

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

DEPARTMENT DEPARTMENT OF MANAGEMENT SERVICES

AGENCY FLORIDA COMMISSION ON HUMAN RELATIONS

FILENAME F000767_20030829.pdf

TBD PAGE 20030829_54.html

MEETING DATE Wednesday, September 24, 2003

MEETING TIME 9:00:00

RULE NO 60Y-11.004

TITLE Investigatory Process

**SPECIFIC
AUTHORITY** 760.06(12) FS.

**LAW
IMPLEMENTED** 112.3187-.31895 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 proposed rule chapter provides for Commission's implementation of the provisions of Sections 112.3187-112.31895, F.S., making it unlawful for any agency or independent contractor of an agency to take retaliatory action against an employee who reports violations of law to an appropriate agency under Sections 112.3187-112.31895, F.S.; the "Whistle-blower's Act."

Summary

The proposed rule chapter provides the Commission's procedures for handling complaints alleging retaliatory action against an employee who reports violations of law to an appropriate agency under Sections 112.3187-112.31895, F.S.

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-11.004 Investigatory Process.

(1) Within 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 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 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 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.

Specific Authority 120.54, 760.06(12) FS. Law Implemented 112.3187-.31895 FS. History-New _____.