate(s) to the Medical Examiners Commission.

Since the district candidate search committee has delegated decision making authority by the Commission and has a decision making function in screening applicants, all activities of the committee should be open and noticed to the public.

1. Within 30 days of being notified of a vacancy or anticipated vacancy, the Chairman of the Commission shall call for a district candidate search committee to be established, and appoint a chairman. As is required for all gatherings, whether formal or casual, of two or more members, where some matter being discussed will foreseeably come before the Commission for action:

- Meetings of the search committee must be open to the public.
- Reasonable notice of meetings must be given.
- Minutes of meetings must be taken and open to public inspection.

2. The search committee shall consist of invited representatives from the offices of the state attorney(s), public defender(s), sheriff(s), police chief(s), county commission(s) or other entity that is responsible for the budget of the district medical examiner office, funeral homes, and a representative of the local medical community from within that medical examiner district.
3. The search committee shall also comprise a physician member of the Medical Examiners Commission or other medical examiner designated by the Commission Chairman.

## VI. SEARCH COMMITTEE RESPONSIBILITIES

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The duties of the search committee are as follows.

1. Seek applications from interested persons who are licensed physicians and experienced practitioners of pathology, and who possess qualifications to take the examination or already possess the primary certification offered by the American Board of Pathology, American Osteopathic Board of Pathology, or equal qualification rendered by a non-United States medical specialty certifying agency.
2. Work with county representatives to establish an operating budget for the search committee.
  - a. The budget should anticipate advertising and other administrative costs, as well as travel costs for applicants selected as candidates.
  - b. To reach your target audience, the vacancy should be publicized through Web sites, social media, email, and job advertisements in publications that count licensed physicians and pathologists among their subscribers.
3. Establish an interview team, which shall have a quorum of three participants, to interview interested candidates that meet the minimum position qualifications. If the district includes a medical school, the dean of the medical school should be invited to participate as a member of the interview team.
4. Ensure that the candidate(s) recommended to the Commission for nomination as district medical examiner is in agreement with the respective county representatives regarding the medical examiner budget as outlined in s. 406.06(3), Florida Statutes.
  - a. Whether by private contract or through direct employment, medical examiner services in each district are funded by the counties in the district's jurisdiction. In multi-county districts, one county's Board of County Commissioners serves as the fiscal agent.
  - b. In single-county districts that operate according to a Home Rule charter (Districts 7, 11, 13, 15, 17) all medical examiner staff members are county employees. In other districts where medical examiner services are not provided by private contract, staff members are also county employees, except Indian River County whose staff are employees of Indian River State College. The medical examiner office organization and personnel structure in these districts is governed by the policies and procedures in which they reside.
5. Review background information about the final candidate(s) from present and past sources. Background inquiries should incorporate information on work performance and working relationships, as well as the candidate(s) reasons for, and circumstances of, leaving employment. At a minimum, background information should include:

- a. a criminal history check;
  - b. comments of county medical associations, local hospitals, government agencies and funeral homes with which the candidate(s) has a prior working relationship; and
  - c. employment references.
6. Complete the candidate selection and interview process and submit packages to Commission staff for review. Candidate packages must be submitted to the Commission within 90 days of appointment of the candidate search committee unless additional time is requested in writing and approved by the Commission Chairman.
  7. For each candidate recommended to the Commission for nomination, include a rating for each candidate, if appropriate, and include a cover letter that explains the rating methodology. Each candidate package must include:
    - a. pertinent correspondence regarding the candidate(s);
    - b. results of background inquiries;
    - c. letters of reference; and
    - d. a letter from the candidate(s) to Commission staff authorizing the release of information from former employers and the Board of Medicine in the state in which the candidate(s) is or was licensed.
  8. If the Commission does not vote to nominate any of the candidates submitted by the candidate search committee, the chairman of the committee may be requested to submit other candidates.

## **VII. SUBMISSION OF CANDIDATE PACKAGE**

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Commission staff shall review interview packages for completeness prior to their submission to the Commission, and if directed by the Chairman, make additional inquiries concerning the candidate's background or qualification.

1. Commission staff shall verify each candidate's medical licensure status.
2. Commission staff shall notify all candidates in writing of the time and place of the Commission meeting at which the district nomination(s) will be considered.



VIII. SEARCH PROCESS TIMEFRAME

1. The Governor will be notified by the Commission upon determination that a district medical examiner position has become vacant or is anticipated to become vacant.
2. Within 30 days of being notified of a vacancy or anticipated vacancy, the Chairman of the Commission shall call for a district candidate search committee to be established, and appoint a chairman.
3. The Commission, by majority vote, shall nominate one or more candidates to the Governor to fill a district medical examiner office vacancy, prior to the expiration of six months from the date of the vacancy.
4. The candidate search committee shall complete the interview and selection process and submit complete packages to the Commission within 90 days of appointment of the search committee.
5. If additional time is needed, a request must be made in writing and approved by the Commission Chairman.

