

47 FAR 232 | 12/2/2021 | 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-3.001

TITLE Definitions

**SPECIFIC
AUTHORITY** 760.06(12)

**LAW
IMPLEMENTED** 760.03

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APPROVER Florida Commission on Human Relations Board

PROPOSAL DATE 7/29/2021

PUBLISH DATE 11/15/2021

Purpose

The proposed rule amendments seek to emphasize the importance of proceeding with a signed, verified complaint before moving forward with a formal investigation.

Summary

The proposed rule amendments underline the importance of the proceeding only upon receipt of signed complaints, as emphasized by the legislature in its most recent full session and by Commissioners in recent Board meetings.

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.

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-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, which is

signed and verified by the Complainant, 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 be included, for example: writings, e-mail, drawings, charts, photographs, and phone records.

(10) "Employer" means any person employing 15 or more employees 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" means a condition that is an impairment that substantially limits one or more of the major life activities as interpreted by 42 U.S.C. § 12102(2) in the Americans with Disabilities Act of 1990.

(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 includes the identity of the spouse and the relationship to the aggrieved person, but rather 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 or her designee.

(29) "Date of filing" means a completed, signed, and verified 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 or ~~at the Commission's website found at <http://fehr.state.fl.us>~~ by email.

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

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, 12-31-03, xx-xx-xx.