



**FLORIDA COMMISSION ON HUMAN RELATIONS
COMMISSION MEETING
FRIDAY, JULY 31, 2020
11:00 A.M. – 2:00 P.M. EST.**

**Call in #: 888-585-9008
Conference Room #: 413-187-475**

	Agenda Item	Speaker(s)
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- I. Call to Order, Roll Call, Determination of Quorum
- II. Introduction of Advisors and the Public
- III. Public Comments Relating to Current Agenda Items
- IV. Consideration of the Minutes (Vote)
- V. Opening Remarks
- VI. Hall of Fame Panel (Vote)
- VII. Legislative Priority (Vote)
- VIII. Executive Director Evaluation
- IX. Commissioner Comments
- X. Adjournment

When operating under Florida's Government in the Sunshine Law, the Florida Supreme Court recognizes the importance of public participation in open meetings. The Commission provides that right of access at each public meeting and adheres to Chapter 286.011, Florida Statutes.

In accordance with the Americans with Disabilities Act (ADA), and Chapter 286.26, Florida Statutes, persons in need of special accommodation to participate in the meeting (including an agenda) shall contact our office by email at casey.snipes@fchr.myflorida.com or by the following listed below:

Florida Commission on Human Relations
c/o Casey Snipes
4075 Esplanade Way, Room 110
Tallahassee, Florida 32399
850-488-7082

This meeting is subject to change upon the chair's request.

Commissioners

Monica Cepero Tallahassee	Donna Elam Port Richey	Libby Farmer Tallahassee	Mario Garza Lakewood Ranch
Larry Hart Ft Myers	Dawn Hanson Tallahassee	Al McCambry Lynn Haven	Darrick McGhee Tallahassee
Latanya Peterson, Chair Fleming Island	Jay Pichard Tallahassee	Angela Primiano Hollywood	Gilbert Singer Tampa

FLORIDA COMMISSION ON HUMAN RELATIONS
Meeting Minutes
July 20, 2020
Telephonic

1. Call to Order

The Chair called the meeting to order at 10:02 A.M. EST. on July 20, 2020.

2. Roll Call

The following Commissioners were present:
(a quorum was established with 6 members present)

- Latanya Peterson, Chair
- Donna Elam
- Mario Garza
- Al McCambry
- Jay Pichard
- Gilbert Singer

3. Chair's Opening Remarks – provided by Commissioner Peterson

MOTION: Made by Commissioner Peterson to table the agenda 10 calendar days to properly prepare for the Executive Director Evaluation.

SECOND: Commissioner Pichard

DISCUSSION ensued

AMENDED MOTION: Made by Commissioner Peterson to have a meeting on July 31, 2020 at 11:00 a.m.

SECOND: Commissioner Pichard

VOTE: The vote did not pass (3 Yay, 3 Nay)

- Commissioner Elam – No
- Commissioner Peterson – Yes
- Commissioner Garza – Yes
- Commissioner Pichard – Yes
- Commissioner McCambry - No
- Commissioner Singer – No

Per Commissioner Peterson, the Executive Director Evaluation will be tabled to another Commission meeting. The Board moved forward with the next agenda item, Civil Rights Hall of Fame.

4. Civil Rights Hall of Fame – provided by Commissioner Peterson

Commissioner Peterson requested the two panel members submit the completed score sheets to Ms. Snipes by Friday, July 24, 2020. The panel will reconvene on July 31, 2020 at 11:00 a.m. to discuss the nominee

5. HUD Evaluation

Commissioner McCambry requested a follow-up regarding the two areas of concern on the mid-year HUD evaluation at the next meeting. Commissioner McCambry also strongly encourages staff to have HUD provide a date for the formal review.

Approval of Meeting Minutes

MOTION: Made by Commissioner McCambry to approve the January 29, 2019 Commission meeting minutes.

SECOND: Commissioner Elam

VOTE: Unanimously approved

MOTION: Made by Commissioner Garza to approve the April 19, 2019 Commission meeting minutes.

SECOND: Commissioner McCambry

VOTE: Unanimously approved

MOTION: Made by Commissioner McCambry to approve the April 30, 2019 Panel meeting minutes.

SECOND: Commissioner Peterson

VOTE: Unanimously approved

MOTION: Made by Commissioner Garza to approve the May 9, 2019 Panel meeting minutes.

SECOND: Commissioner Peterson

VOTE: Unanimously approved

MOTION: Made by Commissioner McCambry to approve the June 4, 2019 Commission meeting minutes.

SECOND: Commissioner Peterson

VOTE: Unanimously approved

MOTION: Made by Commissioner Garza to approve the November 6, 2019 Commission meeting minutes.

SECOND: Commissioner Elam

VOTE: Unanimously approved

6. **Director's Opening Remarks – provided by Director Wilson**

During the opening remarks Director Wilson provided the following action items for consideration by the Board:

- Consideration of a future election for Chair and Vice-Chairpersons.
- Consideration on whether the two positions, appropriated by the legislature and currently in a reserve status, will be released to address a backlog in the Employment Investigations Unit.
- Consideration of 180-day transition notice.
- Determine how the Executive Director evaluation will be conducted, what the expectations and ENDS Priorities are and the overall structural process.

MOTION: Made by Commissioner McCambry for Commissioner Peterson to remain as interim Chair until an election is held.

SECOND: Commissioner Elam

VOTE: Unanimously approved

The Chair stated the discussion regarding the Chair and Vice Chairperson will be on the October 2020 agenda. The Chair recommended that Commissioners interested in either Chair or Vice-Chairperson submit their information to the Director for distribution to the Commissioners.

MOTION: Made by Commissioner Singer to allow the Director to request the two positions from the legislature.

SECOND: Commissioner McCambry

DISCUSSION ensued

AMDENDED MOTION: Made by Commissioner Singer to table the discussion until the next meeting.

DISCUSSION: Commissioner McCambry requested the investigator SOP, investigator turnover rate, average amount of cases worked per investigator, and a projection that shows what the additional two investigators would do immediately then at 30, 60, 90-days for the July 31st meeting.

SECOND: Commissioner McCambry

VOTE: Unanimously approved

7. **Meeting adjourned at 11:39 A.M. EST.**

MOTION: Made by Commissioner Pichard to adjourn the meeting.

SECOND: Commissioner Peterson

VOTE: No quorum to vote

- **Hall of Fame Panel Discussion**
- Score Sheets- Summary
- Summary of nominations

	Allen	Berg	Evans	Group	Howell	Hurst
Garza	56	61	68	59	70	63
McCambry	49	51	47	53	50	64
Peterson						
TOTAL SCORE PER NOMINEE	105	112	115	112	120	127
	Miles	Miller	Poole	Presley	Thomas	Zenzel
Garza	35	12	62	45	65	20
McCambry	11	3	62	13	54	13
Peterson						
TOTAL SCORE PER NOMINEE	46	15	124	58	119	33

Hall of Fame Nominees

Attorney W. George Allen (1936- deceased)

- Born in Sanford, Florida. He recently passed in Fort Lauderdale, Florida.
- Mr. Allen attended publicly operated and segregated schools of Seminole County and graduated from Crooms Academy High School in June 1954.
- He attended/graduated from Florida A&M University in June 1958, with a degree in Political Science and a commission as a Second Lieutenant in the United States Army.
- Mr. Allen served his country as a Special Agent in Army Intelligence for 2 years active duty and 4 years in the Army Reserve.
- In 1960, he entered the University of Florida Law School and graduated in December 1962 with a Doctor of Jurisprudence degree, and is recognized as the first Black to earn a degree from any former white institution in Florida and the Southeast United States.
- He was admitted to the Florida Bar on June 7, 1963 and to the United States Supreme Court on November 16, 1970.
- Throughout his 50-year legal career, Mr. Allen was actively involved in the legal fight for Civil Rights, Diversity, and Dignity throughout the State of Florida. He participated in civil rights demonstrations as a student at Florida A&M University in Tallahassee, FL and the University of Florida, in Gainesville, FL.
- Most importantly, Mr. Allen filed the lawsuit that resulted in the desegregation of Broward County and Hendry County public schools and assured that all students in these two counties would have “equal” access to educational opportunities.
- The Broward County Public Schools had approximately 270,000 regular students, 175,000 adult students, and 241 public schools that directly/indirectly benefited from Mr. Allen's successful lawsuit that desegregated the public school system.

The Rev. Moses General Miles (1918 -1998)

- Born in Tallahassee, Florida.
- He served as the Dean of Students for well over 30 years at Florida A&M University (FAMU).
- In 1956, he was the FAMU dean of students who posted bail to get Carrie Patterson and Wilhelmina Jakes released from jail after their refusal to move to back of a City of Tallahassee street bus. It was on Saturday, May 26, 1956, when the two female Florida A&M University students paid their fare and boarded a bus almost filled to capacity. After sitting in the only remaining open seats on the bus, Wilhelmina Jakes and Carrie Patterson were quickly asked by the bus driver to stand because the seats that they were occupying were next to a white woman. The young women agreed to get off the bus contingent upon their fares being returned to them. The bus driver refused, and in kind, they refused to get off of the bus. The authorities were immediately called, and the two were arrested and jailed for inciting a riot. Although this incident was unplanned, it was the spark that ignited the civil rights movement in Tallahassee.
- Provided guidance of thousands of FAMU students during the Civil Rights movements of the 1950's and 1960's, as well as ministers statewide.
- FAMU Legacy Award recipient

Dr. Charles L. Evans, Sr. (July 23, 1945 - August 21, 2013)

- Second only to the Rev. C.K. Steele, as the pioneering and longest serving President of the NAACP Tallahassee Branch was a native of Durham, North Carolina, where he was raised with six siblings.
- He attended North Carolina A&T State University, where he earned a degree in engineering mathematics.
- After college, he became a Navy pilot and later worked for General Electric.
- He eventually obtained master's and doctoral degrees in marketing from Syracuse University and returned to North Carolina A&T State University to teach. At his retirement in 2013, he was Associate Dean and Professor of Marketing at Florida A&M University (FAMU), where he taught for 30 years.

- Dr. Evans was a sought-after consultant with major Fortune 500 companies such as Colgate, Pepsi Cola, American Express, Anheuser Busch, General Motors, Corning, Seagrams, Tropicana, Champion and US West. He also helped Tallahassee's small businesses meet their marketing and strategic planning needs.
- Evans published numerous articles and gave many presentations throughout the United States, helping others make important business and marketing decisions.
- Evans served as Chair of the Bethel Community Development Corporation, was a former board member and Chair of the FAMU Federal Credit Union, board member and founding president of Kappa Alpha Psi Guideright Foundation of Tallahassee, President Emeritus of the Tallahassee NAACP (1990-1998 and 2003-2008) and Chair of the Education Committee of the Florida State Conference of the NAACP.
- He was also a strong advocate for civil rights.
- He secured funding to move the Historic Modern Cleaners Building from Macomb Street to Brevard Street in Historic Frenchtown to serve as an office building for the NAACP, ultimately saving the 70-year-old structure from demolition. He also secured funds to repaint the Historic Bethel Baptist Church, the oldest black church remaining in Tallahassee.
- As NAACP President, he spearheaded the Martin Lee Anderson Case, a protest march at the state capitol and in Panama City, which brought national focus to Florida's youth boot camps. Dr. Evans founded the Community Reinvestment Act (CRA) Breakfast held at Bethel A.M.E. Church - issues highlighted were discrepancies between lending and redlining of Black Tallahassee citizens.
- He was also a member of Florida Fund for Minority Teachers, Kappa Alpha Psi Fraternity, Tallahassee Museum of History and Natural Science, Southern Scholarship Fund, Harry T. Moore Fund, Tallahassee Community Relations Council, Education Accountability and Reform for the State of Florida, Judicial Council for the State of Florida, Physical Therapy Board for the State of Florida and Leon County Superintendent's Evaluation Committee.
- He was married to Dr. Connie Hicks-Evans. They have four children, Charles Jr., Carita, Connie, and Cara, and eight grandchildren.

