

47 FAR 49 | 3/12/2021 | NOTICE OF NEGOTIATED RULEMAKING

DEPARTMENT DEPARTMENT OF MANAGEMENT SERVICES

AGENCY FLORIDA COMMISSION ON HUMAN RELATIONS

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MEETING DATE

MEETING TIME

RULE NO 60Y-5.004

TITLE Executive Director's Investigatory
Determination; Notice

**RULEMAKING
AUTHORITY** 760.06(12), FS.

**LAW
IMPLEMENTED** 760.03(7), 760.06, 760.10, 760.11, FS.

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ORIGINATOR

APPROVER

PROPOSAL DATE

PUBLISH DATE



Purpose

The proposed rule amendments seek to clarify and delete obsolete, unnecessary, or redundant rules.

Subject Area to be Addressed

The proposed rules clarify proceedings upon complaints of unlawful employment practice.

Notification

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT

60Y-5.004 Executive Director's Investigatory Determination; Notice.

(1) Upon completion of an investigation, if a complaint has not been settled or withdrawn, the Office of Employment Investigations shall report the investigation, with recommendation, to the Office of General Counsel. The Office of General Counsel shall review the report and shall make a recommendation to the Executive Director as to whether there is reasonable cause to believe that an unlawful employment practice has occurred.

(2) If the recommendation is based upon lack of jurisdiction over the respondent or subject matter of the complaint or upon untimely filing of the complaint, the Executive Director may dismiss the complaint pursuant to subsection 60Y-5.006(3) or (11), F.A.C., provided that the investigation does not reveal any disputed issues of material fact. The Executive Director shall issue a determination on the foregoing bases of lack of jurisdiction or untimeliness where disputed issues of material fact appear to exist.

(3) After a determination has been made by the Executive Director, the Clerk shall serve a Notice of Determination, with copies of the determination, upon the complainant and the respondent.

(4) A Notice of Determination of Reasonable Cause shall include an invitation to participate in conciliation and shall advise the complainant of the elective right to file either a Petition for Relief, pursuant to Rule 60Y-5.008, F.A.C., within 35 days of the date of determination or a civil



action within one year of the date of determination. A Petition for Relief form, in blank, shall be provided to the complainant at the time of service of the notice.

(5) A Notice of Determination of No Reasonable Cause, No Jurisdiction or Untimeliness shall advise the complainant of the right to file a Petition for Relief, pursuant to Rule 60Y-5.008, F.A.C., within 35 days of the date of determination. A Petition for Relief form, in blank, shall be provided to the complainant at the time of service of the notice.

(6) If a Petition for Relief is not filed with the Commission within 35 days of the date of determination, the Commission will take no further action and will close the matter.

(67) After service of a Notice of Determination, the parties named in the determination may inspect the records and documents, in the custody of the Commission, which pertain to the determination. The Executive Director may direct that a particular record, document or portion thereof be withheld from inspection by a party only when necessary for the protection of a witness or third party, or for the preservation of a trade secret.

Rulemaking Authority 760.06(132) FS. Law Implemented 760.03(7), 760.06, 760.10, 760.11 FS. History-New 11-2-78, Amended 6-16-83, 8-12-85, Formerly 22T-9.04, 22T-9.004, Amended 2-5-04, Amended xx-xx-xx.

