

47 FAR 59 | 3/26/2021 | 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-11.004

TITLE Investigatory Process

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

**LAW
IMPLEMENTED** 112.3187-.31895. 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 rule clarifies proceedings upon complaints of Whistle-blower retaliation.

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.

PRELIMINATRY TEXT OF THE PROPOSED RULE DEVELOPMENT

60Y-11.004 Investigatory Process.

(1) Within five ~~three (3)~~ working days of a complaint being filed, the Commission shall acknowledge receipt of the complaint and send a copy of the complaint and any other preliminary information available concerning the disclosure of information under Section 112.3187, F.S., to the other parties named in Section 112.31895(1)(a), F.S. The other party shall also acknowledge receipt of such copies to the complainant ~~within 15 days~~.

(2) Within 15 days of the date the complaint was received, the Commission shall review the information and determine whether temporary reinstatement is appropriate under Section 112.3187(9)(f), F.S. If it so determines, the Commission shall apply for an expedited order from the appropriate agency or circuit court for reinstatement pending issuance of the final order on the complaint.

(3) If the Commission determines that reasonable grounds exist to believe that a prohibited action has occurred, is occurring, or is to be taken, it may request the agency or circuit court to order a stay of any personnel action for 45 days which, upon request, may be extended for appropriate periods of time. The Commission shall further report its determination together with any findings or recommendations, including corrective action to be taken, to the agency head and may report such to the Governor and Comptroller. If, after 35 ~~20~~ days, the agency does not implement the recommended corrective action, the Commission shall terminate the investigation. If the Commission finds, in consultation with



the complainant, that the agency has implemented the corrective action, the Commission shall file such finding with the agency head, together with any written comments that the complainant provides, and terminate the investigation.

(4) Within 180 ~~90~~ days of the date the complaint was received, the Commission shall provide the agency head and the Complainant with a fact-finding report that may include recommendations to the parties or proposed resolution of the complaint. The Commission shall then proceed to attempt to conciliate the complaint.

(5) If the Commission is unable to conciliate a complaint within 35 ~~60~~ days of the issuance of the fact-finding report ~~and its receipt by the parties~~, or if the Commission finds there are no reasonable grounds to believe that a prohibited personnel action has occurred, is occurring or is to be taken, the Commission shall terminate the investigation.

Rulemaking ~~Specific~~ Authority ~~120.54~~, 760.06(12) FS. Law Implemented 112.3187-.31895 FS. History-New 1-1-04, Amended xx-xx-xx.