Aquilina Celia Casañas Howell (May 3, 1917 – January 13, 2000)

- Received her formal education in the public schools of Leon County, earning a BA Degree from Florida Agricultural and Mechanical University in 1938, and an MEd Degree from New

York University in 1956. She completed further study at Boston University and the University of Chicago.

- Aquilina Howell's exemplary career as a social studies, Spanish and English teacher, guidance counselor, educational supervisor and administrator spanned over forty-three years where she provided outstanding leadership and guidance to students, teachers and administrators.
- She settled disputes among school administrators, advised civic leaders, calmed and successfully negotiated with angry parents who did not want their children to attend a Black school, and guided the Tallahassee community through the often thorny path of school integration in the 1960s and 1970s.
- At her retirement, she held the distinguished honor of being the first female ever to be appointed as Assistant Superintendent in the Leon County School District. Leon County School District named and dedicated the Aquilina C. Howell Instructional Service Center in her honor on November 28, 1995.
- Along with three other devoted citizens of the Tallahassee community, was honored in the naming of the Carter-Howell-Strong Park where she was known for her leadership, commitment and service to her birthplace, affectionately known as Frenchtown and in 2009, Aquilina Howell Street was dedicated to her memory.
- Howell served her city government as a vibrant member of the Parks Board and the Friends of Our Parks Board for many years, being named the Friends' first Honorary Lifetime Member. She also served on numerous boards and committees within the city, county and state governments where she helped plan, develop and implement policies that had a positive impact upon the entire community.
- Howell was a devoted member of Bethel Missionary Baptist Church all her life where her Grandfather, the legendary Leon County educator Lewis Washington Taylor had served as church Deacon and Superintendent of the Sunday school. She was Basileus, and a Golden Soror of the Alpha Kappa Alpha Sorority, having devoted more than 50 years.
- She left a legacy of appreciation for the arts and history giving generously of her time, energy, and resources as she worked tirelessly to help ensure historically significant landmarks, such as the Taylor House Museum of Historic Frenchtown and legacies were preserved for their value to inspire, instruct and motivate.

Group Nomination (Student movement in 1963)

- All Florida A&M University students who participated in and supported the Civil Rights Movement of 1963 played an invaluable role.
- Hundreds of peaceful and well-organized students marched from the campus into downtown Tallahassee in protest of the segregated Florida Theatre that refused admission to African-Americans.
- Of special note is the challenging and costly plight of second offenders who were arrested, sentenced, fined and served time in the Leon County jail. Second offenders are part of a unique group of demonstrators who totally defied the content and limitations of a district court orders, twice.
- These students, repeat offenders, experienced stiffer penalties, were jailed longer, with more costly fines, and suffered more uncertainty than other students who were arrested.
- Their participation resulted in courageous acts, personal and family sacrifices, strength and imminent resolve to their places in the FAMU college student movement.
- This cadre of student demonstrators, set aside from the larger group of demonstrators by court decisions, initiated a different type of conversation on issues of University autonomy confronting the State of Florida (Board of Regents and University administration.
- It was this cadre of students in the movement that inspired the continued attention of national civil rights groups such as CORE, NAACP, SCLC, SNCC, to take notice of FAME students.
- The activities of civil rights have been continuous and never ending in the life times of the nominees. Individually and collectively members of the group have amassed and un-ending number of activities and accomplishments throughout their careers, over the past 55 years since their arrests and fines in 1963.

Rodney L. Hurst, Sr. (NO DATE PROVIDED)

- Mr. Rodney L. Hurst, Sr. is a Civil Rights activist, a Black historian, and his leadership in those two capacities and many more has provided transformational Civil Rights leadership in Jacksonville and the State of Florida since he led the Jacksonville sit-ins in 1960 when he was only 16 years old.
- His leadership contributed to the integration of many spaces in the Jacksonville public sphere: downtown lunch counters, services such as the fire department, and Duval County Public Schools.

- Through his scholarship and teaching and mentoring, Mr. Hurst empowers diverse citizens, but particularly youth in Jacksonville, to challenge racism and other injustices because, as Mr. Hurst often says, “the struggle continues.”
- He furthered communities in NE Florida toward greater equity, justice, and inclusion is that he not only has engaged and continues to engage in direct action and activism challenging racism and structural inequality, but he also provides invaluable critical and scholarly analysis as a Black and Civil Rights historian and educator.
- Mr. Hurst has written and published two award-winning books: *It Was Never about a Hot Dog and A Coke!*, a personal account of the 1960 sit-in demonstrations in Jacksonville, Florida and *Ax Handle Saturday*; and *Unless WE Tell It...It Never Gets Told!*, which contains stories of notable Black leaders of Jacksonville who impacted the city and the country, as well as relating stories of America’s Black History including Black America’s historical fight against Racism.
- Rodney L. Hurst Sr.’s second book *Unless WE Tell It...It Never Gets Told!*, published in January 2016, relates stories of notable Blacks of Jacksonville who impacted this city and the country, relates stories of America’s Black History, and discusses Black America’s historical fight against Racism. It was itself honored as one of five finalists for the 2016 Multicultural Non-Fiction Award by the National Best Books Awards national book competition; and the 2017 Jacksonville Historical Preservation Commission Award. This book, too, has had a profound impact on readers, as does Mr. Hurst’s teaching that has emerged through its content. He has presented and facilitated conversations with hundreds of youth and adults throughout the Jacksonville community, the State of Florida, and nationally around the vital importance of rehabilitating how we teach American history in schools so that it is more accurate, honest, and complete, particularly around the experiences and contributions of African and African American people.
- Many others have recognized the importance of studying and learning from Hurst’s leadership. For example, his leadership as the President of the Youth Council of the NAACP Jacksonville as a teenager during the Civil Rights Movement is the subject of a chapter in the Scholastic book, *Ten True Tales: Young Civil Rights Heroes* written for Third-to-Seventh Graders, ages 8 to 12. Now, Hurst’s third book, *Never Forget Who You Are: Conversations about Racism and Identity Development* is scheduled for publication in early 2020.

- In addition to his involvement in the Civil Rights Movement, Hurst served two four-year terms on the Jacksonville City Council. He is responsible for a number of “firsts” in the Jacksonville Community: He was one of the thirteen original national recipients of the Corporation for Public Broadcasting Television Fellowships; He was the first Black to co-host a television talk show in Jacksonville on PBS Channel WJCT; He was the first Black male hired at the Prudential South Central Home Office in Jacksonville, Florida; and He was the first Black to serve as the Executive Director of the State of Florida’s Construction Industry Licensing Board.
- A Silver Life Member of the National Association for the Advancement of Colored People (NAACP), Hurst serves on several on the board of several organizations and agencies in the Jacksonville Community.
- He is a veteran of the United States Air Force.
- Hurst speaks extensively on Civil Rights, Black History, and Racism. He was the keynote speaker for the City of Jacksonville’s 23rd Annual Martin Luther King Breakfast in 2010, the keynote speaker for the 2013 Nassau County Annual Martin Luther King Breakfast, the keynote speaker for the 2013 Brevard County NAACP Branch Freedom Fund Dinner. He was the keynote speaker at the 2017 Jacksonville Black Baptist Minister’s Dr. Martin Luther King Jr. Breakfast. He was also the keynote speaker at the 2013 Induction Ceremony when Civil Rights stalwarts, Harriette and Harry T. Moore were both inducted in the Florida Civil Rights Hall of Fame.
- Hurst speaks at college and university campuses throughout the state of Florida and the country. He has been serving as an advisory for the University of North Florida’s Center for Urban Education and Policy where his leadership has been critical to a number of high-impact programs including the Sankofa Narrative Project through which residents in Jacksonville and NE Florida share their stories and own first-hand accounts of growing up in segregated communities, attending segregated schools, as well as participating in integration efforts. In addition, Mr. Hurst periodically teaches a Black History, Civil Rights, and Racism Class in the University of North Florida’s OLLI (Osher Lifelong Learning Institute) Program.
- Hurst is the recipient of numerous awards including, the James S. Genwright, Sr. Humanitarian Award, given by the Lincoln-Douglas Memorial Emancipation Proclamation Association, Inc.; the Clanzel T. Brown Award, given by the Jacksonville Urban League; the Dr. Mary McLeod Bethune Visionary Award, given by the National Alumni Association of

Bethune-Cookman University; the Outstanding Alumnus Award by the National Alumni Association of Edward Waters College; the President's Award given by the President of the Jacksonville Branch National Association for the Advancement of Colored People (NAACP); and the Jacksonville, Florida OneJax Silver Medallion Humanitarian Award.

The Rev. Moses General Miles (1918 -1998)

- Born in Tallahassee, Florida.
- He served as the Dean of Students for well over 30 years at Florida A&M University (FAMU).
- In 1956, he was the FAMU dean of students who posted bail to get Carrie Patterson and Wilhelmina Jakes released from jail after their refusal to move to back of a City of Tallahassee street bus. It was on Saturday, May 26, 1956, when the two female Florida A&M University students paid their fare and boarded a bus almost filled to capacity. After sitting in the only remaining open seats on the bus, Wilhelmina Jakes and Carrie Patterson were quickly asked by the bus driver to stand because the seats that they were occupying were next to a white woman. The young women agreed to get off the bus contingent upon their fares being returned to them. The bus driver refused, and in kind, they refused to get off of the bus. The authorities were immediately called, and the two were arrested and jailed for inciting a riot. Although this incident was unplanned, it was the spark that ignited the civil rights movement in Tallahassee.
- Provided guidance of thousands of FAMU students during the Civil Rights movements of the 1950's and 1960's, as well as ministers statewide.
- FAMU Legacy Award recipient

Jermaine Miller (NO DATE PROVIDED)

- Former convicted felon who marched with the Dream Defenders and stayed at the capitol 31 days and nights.
- He made impact in the communities and due to him at the dream defenders he deserves to be nominated.
- Helped create sandbags for Tallahassee, Fla
- Got people registered to vote

- Raised money for organizations
- Marched with Andrew Gilliam on gun control

Thomas Henry "TH" Poole, Sr. (NO DATE PROVIDED)

- He began a crusade in civil rights joining the Orange County FL NAACP Branch in 1958, lasting over 50-years.
- Served over 26-years as President of the Tri-City Branch-NAACP, 12-years President of the Florida State Conference of NAACP Branches and 12-years on the National Board of Directors of the National NAACP.
- Thomas Henry Poole, Sr. accumulated a remarkable superior record of civil and human rights accomplishments. Remarkable also, is the fact that T.H. Poole served as local and State President of the NAACP, Director of the Southeast Region 5, member of the of the National Board of Directors and Chairman of the Annual NAACP Image Awards in Los Angeles, California, holding all five offices at the same time: a clear testament to his leadership.
- During this same period, he was appointed by FL Governors and confirmed by the FL Senate to the Florida Commission on Human Relations, in which he served for a period of 12-years.
- His long years of service and leadership is defined by exemplary courage, tenacity, big issues and successful outcomes.
- His civil rights fingerprints are on challenges for equity, diversity, opportunities and fairness related to Walt Disney World, radio and TV stations in FL, single member district legislation in FL, Publix Super Market Co., Florida Department of Corrections, et. al.
- His courageous civil rights work was done often at great risk of personal danger to himself. Dead cats left in his yard and intimidation tactics by sheriff deputies were just a couple of ways his oppositions expressed dislike for his civil rights advocacy work.
- The local newspaper (Daily Commercial), describes T.H. Poole's response to intimidation tactics with this headline; "Civil-Rights Leader Never Blinks".
- When the final chapters are written of Florida greatest Civil Rights leaders, T.H. Poole, Sr. successful record will place him shoulder to shoulder with greats like Harry T. Moore, Edward D. Davis, Robert W. Sanders, et. al. This classification of greats competes very competitively with national civil rights greatest.

