

47 FAR 51 | 3/16/2021 | NOTICE OF PROPOSED RULES

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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APPROVER Florida Commission on Human Relations' board

PROPOSAL DATE 1/31/2020

PUBLISH DATE 3/12/2021

Purpose

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

Summary

The proposed rule amendments are in response to recent amendments to section 760.11, FS.

Regulatory Costs

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed rule amendment is to a procedural rule and will have no economic impact and, therefore, will not require ratification. There are no applicable federal standards that relate to Rule 60Y-5.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or 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 SCHEDULED AND ANNOUNCED IN THE FAR.

FULL TEXT OF THE PROPOSED RULE

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(1) Upon completion of an investigation, if a complaint has not been settled or withdrawn, the Office of Employment Investigations shall report the investigation, with recommendation, to the Office of General Counsel.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

(7)~~(6)~~ 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(12) ~~(13)~~ 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, _____.