

073-370—October 2, 1973

SUNSHINE LAW

DISCIPLINARY HEARING BY CIVIL SERVICE BOARD

To: *Ralph H. Atwell, Attorney for Civil Service Board, Pensacola*

Prepared by: *Jan Dunn, Assistant Attorney General*

QUESTION:

Does the Sunshine Law require a civil service board to hold open deliberations and an open vote on the guilt or innocence of an employee at a disciplinary hearing?

SUMMARY:

The Sunshine Law requires that the civil service board hold open deliberations and an open vote on the guilt or innocence of an employee at a disciplinary hearing.

The Civil Service Board for the City of Pensacola was created by special act of the legislature. Based on this fact and also since the board has only those rulemaking powers as outlined by the act, your position is that it is "strictly a quasi-judicial board when holding a disciplinary hearing on charges against an employee and as such may retire and deliberate in seclusion its decision on the employee's guilt or innocence on the charges specified."

The Sunshine Law, §286.011, F. S., requires all boards and commissions of "any state agency or authority . . . of any county, municipal corporation or any political subdivision" to hold public meetings. The only exception contained in the statute is a constitutional one.

The Florida Supreme Court, in the case of *Canney v. Board of Public Instruction of Alachua County*, 278 So.2d 260 (Fla. 1973), held that boards acting in a quasi-judicial capacity are subject to the Sunshine Law. The court explained:

Once the Legislature transforms a portion of a board's responsibilities and duties into that of a judicial character so that the board may exercise quasi-judicial functions, the prerogatives of the Legislature in the matter do not cease. . . . If the Legislature may delegate these quasi-judicial powers to the School Board and regulate the procedure to be followed in hearings before the board, it follows as a matter of common logic that the Legislature may further require all meetings of the board at which official acts are to be taken to be public meetings open to the public. A board exercising quasi-judicial functions is not a part of the judicial branch of government.

The civil service board was created by the legislature which gave it any quasi-judicial functions it may have. Just as the school board in *Canney* is not a part of the judicial branch (although it exercised quasi-judicial functions), neither is the civil service board. Just as the school board could not recess a disciplinary hearing to reach a decision, neither can the civil service board. There is no exception in *Canney* for a body such as the civil service board. As a legislative body, the civil service board is thus under the control of the Sunshine Law according to the rule of the *Canney* case.