Bernice Daniels Presley (NO DATE PROVIDED)

- Mrs. Presley was a participant in the sit-In demonstrations in Tallahassee.
- She worked closely with Rev. C. K. Steele in organizing the equality in service and treatment of Blacks sit-ins while she was a student at FAMU.
- She coached brain bowl teams for McKnight Achievers Society. Several of her teams placed first. As a result, the students on the winning team received college scholarships. (3 medical doctors, 2 college professors, several educators, government workers and other professions)
- She is presently Director of the Presley Excel and Scholars Program which is a mentoring program for girls and boys.
- Mrs. Presley is a retired teacher, but continues to work with students in her community.
- Was a state finalist for Ida S. Baker Educator Award.
- Mrs. Presley has numerous other civil rights achievements , and is considered an “unsung hero and activist “

Ezzie Thomas (NO DATE PROVIDED)

- United States Air Force veteran, entrepreneur and civil rights advocate has registered thousands of voters in Central Florida. It is not just any voter but those who have been historically marginalized, ignored, and discriminated against i.e. the poor and people of color.
- Thomas was born in the Jim Crow era and witnessed firsthand how this right was denied to African Americans in Orange County, the state of Florida and throughout the United States. Having witnessed this discrimination, Mr. Thomas became an advocate for registering voters, educating voters on the importance and necessity of voting and ensuring that the voters in fact voted.
- As the president of the Orange County Chapter of the Florida Voter's League, he created innovative ways to register voters. Specifically, he led the organization to meet the voter in the voter's comfort zone. Through his leadership the Orange County Chapter arranged with various communities of faith to register voters at churches.
- As an entrepreneur and businessman, he worked with various businesses to schedule "Voter Registration Drives" at shopping centers and in front of various businesses (e.g. Walmart, Winn Dixie, Orlando Housing Authority complexes, Publix).

- Mr. Thomas led the effort to work with a nationally syndicated radio program, "The Tom Joyner Morning Show" where the Orange County Chapter of the Florida Voter's League registered voters during a live performance (3 hours) of the show at Walt Disney World over several years. During these performances, more than 2500 were registered to vote.
- In the area of educating the voter, Mr. Thomas led the Orange County Chapter by conducting workshops at churches, civic organizations and community centers concerning elections (city, county, state and federal) and on ballot initiatives. Under Mr. Thomas' leadership, the Orange County Chapter sponsored candidate forums in the underserved, neglected, ignored communities so those citizens could hear, meet and decide for themselves who was the best candidate to represent them.
- In the area of voter participation, Mr. Thomas has had his greatest impact. Mr. Thomas recognized a major disparity between the number of registered voters and the number of voters who voted. He noticed in the poor, black and underserved communities, voter participation in some elections were less than 15 percent. Further research and study revealed that many voters worked on the day of election and the elderly did not have transportation to the polls.
- As a result of his research, Mr. Thomas became an advocate for the establishment in law of early voting. Today, in Florida, voters can now vote as early as two weeks before the day of election. Mr. Thomas has been a proud supporter of the "Souls to the Polls" initiative. This effort focused on churches encouraging their members to vote on the Sunday before the day of election.
- Mr. Thomas' efforts were so innovative and revolutionary with respect to mail-in/absentee ballot that it fundamentally changed how the mail-in/absentee ballot is viewed. Observers credited the mail-in/absentee ballot with not only increasing voter participation but also having a major impact on election results. As a result, many campaigns began to see the importance and significance of the mail-in/absentee ballot.
- Currently, Mr. Thomas serves as the President of the Florida Voter's League.

Christopher David Zenel (NO DATE PROVIDED)

- Born in Pennsylvania and moved to Florida with a dream to start over my life after a serious of self-harm incidents caused by medication and bullying in-person and online.
- When he came to Florida, he suffered several job losses, discrimination, and sexual harassment because of my Autism Processing Issues even though I am very high functioning.

- When he found an IP (1) address to prove he was being bullied, he was forced into silo because of his disabilities, civil rights, and prevented from having friends, relationships, and shunned by communities across Florida, including by Orlando PD, OCSO, Walt Disney Company, and other organizations or public places of accommodation and employment.
- He was subjected by sexual harassment, fake lease violations, fake lease evictions pinned to my door, placed in the back of rides (boats), and other items, after he discovered he might have won his father's employment case and his own for bullying & harassment. He was shunned when talking to people and was often issued a trespass warning for self-harm (disability & medication).
- He started having gay men and women who were married sexually harass me from other ends and preventing him from having his trespass warning lifted at Walt Disney World.
- Suffered over 6 - 8 moves in a single year due to hate crimes in neighborhoods about my Autism and love for Disney including an illegal DCF investigation at Falcon Square at Independence as well.

**Employment Investigations Overview
of Standard Operating Procedures**
For additional information refer to: Appendices 1, 2, 3, 4, and 5
Intake Inquiry/Technical Assistant Questionnaire (TAQ) Assessment
Standard Operating Summary

Purpose

Describes the role of the Employment Intake Specialist

Scope

To properly assess inquiries received by the Commission

Procedure

1. Assign all inquiries, Technical Assistance Questionnaires (TAQ), charge forms, letters and other documentation received to an Intake Specialist (IS) to conduct a jurisdictional assessment.
 - a. Title VII of Civil Rights Act 1964
 - b. Americans with Disability Act (ADA)
 - c. Age Discrimination of Employment Act (ADEA)
 - d. F.S. 760 Employment, Public Accommodation, Marvin Davies Act
 - e. Chapter 509
 - f. (5) F.S. 760 WB Retaliation
2. Determine if the claim of discrimination is covered by one or more of the protected classes:
 - a. Race,
 - b. Color,
 - c. National Origin,
 - d. Age,
 - e. Sex/LGBTQ+
 - f. Gender
 - g. Pregnancy,
 - h. Disability,
 - i. Religion,
 - j. Marital Status
 - k. Retaliation
3. Determine if the claim was received within 365 days from the date of harm. Chapter 760, F.S and FAC 60Y-5 provide that a complaint may be filed at any time within 365 days of the occurrence of the alleged unlawful employment practice.

4. The IS may recommend that the complaint be closed based on jurisdiction and technical deficiencies. The supervisor submits the recommendation to the Legal Unit for approval.
5. If the attorney determines that jurisdiction is established and that there are no technical defects, the case is returned to the Intake specialist to assist the draft a charge to be signed and docketed.

Intake Closure Recommendation and Legal Unit Review - Standard Operating Summary

Purpose

To describe the review process of administratively closed cases.

Scope

To properly assess inquiries for recommended closures.

Operating Procedure

An Intake Specialists (IS) submits inquiries and recommendations to the Customer Service/Intake Manager (CSIM). The CSIM reviews the inquiries to ensure that all intake administrative closure requirements are met. The review consists of the following steps:

1. The allegations are covered under the following one or more statutes:
 - a. Title VII, Chapter 760, F.S.
 - b. Public Accommodation Chapter 760, F.S.,
 - c. Whistleblower Retaliation Chapter 509, F.S.

2. Complainant identified a statutorily covered bases
 - a. Race
 - b. Color
 - c. Religion
 - d. Age
 - e. Disability
 - f. National Origin
 - g. Sex/Gender LGBTQ+
 - h. Pregnancy
 - i. Harassment
 - j. Retaliation

3. Complainant filed a claim within 365 days from the last date of harm or 60 days from the date of harm for a Whistleblower Retaliation Claim.

4. The charge is signed and dated

5. Deputy General Counsel reviews the claim for closure and determines whether to accept the recommendation.

Employment Investigation Process
Standard Operating Summary
For additional information refer to: Appendix 3

Purpose

To establish the Investigative Process

Scope

The Employment Unit Managers and Investigators follow this procedure.

Operating Procedure

1. The Employment Investigations Supervisor (supervisor) assigns a case to an investigator from the case management system namely Actionstep (AS).
2. The investigator reviews the TAQ and or complaint charge form to ensure that all bases (*protected classes*) and issues (*adverse actions*) are notated accurately in the case management system. The investigator notifies the supervisor if any corrections are required to continue the investigation.
 - a. Contact letters are mailed or emailed to the parties (complainant and respondent). Respondent has 25 – 30 days to submit an answer to the allegations in writing.
3. The investigator conducts interviews.
4. Once a position statement is received, the complainant is afforded an opportunity to rebut the respondent's answer within 14 days.
5. If additional information is required, the investigator provides one week to the parties to respond. Extensions are given at the discretion of the Investigator. Excessive extensions (more than 2 weeks) are not recommended and the investigator must consult with the Supervisor.
6. The investigator completes an Investigative Memorandum (IM) and submits it to the supervisor to review and approval.

Current Employment Data

The Employment Unit consists of 13 Investigators:

- (7) Investigator I – maximum assigned 38 cases
- (6) Investigator II – maximum assigned 48 cases

Investigator Tenure

LAST NAME	FIRST NAME	AGENCY HIRE DATE	FCHR YEARS OF SERVICE	CLASS TITLE
EMPLOYMENT INVESTIGATIONS				
Maxwell	Alicia	10/06/2000	19 years, 9 months	Investigation Specialist II-SES
Aldridge	Carli	05/27/2016	4 years, 1 months	Investigation Specialist II
Chin	Mark	03/15/2019	1 years, 4 months	Investigation Specialist II
Jordan	Heather	12/04/2015	4 years, 7 months	Investigation Specialist II
Meeks	Brandon	03/20/2017	3 years, 4 months	Investigation Specialist II
Richards	Rosemary	11/21/2014	5 years, 8 months	Investigation Specialist II
Franklin	Katina	05/19/2017	3 years, 2 months	Investigation Specialist I
Fritz	Randal	09/30/2019	0 years, 9 months	Investigation Specialist I
Gavin	Jameiha	04/10/2020	0 years, 3 months	Investigation Specialist I
Montenegro	Elisbet	10/02/2015	4 years, 9 months	Investigation Specialist I
Thornton	Pamela	05/10/2019	1 years, 2 months	Investigation Specialist I
Vandewalle	Kimberly	02/21/2020	0 years, 5 months	Investigation Specialist I

Productivity Requirements:

Investigator I is required to submit a minimum of 6 cases per month

Investigator II is required to submit a minimum of 8 cases per month

The entire Employment Unit is required to produce a minimum of 90 cases per month. With current overtime, staff averages 120 cases per month.

Currently, we have a total of 902 cases (100%) of which 228 cases, (25.27%) have not been assigned to an Investigator. Also, when you review cases assigned to Investigators it equals 430 cases which is 47.67%. Further review to include supervisory review is 78 cases, it is a mere (8.12%). Please note that this number is directly affected by the number of cases not assigned to an investigator. The cases submitted to legal is 166 cases which is (18.40%).

