

29 FAR 35 | 8/29/2003 | NOTICE OF PROPOSED RULES

DEPARTMENT DEPARTMENT OF MANAGEMENT SERVICES

AGENCY FLORIDA COMMISSION ON HUMAN RELATIONS

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MEETING DATE Wednesday, September 24, 2003

MEETING TIME 9:00:00

RULE NO 60Y-3.001

TITLE Definitions

**SPECIFIC
AUTHORITY** 120.54, 760.06(12), 760.11(14), 760.32(5) FS.

**LAW
IMPLEMENTED** 120.54, 760.03, 760.05, 120.53, 120.533 FS.

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ORIGINATOR William James Tait, Jr., General Counsel

APPROVER Cecil Howard, Executive Director

PROPOSAL DATE 8/18/2003

PUBLISH DATE 8/1/2003

Purpose

The rule section provides for definitions.

Summary

Amendments have updated several definitions to recognize recent court and commission decisions and rule changes.

Regulatory Costs

None. Any person who wishes to provide information regarding the statement of estimated regulatory cost, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

Notification

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

FULL TEXT OF THE PROPOSED RULE

60Y-3.001 Definitions.

As used in the rules of the Commission:

- (1) "Act" means the Florida Civil Rights Act of 1992, as amended; Chapter 760, F.S.
- (2) "Chairperson" or "Chair" means the Chairperson of the Commission or Chairperson of a Panel, as the context may indicate.
- (3) "Clerk" means the person designated by the Executive Director as heading the Office of the Clerk.
- (4) "Complaint" means a written statement which alleges the occurrence of an unlawful employment practice, and includes an amended complaint.
- (5) "Complainant" means a person filing a complaint.
- (6) "Commission" means Florida Commission on Human Relations.
- (7) "Commissioner" or "member" means a member of the Commission.
- (8) "Division of Administrative Hearings" means the Division of Administrative Hearings of the Department of Management Services.

(9) "Document" means data compilations from which information can be obtained and includes, for example: writings, e-mail, drawings, charts, photographs, and phone o-records.

(10) "Employer" means any person employing 15 or more wemployees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person.

(11) "Employment Agency" means any person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunity to work for an employer, and includes an agent of such a person.

(12) "Executive Director" means the Executive Director of the Commission.

(13) "Disability" ~~"Handicap"~~ means a condition that is an impairment that substantially limits one or more of the major life activities ~~prevents normal functioning in some way; a person with a handicap does not enjoy the full and normal use of his or her sensory, mental or physical faculties.~~

(14) "General Counsel" means the General Counsel of the Commission.

(15) "Hearing Officer" or "Administrative Law Judge" means the person assigned to conduct a hearing upon a petition filed with the Commission.

(16) "Intervenor" means any person permitted by the Commission, a Panel, or a hearing officer to intervene in a proceeding upon a petition.

(17) "Marital Status" does not include the identity of the spouse and the relationship to the aggrieved person, but rather ~~not merely~~ the fact that the aggrieved person is married, single, divorced, separated, widowed, etc.

(18) "Labor Organization" means any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in connection with employment.

(19) "Panel" means a panel of three or more Commissioners appointed pursuant to subsection 760.03(5), F.S., and paragraph 60Y-2.003(6)(c), F.A.C.

(20) "Party" means any person designated as a party to a proceeding before the Commission, pursuant to rule of the Commission.

(21) "Person" includes an individual, association, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, unincorporated organization, any other legal or commercial entity, the state or any governmental entity or agency.

(22) "Petition" means a writing, other than a written motion, filed with the Commission pursuant to rule of the Commission asking that specified action be taken by the Commission or a Panel.

(23) "Petitioner" means the person filing a petition with the Commission pursuant to rule of the Commission.

(24) "Respondent" means (a) in the case of a complaint, the employer, employment agency, labor organization, joint labor-management committee, or person designated in the complaint as responsible for the alleged unlawful employment practice. or (b) in the case of a petition, the person against whom relief is requested.

(25) "Registered Mail" includes certified mail with return receipt requested.

(26) "Unlawful Employment Practice" means any practice so designated by Section 760.10, F.S.

(27) "Verified" means under oath or affirmation or by the signing of the written declaration prescribed by Section 92.525(2), F.S.

(28) "Date of determination" means the date the Determination was signed by the Executive Director or his delegatee.

(29) "Date of filing" means a completed complaint is received by the Commission prior to 5:00 p.m. (Eastern time) as provided by Rule 28-106.104, F.A.C.

(30) "Electronic filing" pursuant to subsection 60Y-2.005(5), F.A.C., means filing by facsimile.

(31) "Familial status" means whether or not children under the age of 18 are living with the complainant and/or whether the Complainant is pregnant, has a pending adoption, or not.

Specific Authority 760.06(12) FS. Law Implemented 92.525, 760.02, 760.03, 760.04, 760.05, 760.06, 760.10, 760.11 FS. History-New 11-2-78, Amended 8-12-85, Formerly 22T-7.01, 22T-7.001, Amended 9-1-93, 4-17-01, _____.