

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-5.006

TITLE Administrative Dismissal of a Complaint

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

**LAW
IMPLEMENTED** 760.01-.11 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 chapter provides for Commission proceedings to receive, investigate and act upon complaints of unlawful employment practice.

Summary

Amendments have updated rule sections to conform to current procedures and statutory requirements, including the adoption of the Uniform Rules of Procedure, and clarifying when a complaint is filed, and under what conditions, amendments, withdrawals and dismissals of complaints may be made.

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-5.006 Administrative Dismissal of a Complaint.

The Executive Director, on behalf of the Commission, may dismiss a complaint upon one or more of the following grounds:

(1) The complainant has failed or refused to cooperate or has failed to appear at or fails or refuses to participate in a duly noticed fact-finding conference and after notice pursuant to subsection 60Y-5.003(5), F.A.C., has failed to duly respond or show good cause for such nonappearance or nonparticipation;

(2) The complaint has been resolved by negotiated settlement pursuant to subsection 60Y-5.003(10), F.A.C.;

(3) The complaint has not been timely filed with the Commission;

(4) After service of Notice of Determination of Reasonable Cause, No Reasonable Cause, or No Jurisdiction ~~or Untimeliness~~, the complainant has failed to file a Request for Redetermination pursuant to Rule 60Y-5.007, F.A.C., ~~or~~

~~has failed to file a Petition for Relief pursuant to Rule 60Y-5.008, F.A.C.;~~

~~(5) Anytime after the expiration of 180 days from the date of filing the complaint when a Determination of Reasonable Cause or No Reasonable Cause has not been issued by the Commission and after the Complainant files notice of a planned, or files a, civil action in a court of competent jurisdiction. after service of a Notice of Redetermination of No Reasonable Cause, No Jurisdiction or Untimeliness, the complainant has failed to file a Petition for Relief pursuant to Rule 60Y-5.008, F.A.C.;~~

(6) after service of a Notice of Failure of Conciliation, the complainant has failed to file a Petition for Relief pursuant to 60Y-5.008, F.A.C.;

~~(6)(7) The the~~ complainant cannot be located after reasonable efforts to locate have been made and there is no response from the complainant within 30 days after notice was sent by certified mail to the complainant's last known address;

~~(7)(8) An an~~ agreement to submit to arbitration has been filed pursuant to Rule 60Y-5.009, F.A.C.;

~~(8)(9) The the~~ complainant has voluntarily dismissed the petition for relief pursuant to subsection 60Y-5.008 ~~(7)(9)~~, F.A.C.;

~~(9)(10) The the~~ complainant has voluntarily withdrawn the complaint, ~~including during the period from the issuance of the investigative determination through the final date in which a petition for relief from an unlawful employment practice may be filed; or~~

~~(10)(11) There there~~ is no jurisdiction over the respondent or subject matter of the complaint.

Specific Authority 760.06(13) FS. Law Implemented 20.05, 760.06, 760.10 FS. History-New 11-2-78, Amended 6-16-83, 8-29-84, 8-12-85, Formerly 22T-9.06, Amended 8-11-86, Formerly 22T-9.006, Amended _____.