Currently, Investigator I case load average is 38 and Investigator II average is 48 cases. The addition of two (2) Investigators would account for 76 cases being assigned to new personnel. There are still 152 cases yet to be assigned. The new positions will allow us to increase productivity but will not allow us to totally eliminate pending assigned cases. The positions will expedite cases being moved quicker to supervisory review and closer.

Please be mindful, because of recent Supreme court decisions to include Sexual Orientation, as a part of Sex as a covered bases, we project an increase in complaints filed. Also, we are experiencing an increase in complaints related to COVID -19 under the bases of race and disability. Therefore, we request immediate approval of two Investigator I positions.

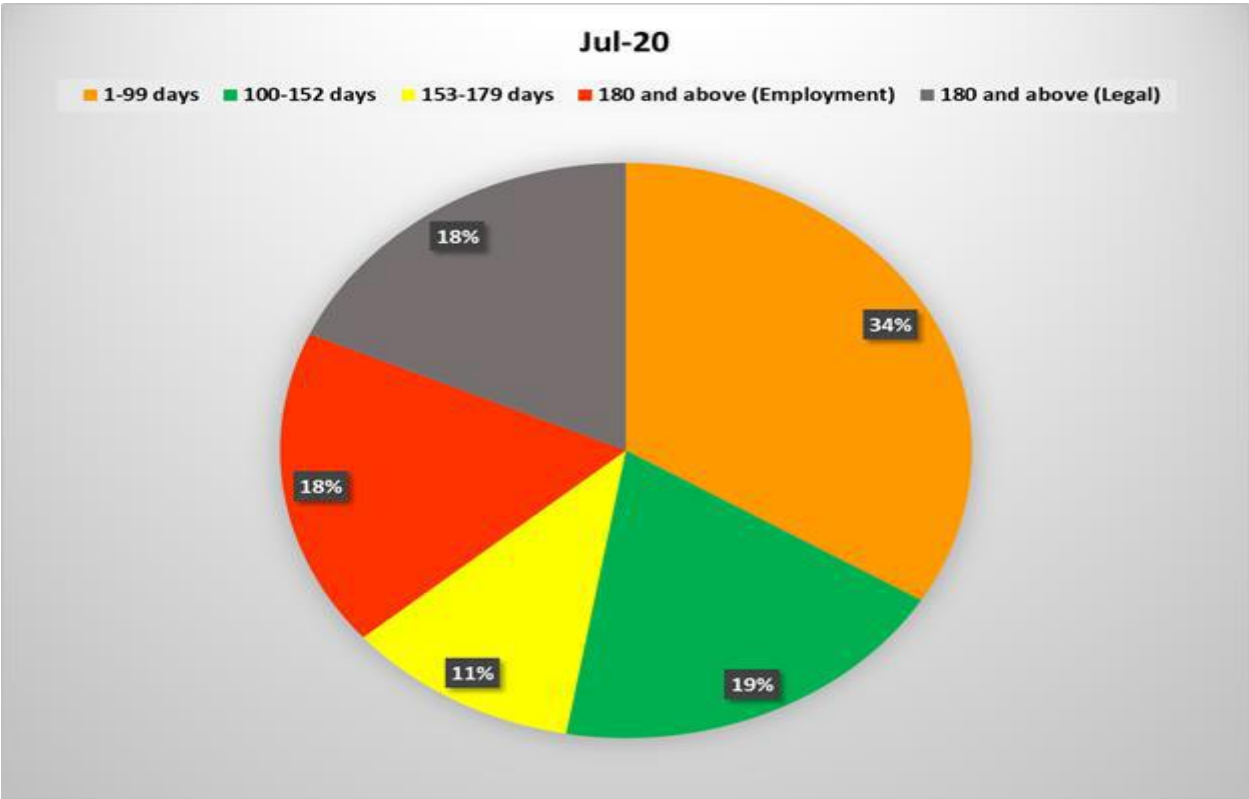
Inventory:

The Commission currently has a total caseload inventory of 902 cases. As of July 24, 2020

Employment Data	Jul-20	Percentage
Cases waiting to be assigned to Investigators	228	25.27%
Cases assigned to Investigators	430	47.67%
Cases under Supervisory Review	78	8.64%
Cases submitted to Legal for Review	166	18.40%
Total Cases	902	100.00%

The Case Age of Inventory are as follows:

Employment Age of Cases	Jul-20
1-99 days	297
100-152 days	182
153-179 days	109
180 and above (Employment)	155
180 and above (Legal)	159
Total Cases	902



A backlog is defined as a case that has exceeded 180 days, therefore the case is considered to be aged at day 181.

Long-Range Program Plan

Purpose

Florida agencies are required to develop Long Range Program Plans (LRPP) that are intended to provide the framework and justification for agency budgets pursuant to sections 216.013 and 216.023, Florida Statutes. These plans have a 5-year planning horizon focusing on agency priorities in achieving the goals and objectives of the state.

Goal: Ensure fair treatment of both complainants and respondent in instances of alleged discrimination and promote mutual respect and greater harmony among diverse groups.

Objective: Encourage fair treatment, equal access and mutual respect for persons who live in, work in, and visit Florida.

Outcome: Percent of civil rights cases resolved within 180 days of filing.

	Baseline/Year	FY 2020-21	FY 2021-22	FY 2022-23	FY 2023-24	FY 2024-25
Commission on Human Relations	59% 2001-02	75%	75%	75%	75%	75%

Historical Overview of Performance (provided in annual General Appropriations Act)

Performance Measures	FY 12-13 Standard	FY 12-13 Actual	FY 13-14 Standard	FY 13-14 Actual	FY 14-15 Standard	FY 14-15 Actual	FY 15-16 Standard	FY 15-16 Actual
Outcome: Percent of civil rights cases resolved within 180 days of filing (The baseline Year 2001 - 02 - 59%)	75%	66%	75%	56%	75%	71%	75%	54%
Unit Cost: Number of inquiries and investigations	10,000	12,475	10,000	10,754	10,000	10,099	10,000	13,424
Unit Cost Output: Percent of Commission determinations upheld by the Division of Administrative Hearings (DOAH)	80%	86.7%	80%	89.6%	80%	91.7%	80%	84.3%
Performance Measures	FY 16-17 Standard	FY 16-17 Actual	FY 17-18 Standard	FY 17-18 Actual	FY 18-19 Standard	FY 18-19 Actual	FY 19-20 Standard	FY 19-20 Requested
Outcome: Percent of civil rights cases resolved within 180 days of filing (The baseline Year 2001 - 02 - 59%)	75%	58%	75%	45%	75%	25%	75%	75%
Unit Cost: Number of inquiries and investigations	10,000	9,886	10,000	10,423	10,000	10,717	10,000	10,000
Unit Cost Output: Percent of Commission determinations upheld by the Division of Administrative Hearings (DOAH)	80%	91.6%	80%	92.2%	80%	80%	80%	80%

Agency Long-Range Program Plan for Fiscal Year 2020-2021

(Florida Commission on Human Relations are located on pages 1,4, 8, 39, 49, 66, and 77)

[Manual Exhibits and Supporting Documents](#) Link to the Florida Fiscal Portal Publication

Table of Contents	
Agency Mission, Goals and Linkage to the Governor’s Priorities	1
Agency Objectives	4
Agency Service Outcomes and Performance Projection Tables.....	5
Trends and Conditions Statement	9
LRPP Exhibit II Performance Measures and Standards	43
LRPP Exhibit III Assessment of Performance for Approved Performance Measures	49
LRPP Exhibit IV Performance Measure Validity and Reliability	66
LRPP Exhibit V Associated Activities Contributing to Performance Measures	71
LRPP Exhibit VI Agency-Level Unit Cost Summary	78
Glossary of Terms and Acronyms	81

Performance Measure Assessment

- Revise Measure
- Delete Measure
- Determine factors accounting for the difference
- Competing Priorities
- Previous Estimate Incorrect
- Staff Capacity
- Level of Training
- Resources Unavailable
- Legal Legislative Change
- Technological Problems

HUMAN RESOURCES FY 2019 – 2020

AGENCY TURNOVER RATE: 6.67%

PERSONNEL SEPARATION ACTIONS

LAST NAME	FIRST NAME	POSITION	SEPARATION CODE/DESC	SEPARATION DATE
Rowe	Angel	OPS-Staff Asst	59 Dismissal	01/25/2020
Brown	Macy	Regulatory Specialist I	52 Move within ST of FL Govern	11/15/2019
Foster, Sr	Darryl	Investigation Specialist I	63 Move to non-ST of FL Govern	3/13/2020
Luecke	Laura	Regulatory Specialist I	55 Failed probationary period	02/21/2020
Rollins	Felicia	Investigation Specialist II – SES	60 Death of the employee	01/22/2020
Watkins	Vicky	Staff Assistant	53 Other	03/07/2020
Hernandez	Martin	Network Systems Analyst - SES	63 Move to non-ST of FL Govern	11/09/201

VOLUNTARY

28.5 % Employee taking promotional opportunities with significant pay increases

28.5% Employee resigned due to spouse’s job relocation

INVOLUNTARY

28.5 % Dismissal

14.28 % Death of the employee

VACANCY REPORT FY 2019 – 2020

POSITION	VACANCY DATE	COMMENTS
Regulatory Specialist I	02/21/2020	Candidate selected start date 07/13/2020
Investigation Specialist I	03/13/2020	Candidate selected start date 07/20/2020
Investigation Specialist I	02/21/2020	Advertisement put on hold due to COVID-19 hiring freeze in place by the Governor.
Staff Assistant	03/07/2020	Advertisement closed 07/03/2020. Due to the COVID-19 hiring freeze in place by the Governor.
Paralegal Specialist	11/09/2019	Position filled 07/10/2020. Reassignment.

NEW EMPLOYEE HIRES FY 2019 – 2020

LAST NAME	FIRST NAME	AGENCY HIRE DATE	POSITION	UNIT
Cash	Joseph	01/07/2020	Senior Management Analyst Supv – SES	Intake - Customer Service (USERRA VET)
Bruce	Robert	03/06/2020	Network System Analyst	ITS
Luecke	Laura	11/15/2019	Regulatory Specialist I	Housing
Scotese	John	01/13/2020	SR Attorney	Legal
Brown	Marquisia	01/10/2020	Regulatory Specialist I	Housing
Vandewalle	Kimberly	02/21/2020	Investigation Specialist I	Employment
Gavin	Jameiha	04/10/2020	Investigation Specialist I	Employment
Franklin	Kristen	01/10/2020	Regulatory Specialist I	Housing

RECRUITMENT AND RETENTION OF TALENTED PERSONNEL

2021-2022 Legislative Budget Request:

- ❑ Provide funding to allow the Commission to offer upward mobility for professional staff members in the Housing Investigation Unit to be in line with the HUD classification per [U.S. Office of Personnel Management's Federal Position Classification and Qualifications](#). Research has determined that the current Job Family classification in the Housing Unit staffing will need to be upgraded to Management Analyst level from Compliance Officers. This is a fiscal impact to increase the broadband group in the higher compensation level for the current Investigators I's, Investigator II's, Regulatory Specialist I's and Regulatory Specialist II's. This will improve the Commission's ability to support the need for competitive salaries in a very competitive hiring market and pay equity.

