

Further, Florida Administrative Code Rule 28-109.004 specifically applies the Sunshine Law to all proceedings conducted by state agencies, including the Florida Department of Transportation (FDOT). Specifically, Rule 28-109.004 provides:

(1) Nothing in this chapter shall be construed to permit the agency to conduct any proceeding otherwise subject to the provisions of Section 286.011, F.S., exclusively by means of CMT without making provision for the attendance of any member of the public who desires to attend.

and

(2) No proceeding otherwise subject to Section 286.011, F.S., shall be conducted exclusively by means of CMT if the available technology is insufficient to permit all interested persons to attend.

Fla. Admin. Code Rule 28-109.004.

The rule goes on to state that “[i]f during the course of a CMT proceeding technical problems develop with the communications network that prevent interested persons from attending, *the agency shall terminate the proceeding* until the problems have been corrected.” *Id.* (emphasis added). However, FDOT has already completed at least six M-CORES virtual Task Force meetings on April 28, 29, and 30 and on May 12, 13, and 14 (see <https://floridamcores.com/calendar-of-events/>), during which obvious and undeniable webinar technical and access failures occurred. At none of these meetings did FDOT terminate the proceedings as required by law. Rather, FDOT proceeded with its virtual-only approach, despite technical failures during each of those six webinars.

In short, all of these six meeting have been conducted in violation of the law applying to and establishing M-CORES, and by so doing FDOT is also in violation of Florida's Sunshine Law. Until FDOT can provide access to “all interested persons” it cannot proceed without further violating Florida law.

The M-CORES task force is required by statute to deliver their evaluation in a final report to the Governor, the President of the Senate and the Speaker of the House. See Fla. Stat. § 338.2278(3)(c)9 (2019). As a result, there is no question that the M-CORES task force exercises the “type of advisory capacity that would be subject to the provisions of the government in the sunshine law.” *Town of Palm Beach v. Gradison*, 296 So. 2d 473, 476 (Fla. 1974).

If FDOT continues to hold M-CORES task force meetings by virtual “webinar meeting” and members of the public are unable to get online or call in to participate, the meeting must be terminated pursuant to Fla. Admin. Code Rule 28-109.004(2) and the law cited in this letter. Otherwise, FDOT is in violation of Florida law.