Recruitment Highlights:

Recruiting will include the benefits of working with the Florida Commission on Human Relations by promoting the following:

- * The State is a major employer in Florida offering many challenging and rewarding careers. Included among the many advantages of working for the State are the diverse and interesting job opportunities as well as competitive salaries, benefits, and career mobility.
 - State of Florida Retirement package – 3% employee contribution
 - 10 paid holidays & personal holidays annually
 - State Employee accrual of Annual Leave and Sick Leave vs Paid Time Off (PTO) in other sectors if provided by the private sector
 - Telework program
 - Flexible work schedule
 - Student Loan Forgiveness Program
 - State Employee Tuition Waiver Program – Six credit hours per semester with the state college/university system
 - FRS Pension Plan, FRS Investment Plan – features 22 funds

- (https://www.myfrs.com/FRSPro_ComparePlan.htm) and Non-FRS programs
- Deferred Compensation Plan for State Employees
- Adoptions Benefits for State Employees
- Deferred Retirement Option Program ([DROP](#))
- Health Insurance for Individual or Family Coverage – State pays 80% of premium
- Basic Life insurance policy (100% employer paid)
- Life Insurance - State pays 80% of premium
- State Group Insurance – variety of health insurance options, flexible spending and health savings accounts, life insurance, dental, vision and other supplemental insurance products
- Tax Deferred Medical and Child Care Reimbursement Accounts available
- Tax Deferred Savings Program available through payroll deduction
- Employee Assistance Program

Part of the Total Value of working for the state means that you benefit from taking time off when you need it. It also means taking advantage of our Work and Life programs.

- [Paid holidays](#) and [paid leave](#) options
- The State Personnel System [leave of absence](#) options
- Our [Employee Assistance Program](#)
- The [State Tuition Waiver](#) program
- The State Personnel System [Telework](#) and [Flexible Work Schedule](#) programs

CS/HB 255 – AMENDMENT TO SECTION 760.11 POLICY CONSIDERATION
For Additional information refer to: Appendix 7

MEMORANDUM

TO: MICHELLE WILSON

FROM: CHEYANNE COSTILLA

SUBJECT: CS/HB 255 – AMENDMENT TO SECTION 760.11

DATE: JULY 9, 2020

I've prepared the following information and legal recommendations in response to CS/HB 255 becoming law. In *Woodham v. Blue Cross & Blue Shield of Florida*, 829 So. 2d 891 (Fla. 2002), the Florida Supreme Court indicated that the Florida Civil Rights Act (FCRA) contains four pertinent subsections regarding civil and administrative remedies which must be construed in harmony with one another:

1. The FCHR must determine whether or not reasonable cause exists within 180 days. Subsection (3) provides:
Within 180 days of the filing of the complaint, the commission shall determine if there is reasonable cause to believe that discriminatory practice has occurred in violation of the Florida Civil Rights Act of 1992.

2. If the FCHR makes a “cause” determination, the claimant may bring a civil action or request an administrative hearing. Section 760.11(4) provides:
In the event that the commission determines that there is reasonable cause to believe that a discriminatory practice has occurred in violation of the Florida Civil Rights Act of 1992, the aggrieved person may either:

- (a) Bring a civil action against the person named in the complaint in any court of competent jurisdiction; or
- (b) Request an administrative hearing under ss. 120.569 and 120.57.

Section 760.11(5), *Fla. Stat.*, goes on to indicate that a “civil action brought under this section shall be commenced no later than 1 year after the date of determination of reasonable cause by the commission.”

3. However, if the FCHR makes a “no cause” determination, the claimant is restricted to requesting an administrative hearing, and must do so within 35 days, otherwise the claim will be barred. Subsection (7) provides:

If the commission determines that there is not reasonable cause to believe that a violation of the Florida Civil Rights Act of 1992 has occurred, the commission shall dismiss the complaint. The aggrieved person may request an administrative hearing under ss. 120.569 and 120.57, but any such request must be made within 35 days of the date of determination of reasonable cause and any such hearing shall be heard by an administrative law judge and not by the commission or a commissioner. If the aggrieved person does not request an administrative hearing within the 35 days, the claim will be barred...

4. Finally, if the FCHR fails to make either a “cause” or a “no cause” determination within 180 days, section 760.11(8) states that the claimant may proceed under subsection (4) as if the FCHR had made a “cause” determination. CS/HB 255 amended section 760.11(8), adding a requirement that the Commission provide specific notice to claimants if a determination hasn’t been issued within 180 days (underlined text signifies added language):

If the commission fails to conciliate or determine whether there is reasonable cause on any complaint under this section within 180 days after the filing of the complaint:

(a) An aggrieved person may proceed under subsection (4) **as if the commission determined that there was reasonable cause.**

(b) The commission shall promptly notify the aggrieved person of the failure to conciliate or determine whether there is reasonable cause. The notice shall provide the options available to the aggrieved person under subsection (4) and inform the aggrieved person that he or she must file a civil action within 1 year after the date the commission certifies that the notice was mailed.

(c) A civil action brought by an aggrieved person under this section must be commenced within 1 year after the date the commission certifies that the notice was mailed pursuant to paragraph (b).

In *Joshua v. City of Gainesville*, 768 So. 2d 432 (Fla. 2000), the Florida Supreme Court was asked to determine whether the FCRA’s one-year statute of limitations for filing a civil rights action applied if the FCHR failed to make any determination as to reasonable cause within the 180 days

contemplated by the statute. In that case, the aggrieved person had filed a complaint with the FCHR in January 1995, and after no determination had been received, she filed a civil action three years later, on January 20, 1998. The Court found that an aggrieved person's rights should not be denied because the FCHR failed to give adequate notice, nor should the aggrieved person be penalized for attempting to allow a government agency to do its job. The Court held that the one-year statute of limitations for filing civil actions in section 760.11(5), *Fla. Stat.*, which indicates that a civil action must be commenced within 1 year of the date of a "cause" determination, does not apply if the FCHR fails to make a determination within 180 days. Instead, the Court held that the four-year statute of limitations for a cause of action based on statutory liability under section 95.11(3)(f) applies when the FCHR fails to make a timely determination.

The effect of this decision was that complainants who received a cause determination within 180 days had to file a civil action within one year of the date of that determination, but in cases in which the FCHR did not issue a determination within 180 days, the complainants had four years from the date of harm to file a civil action, creating inconsistency between cases and confusion in application, because section 95.11(3)(f) is not referenced within the FCRA.

The bill amends section 760.11(8), *Fla. Stat.*, providing that, if the FCHR fails to determine whether there is reasonable cause within 180 days, a cause of action is subject to the same one-year statute of limitations as claims that do receive a timely determination. Moreover, the FCHR is required to promptly notify the individual of the FCHR's failure to determine reasonable cause and inform the individual of their options as a result. The one-year period for filing an action begins to run on the date the Commission certifies that the notice was mailed.

While a substantive statute will not operate retrospectively absent clear legislative intent, a procedural or remedial statute is to operate retrospectively. A procedural law is one that provides the process that a case will go through, stating how a proceeding concerning the enforcement of substantive law will occur. Statutes that relate only to procedure or remedies generally apply to pending cases. Amended section 760.11(8), *Fla. Stat.*, changes the means and methods by which an administrative determination is rendered, but does not affect vested, substantive rights. In other words, the amended statute did not impair or eliminate an aggrieved person's right to sue. Rather, it sets forth procedures the FCHR and the aggrieved person must follow in order to file or maintain

a cause of action. An aggrieved person does not have a vested interest in any given mode of procedure.

Additionally, the new notice that the FCHR is expected to send to aggrieved persons beginning July 1, 2020 is like the notice of right to sue sent by the U.S. Equal Employment Opportunity Commission (EEOC). Pursuant to 29 C.F.R. § 1601.28(a)(1), “the Commission [EEOC] shall promptly issue such notice as described in § 1601.28(e) to all parties, at any time after the expiration of one hundred eighty (180) days from the date of filing of the charge with the Commission...” The issuance of a notice of right to sue terminates further proceedings by the EEOC of any charges that are not Commissioner charges. 29 C.F.R. § 1601.28(a)(3). The regulation further indicates:

The notice of right to sue shall include:

- (1) Authorization to the aggrieved person to bring a civil action under Title VII, the ADA, or GINA pursuant to section 706(f)(1) of Title VII, section 107 of the ADA, or section 207 of GINA within 90 days from receipt of such authorization;
- (2) Advice concerning the institution of such civil action by the person claiming to be aggrieved, where appropriate;
- (3) A copy of the charge; and
- (4) The Commission’s decision, determination, or dismissal, as appropriate.

29 C.F.R. § 1601.28(e).

Conclusion and recommendations:

As detailed above, section 760.11(3) indicates that the FCHR shall make a determination within 180 days. If that is not accomplished within 180 days, aggrieved persons have remedies available to them as if a cause determination had been issued. No amount of additional investigation will

create any additional remedies or benefits for the complainant or the respondent. While the FCHR has been issuing determinations beyond 180 days, I do not believe that practice should continue. The new notice of right to sue, required in the amendment, is intended to notify aggrieved persons of their right to do two things: (1) file a civil action within one year; or (2) file a petition for relief 35 days. There is no language in the amendment that would indicate that the complainant is to make any type of election to the Commission. Like the EEOC's notice of right to sue, there is no reason to continue with the investigation after advising the complainant of their right to pursue a civil action.

Therefore, in conclusion, it is my recommendation that the FCHR take the following actions:

1. Discontinue investigating cases that are more than 180 days old.
2. Create a new notice of rights that advises aggrieved persons that the investigation of their case could not be completed within 180 days, they may file a civil action within 1 year of the certification date on the letter, or they may file a petition for relief within 35 days of the certification date on the letter. Mail the new notice of rights on day-181 if a determination wasn't issued by day-180. The case would remain in suspense in closure for 35 days to see if a petition for relief were returned. If the petition for relief weren't returned on time, the case would be closed.
3. Amend Rules 60Y-5.004, 5.006, and 5.008 regarding administrative dismissal of a complaint to allow the Executive Director, on behalf of the Commission, to dismiss a complaint that has aged beyond 180 days, without a petition for relief being filed, without requiring the complainant to file anything with the Commission regarding a civil action in a court of competent jurisdiction.

END MEMO.

Addendum – July 21, 2020 email to Commissioners

From: Costilla, Cheyanne <Cheyanne.Costilla@fchr.myflorida.com>
Sent: Tuesday, July 21, 2020 2:45 PM
To: Gil Singer <gsinger@marcadislaw.com>; Wilson, Michelle <Michelle.Wilson@fchr.myflorida.com>; Commissioners <Commissioners@fchr.myflorida.com>
Cc: Snipes, Casey <Casey.Snipes@fchr.myflorida.com>; Dupree, Jacquelyn <jacquelyn.dupree@fchr.myflorida.com>
Subject: RE: IMPORTANT: Transition Notice of Rights with Election

Good afternoon, Commissioners,

In Chapter 760, the statute of limitations (deadline to file in court) is tied directly to the Commission's act of either issuing a timely determination or not. In cases that reached 180 days before July 1 without a determination being issued, the *Joshua* case applied immediately, and the complainants were allowed 4 years from the date of harm to file suit. For example, the Commission has an active case which reached 180 days on May 6, 2020, and the date of harm was September 20, 2019. Therefore, the complainant would have had until September 20, 2023 to file suit. If the Commission were to now issue the complainant a notice of rights providing one year to go to court (until July 2021), the complainant's statute of limitations would be shortened by more than 2 years.

In cases that reached 180 days on July 1 and beyond without a determination being issued, the statute of limitations established by the amended statute indicates that the Commission is to send a notice informing complainants that they have the right to file a civil action within one year of the date of the letter or to file a petition for relief for an administrative hearing within 35 days of the letter. The *Joshua* case is no longer applicable, and the statute of limitations is no longer related to the date of harm.

Using July 1, 2020, the effective date of the amendment, as the clear and distinct date of the change, creates consistency amongst all cases depending upon whether they aged before or after July 1, 2020.

I hope this information is helpful. I am available to answer any additional questions you may have.

Regards,

Cheyenne

PROPOSED RULE CHANGES RELATED TO AMENDMENTS

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. [Deleted from 60Y-5.006(4) because if a determination of cause, no cause, or no jurisdiction was issued, that should not be categorized as an administrative dismissal.]

(~~6~~7) 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(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. [Number change based upon inserting new (6) above]*

60Y-5.006 Administrative Dismissal of a Complaint.

The Executive Director, on behalf of the Commission, shall 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, the complainant has failed to file a Petition for Relief pursuant to Rule 60Y-5.008, F.A.C.;~~ [Deleted because if a determination of cause, no cause, or no jurisdiction was issued, that should not be categorized as an administrative dismissal.]

~~(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 the complainant has failed to file a Petition for Relief pursuant to Rule 60Y-5.008(1)(b), F.A.C. after the Complainant files notice of a planned, or files a, civil action in a court of competent jurisdiction;~~ [Deleted provision requiring the complainant to notify the Commission of their desire to file because there is no such requirement in the statute; renumbered.]

(6) 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; [Renumbered]

(76) An agreement to submit to arbitration has been filed pursuant to Rule 60Y-5.009, F.A.C.; [Renumbered]

(87) The complainant has voluntarily dismissed the petition for relief pursuant to subsection 60Y-5.008(7), F.A.C.; [Renumbered]

(98) The complainant has voluntarily withdrawn the complaint; or [Renumbered]

(109) There is no jurisdiction over the respondent or subject matter of the complaint. [Renumbered]

Rulemaking Authority 760.06(13) FS. Law Implemented 20.05, 760.06, 760.11 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 2-5-04.

60Y-5.008 Petition for Relief from an Unlawful Employment Practice.

(1) Petition.

(a) A complainant may file a Petition for Relief from an Unlawful Employment Practice within 35 days of the Date of Determination of Reasonable Cause, No Reasonable Cause, No Jurisdiction or Untimeliness. [Created subsection]

(b) In the event that the Commission does not issue a determination within 180 days after the complaint was filed, a complainant may file a Petition for Relief from an Unlawful Employment Practice within 35 days of the date the Commission certifies mailing the notice required under section 760.11(8)(b), Florida Statutes. [Added language mirroring requirement in amendment to 760.11(8); created subsection]

(c) A complainant who is not represented by an attorney may file a Petition for Relief without copies or proof of service, and the Clerk shall prepare copies and serve them upon all other parties. [Created subsection]

(2) For good cause shown, the Chairperson may grant an extension of time to file the Petition for Relief from an Unlawful Employment Practice, provided the motion for extension of time is filed within the 35-day period prescribed by subsection 60Y-5.008(1), F.A.C.

(3) Procedures. Petitions for Relief, and proceedings thereupon, are governed by the provisions

of Chapters 28-106 and 60Y-4, F.A.C., except as otherwise provided by this section.

(4) Class Allegations.

(a) The petition may include an allegation that the respondent has acted or refused to act on grounds generally applicable to a class, in which case the petition shall also include a description of the class of persons allegedly affected.

(b) If the petition contains class allegations, the administrative law judge, on motion of a party, may include in the recommended order a proposed certification of the class if:

1. The class is so numerous that joinder of all members is impractical,
2. There are questions of law or fact common to the class,
3. The claims of the petitioner are typical of the claims of the class, and
4. The petitioner will fairly and adequately protect the interests of the class.

If the administrative law judge proposes that a class be certified, the administrative law judge may also include in the recommended order proposed findings and conclusions concerning the respondent's liability to the class. However, the administrative law judge shall not initially consider other class issues unless it is determined that such consideration will not cause undue delay to the completion of the hearing.

(5) Final Orders; Relief; Remand. Upon consideration of a recommended order, the Commission or Panel may order that the petition and complaint be dismissed or may determine that an unlawful employment practice has occurred. In the event the Commission or Panel determines that an unlawful employment practice has occurred, it shall issue an order prohibiting the practice and providing relief from the effects of the practice. If the Commission or Panel finds that the proceeding is properly maintained as a class proceeding, the order of the Commission or Panel may direct a remand to the administrative law judge of any class issue which the Commission or Panel has not determined. The order of the Commission or Panel shall constitute final agency action as to all matters except those which are remanded to the administrative law judge.

(6) Proceedings After Remand. An order of remand, pursuant to subsection (5), or a subsequent order of the administrative law judge, may direct that notice of pendency of the proceeding be served upon members of the class. Such an order shall specify the manner of service of the notice and the person responsible for service. Any member of the class who does not, within 15 days of

service of the notice of pendency or within such other time as the order may provide, file with the Commission an election of non- participation in the class shall be bound by an order of the Commission or Panel made subsequent to the giving of such notice.

(7) Voluntary Dismissal. A Petition for Relief may be dismissed by the Petitioner without order of the administrative law judge, Panel of Commissioners or Commission (i) by serving, or during hearing by stating on the record, a notice of dismissal at any time before the issuance of a recommended order or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. The dismissal operates with prejudice with respect to Petitioner's Chapter 760, F.S., administrative remedies and constitutes final agency action.

Rulemaking Authority 760.06(13) FS. Law Implemented 760.06, 760.10 FS. History—New 11-2-78, Amended 2-4-82, 6-16-83, 8-29-84, 8-12-85, Formerly 22T-9.08, 22T-9.008, Amended 2-5-04.

60Y-2.003 General Description of the Commission.

(1) The Commission is comprised of 12 members appointed by the Governor, subject to confirmation by the Senate.

(2) Commissioners are appointed to staggered terms of 4 years, except for appointments described in subsection (3).

(3) A Commissioner appointed to fill a vacancy other than by expiration of a term is appointed for the unexpired term of the member whom such appointee is to succeed.

(4) A Commissioner is eligible for reappointment.

(5) In every odd-numbered year, the Commission shall hold an organizational meeting to elect from its membership a Chairperson and a Vice-chairperson. The biennial organizational meeting shall be held as soon as practical after the new Commissioners for that year have been appointed. The Chairperson of the Commission serves for a term of 2 years and has the following duties:

(a) Call Commission meetings and set the agenda for same;

(b) Preside at Commission meetings;

(c) Appoint one or more Panels of not less than 3 Commissioners to exercise, as provided in Chapters 60Y-4 and 60Y-5, F.A.C., Commission powers under Section 760.06, F.S.;

(d) Appoint and define the role of such committees as are necessary or expedient to advise the Commission or its Executive Director;

(e) Perform such other functions as the Commission may assign by rule or order.

(6) In the event the office of the Chairperson becomes vacant, the Vice-chairperson shall temporarily assume all responsibilities and perform all duties of the Chairperson until such time as an election for filling the office of Chairperson can be held. Such election shall be held within ninety (90) days from the date that the Chairperson's vacancy occurs. In the event that there is no Vice-chairperson serving at the time of the Chairperson's vacancy, the Commissioner whose current term has been in effect for the longest period of time shall temporarily serve as Chairperson until elections for filling both the office of Chairperson and Vice-chairperson can be held, as long as such elections are held within ninety (90) days from the date the Chairperson's vacancy occurs.

(7) The Vice-chairperson serves for a term of 2 years, the term to run concurrently with that of the Chairperson. The Vice-chairperson performs the duties of the Chairperson in the Chairperson's absence and performs such other duties as the Chairperson may assign.

(8) If a vacancy occurs in the office of the Chairperson, the Vice-chairperson shall temporarily assume all responsibilities and perform all duties of the Chairperson until such time as an election can be held, as detailed in subsection 60Y-2.003(7), F.A.C. If a vacancy occurs in the office of the Vice-chairperson, the Commission will select another member to fill the unexpired term of the Vice-chairperson.

(9) A special meeting of the Commission shall be called by the Chairperson, or by the Executive Director upon the written request of not fewer than 5 Commissioners.

(10) ~~Six~~ ~~Seven~~ members shall constitute a quorum for the conduct of Commission business. [Mirrors change in the amendment to 760.03]

(11) Three appointed members ~~A majority of the members~~ of a Panel shall constitute a quorum for the conduct of business assigned to a Panel. [Mirrors the amendment to 760.03]

(12) In the presence of a quorum, Commission or Panel business shall be conducted by majority vote.

Rulemaking Authority 760.06(12) FS. Law Implemented 760.03 FS. History—New 11-2-78, Formerly 22T-6.03, 22T-6.003, Amended 12-31-03, 1-8-15.

60Y-9.007 Housing for Older Persons Registration and Documentation.

(1) Facilities or communities claiming an exemption under Section 760.29(4), F.S., shall register with the commission and submit the statutorily required documentation to the commission in the manner prescribed by the commission. Information on how to register is located on the commission's website, <http://fchr.state.fl.us>.

(2) The registration and documentation letter shall contain in bold letters on the face of the envelope the words "Registration for Housing for Older Persons," and provide the date of mailing.

(3) The registration and documentation shall be submitted biennially from the date of the original filing.

(4) The information in the commission's registry is a public record. The information shall also be included on the commission's main website, <http://fchr.state.fl.us>.

(5) Failure to comply with the requirements of Section 760.29(4)(e), F.S., shall not disqualify a facility or community that otherwise qualifies for the exemption provided in Section 760.29(4), F.S.

(6) The Commission may impose an administrative fine not to exceed \$500 on a facility or community that knowingly submits false information in the documentation required by this rule. Such fine shall be deposited in the commission's trust fund.

Rulemaking Authority 760.31(5) FS. Law Implemented 760.29(4)(e) FS. History—New 2-11-02, Amended 2-5-04, 2-4-16. [Repealed to mirror amendment to 760.29]

60Y-11.004 Investigatory Process.

(1) Within five ~~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 112.3189(1)(a), F.S. The other party shall also acknowledge receipt of such copies to the complainant ~~within 15 days~~. [Changed to mirror amendment to 112]

(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 35 ~~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 180 ~~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. [Changed to mirror the amendment to 112]

(5) If the Commission is unable to conciliate a complaint within 35 ~~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. [Changed to mirror the amendment to 112]

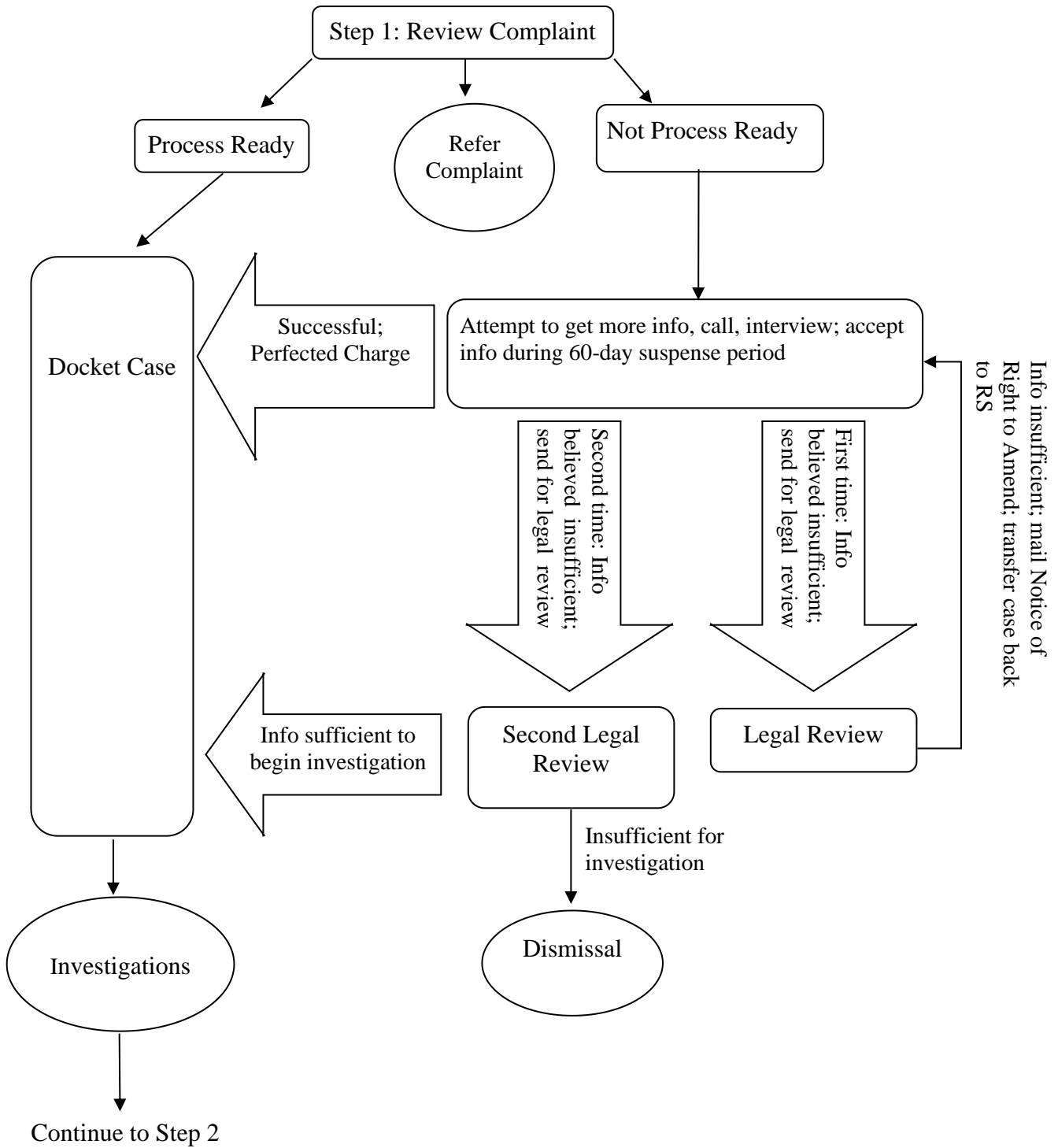
Specific Authority 120.54, 760.06(12) FS. Law Implemented 112.3187-.31895 FS. History—New 1-1-04.

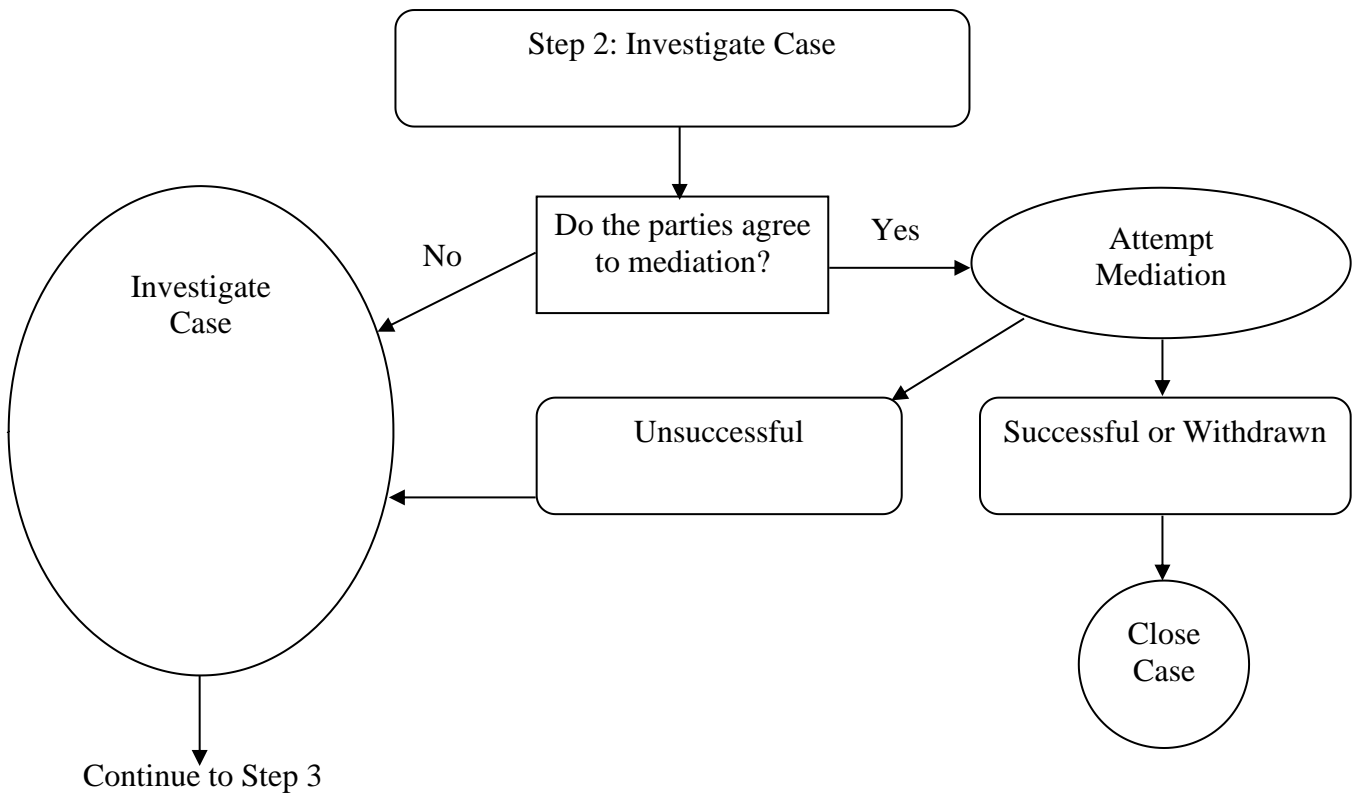
Standard Operating Procedures for Employment Investigations

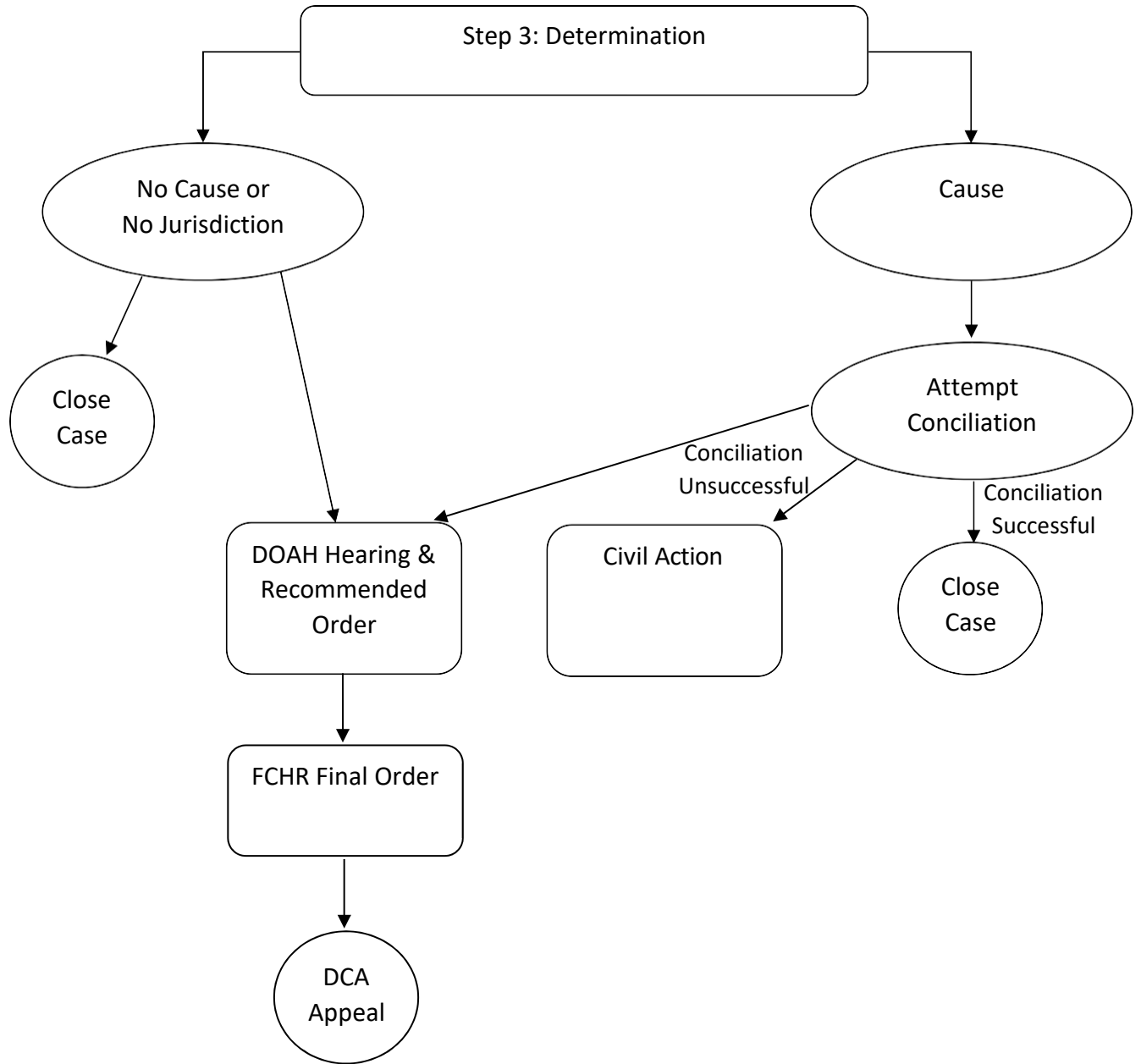
- Flowchart of Operations - Appendix 1
- Intake Customer Service Standard Operating Procedure - Appendix 2
- Employment Investigations Standard Operating Procedure - Appendix 3
- Legal Standard Operating Procedure - Appendix 4
- Closure Standard Operating Procedures – Appendix 5
- Mediation Standard Operating Procedures - Appendix 6
- Section 760.11, *Florida Statutes* – Appendix 7

APPENDIX 1

Flowchart of Operations – Employment discrimination complaints







APPENDIX 2

Closure Recommendation to Legal - Standard Operating Procedure – revised March 2019

1. Purpose

Describe the process of sending cases to the Legal Unit for Intake Administrative Closures.

2. Scope

To properly assess inquiries for recommended Closures

3. Prerequisites

Not applicable.

4. Responsibilities

The Customer Service Intake Manager has the primary responsibility for this procedure.

5. Procedure

A. Intake Specialists (IS) will submit inquiries to the Customer Service/Intake Manager (CSIM) for recommendation of intake administrative closures. Inquiries are submitted via the agency case management system (Action step).

A. CSIM reviews the Inquires submitted to ensure all intake administrative closures requirements have been met. Factors reviewed are the following:

1. Statute – complaint must be covered under the following one or more of the following statutes:

Title VII, Chapter 760, Public Accommodation (Chapter 760/509) and Whistleblower Retaliation.

1. Basis – Complainant did not identify a basis covered by the agency during intake assessment.

Race, Color, Religion, Age, Disability, National Origin, Sex/Gender (Pregnancy, Sexual Harassment, Identity/Expression, Sexual Orientation), Marital Status, Retaliation.

2. Respondent – Complainant did not identify a Respondent with the agency’s authority to investigate.

During the intake assessment, Complainant must identify a business entity, not an individual.

3. Timeliness – Complainant did not identify a timely, most recent date of harm. The last incident must be filed within 365 days of the last date of harm or 60 day from the date of harm (Whistleblower Retaliation).

4. Signed and Dated charge form - Complainant did not and would not submit a signed charge form.

- B. After review of the inquiry has been completed, a note is written in Actionstep stating, “Recommended NORTA for review” and the inquiry is submitted to the Deputy General Counsel in Actionstep for review. If CSIM is unsure of inquiry, a request is made to the Chief of Investigations for assistance.
- C. Deputy General Counsel assigns the case to an attorney in the Legal Unit. The attorney reviews the recommendation for the administrative closure submitted by the Intake Specialist.
- D. The assigned attorney makes the decision to accept the recommendation by the Intake Specialist and returns the inquiry to them to be placed in “suspense” **OR** the attorney disagrees with the recommendation and returns the case to the Intake Specialist, with instructions to process the inquiry for investigation.

APPENDIX 3

Employment – Investigation Process

Standard Operating Procedure - Effective March 1, 2019

1. Purpose

Describes the Employment Unit’s Investigative Process.

2. Scope

The Employment Unit Managers and Investigators are the parties following this procedure.

3. Prerequisites

Not applicable.

4. Responsibilities

Employment Investigators have primary responsibility of this SOP.

5. Procedure

- A. Assigned cases are located in Action Step. To view assigned cases, go to “Cases” and in the drop down select “My Cases”.
- B. Once a case has been assigned, review the Technical Assistance Questionnaire (TAQ) and/or Charge Form in the “A-Intake Folder” to make sure all the bases (protected classes) and issues (adverse actions) are notated accurately in Action Step. Discuss with the unit manager to determine if corrections need to be made.
- C. Review the Bases and Issues in preparation for the investigation.
Send contact letters (introduction letter) located in Action Step “Documents” to Complainant (CP) or CP’s Representative (Rep) and Respondent (RP) and RP Rep (via email, mail, or fax) within 5 days of assignment to investigator. The investigator may also contact CP and RP by telephone for introduction as the assigned investigator in conjunction with the contact letters. If it is a disability complaint, send the Medical Certification Form (Disparate Treatment or Accommodation Requested, depending upon the case issues) located in Action Step “Documents”, along with the contact letter to CP or CP Rep. Request CP to have his or her doctor complete this form. Instruct CP that copies of other existing medical records showing his or her disability will be accepted in lieu of the Medical Certification Form, if the CP is unable to have it completed. CP should return the medical documents to FCHR within 30 days from the date they are mailed to the CP. When

generating the contact letter for RP, make sure that the accurate due date for the position statement (25 days from the date of the Notice of Filing) is included in the letter. Create a "File Note" in Action Step stating what was sent out and any due dates. Save copies of the contact letters in "C-Complainant folder" and "D-Respondent folder". If an introductory phone call is made, create a "File Note" in Action Step notating case action.

Once the medical certification form and/or other medical records are returned, perform any necessary redactions and place the original copy in "B-Confidential folder" and the redacted copy in "C-Complainant folder."

E. Begin formulating questions in accordance to the bases and issues for CP and RP based on the Charge Form and if necessary, the TAQ located in "A-Intake folder" and other relevant information already in the case file.

F. If the Investigator deems it necessary at this point, attempts to interview CP should begin to obtain additional information and clarification. Place any interview notes for CP in "C-Complainant folder." If it is necessary to redact your notes (if CP identifies his or her medical diagnosis, for instance), place the original notes in "B-Confidential folder" and the redacted version in "C-Complainant folder." Create a File Note in Action Step notating the interview.

*If CP was not previously cooperative with attempts to conduct a phone interview, send written interview questions with the Burden of Proof packet. Answers to any questions should be provided under separate cover from the Rebuttal and due the same date as the Rebuttal.

G. Upon receipt of the position statement from RP, review the document for any needed redactions and send the Burden of Proof packet (request for Rebuttal) to CP or CP's Rep within 3 - 10 days. CP then has 14 days to provide a Rebuttal (answer to RP's position statement). Notate the receipt of the position statement by creating a "File Note" in Action Step. Place the position statement in "D-Respondent folder." If the position statement requires redactions, complete this step using Adobe. Place the original, un-redacted version in "B-Confidential folder" and the redacted version in "D - Respondent folder." Only the redacted version of the position statement should be provided to CP or CP's Rep in the Burden of Proof packet.

H. Review the position statement and exhibits and determine what questions need to be answered and what documents need to be provided by RP.

- I. Send a Request for Information (RFI) to RP. Provide initially no more than one (1) week from the date of mailing for a response. Extensions are given at the discretion of the Investigator. Excessive extensions (more than 2 weeks) are not recommended, please consult your manager for approval. Create a File Note in Action Step of the extension and due date. Place a copy of the RFI in the appropriate folder “(C- Complainant or D- Respondent).”

Schedule and interview relevant witnesses for CP and RP as necessary.

*Note: If the witness is management for RP, schedule the interview through RP Rep. DO NOT contact the manager directly. If the witness is not management level, contact him or her directly. Create a File Note in Action Step with the date and time of the interview. Save interview notes to folders “C-Complainant” or “D-Respondent,” depending upon the party the witness is affiliated with.

- K. Generate the Investigative Memorandum (IM) in Action Step “Documents” and begin writing the IM with the information received up to this point.
- L. Upon receipt of the Rebuttal, determine what questions, if any, still need to be answered by CP and what documents, if any, still need to be provided. Schedule an interview with CP and any witnesses. Review the Rebuttal and redact as necessary. The original Rebuttal should be placed in “B-Confidential folder,” and the redacted version in “C-Complainant folder”. If no Rebuttal is provided, you may conduct an interview to obtain information. If there is difficulty in obtaining an interview, you may send the interview questions to CP (via email) and allow one (1) week for response. If no Rebuttal information is received, complete the investigation with what information is in the file. Create a “File Note” in Action Step notating all attempts to contact CP/CP Rep. Also place this information in the IM.
- M. If necessary, request additional information from CP and RP based upon CP’s Rebuttal. This process continues until the Investigator determines that all issues have been thoroughly addressed on both sides.
- N. Once all information has been received, complete the investigation and submit the IM to the Manager for approval.

APPENDIX 4

Office of General Counsel Standard Operating Procedures

Table of Contents

- Jurisdictional Review and the Notice of Right to Amend
- Review for Temporary Reinstatement Under the Whistle-blower's Act
- Reviewing Casefiles and Drafting Determinations (Employment/PA)
- Reviewing Fully-Investigated Casefiles and Determinations (Housing)
- Reviewing Casefiles and Drafting Determinations (Whistle-blower)

Change Log

- 10/4/18 - Standard Operating Procedure: Jurisdictional Review and the Notice of Right to Amend
 - DGC approval now required for all send backs to Intake
- 12/3/18 - Standard Operating Procedure: Reviewing Casefiles and Drafting Determinations (Whistle-blower)
 - Created this SOP
- 1/11/19 - Standard Operating Procedure: Jurisdictional Review and the Notice of Right to Amend
 - Added requirement to leave a case note when making the transfer to NORTA Suspend
- 1/17/19 - Standard Operating Procedure: Drafting and Issuing Subpoenas
 - Created this SOP

Standard Operating Procedure: Jurisdictional Review and the Notice of Right to Amend

1. **DGC** receives case from **Intake Manager** in the *NORTA Assign* step complete with a
2. *NORTA* recommendation in the case notes. **DGC** reviews the *NORTA* recommendation.
3. **DGC** will assign the case to **Attorney** in the *NORTA Attorney Review* step.
4. **Attorney** will review the *NORTA* Recommendation in the case notes section and all other case notes, the TAQ and the charge (if there is one) in Folder A of the documents section, and all emails in the email section. The purpose of the review is to determine whether the complaint is sufficient to invoke FCHR's investigatory jurisdiction.
 - a. **Attorney** shall ensure the following conditions are present in the complaint:
 - i. Complainant name and address (E/PA/H/WB)
 - ii. Respondent name and address (E/PA/H/WB)
 - iii. 15+ employees (E)
 - iv. Timely – filing date within 365 days of date of harm, with relation back (E/H/PA)
 - v. Timely – filing date within 60 days of date of harm, with relation back (WB)
 - vi. Basis/protected class (E/H/PA)
 - vii. Legible and understandable narrative describing the harm suffered (E/PA/H/WB)
 - viii. Signed charge or TAQ with signature and Box 2 selected (E/PA/H/WB)
 - ix. Respondent is a Public Accommodation (PA)
 - x. Harm/injury to the Complainant (H)
 - xi. Respondent is a state agency or an independent contractor of one (WB)
 - xii. Complaint concerns employment (E)
 - xiii. Complaint concerns interaction with a public accommodation (PA) Complaint concerns housing subject matter (H)
 - xiv. Proper respondent (H)
 - b. If the case lacks conditions necessary to invoke FCHR's investigatory jurisdiction, **Attorney** will draft a *NORTA* in Actionstep.
 - i. **Attorney** will calculate Complainant's response deadline as the 60th day beyond the complaint submission date or three weeks from the drafting of the *NORTA*, whichever is longer. **Attorney** will include the response

- deadline in the drafted NORTA.
- ii. **Attorney** will upload the NORTA to Folder A of the documents section and, if the document is not going to be emailed, will print the document and an envelope.
 - iii. **Attorney** will create a task for **Regulatory Specialist** due for the day after the response deadline
 - iv. **Attorney** will transfer the case to **Regulatory Specialist** in the *Intake NORTA Suspend* step. As part of the transfer, **Attorney** will make a case note.
 - v. **Attorney** will mail or email the NORTA.
- c. If **Attorney** believes the case has all of the conditions necessary to invoke FCHR's investigatory jurisdiction, **Attorney** will consult with **DGC** about returning the case for further processing by Intake. If **DGC** agrees the case should be returned, **Attorney** will transfer the case to **Regulatory Specialist** in the *Intake Information Needed* step with (1) an explanation in the case notes of why the case should be accepted and (2) an email to **Regulatory Specialist** announcing only that the case was sent to the *Intake Information Needed* step.

Standard Operating Procedure: Review for Temporary Reinstatement Under the Whistle-blower's Act

1. **DGC** receives notice in the form of an email or an Actionstep task from **Docketing Clerk** that a whistle-blower (WB) case has been accepted for investigation and deployed to the Employment Investigations Unit in the *Employment Assign* step. This review should be completed within 15 days of FCHR receiving the complaint.
2. **DGC** accesses the case through ActionStep.
3. **DGC** assigns the case to an FCHR attorney who then reviews the case notes, all emails in the email section, and all documents in Folder A (Intake) in the Documents section, including the TAQ and the charge (if there is one). The purpose of the review is to determine whether the remedy of temporary reinstatement, which is described in Sections 112.31895(3)(b) and 112.3187(9)(f), Florida Statutes, is appropriate.
 - a. The FCHR attorney shall determine whether the following conditions are present

in the complaint:

- i. Complaint alleges a discharge has occurred (not still employed)
 - ii. Complaint alleges facts to show that a protected disclosure was made
 - iii. Complaint alleges facts to show that the adverse personnel action was causally linked to the protected disclosure
 - iv. Complaint does not state facts to indicate that Complainant was involved in the commission of the suspected violation that was the subject of Complainant's disclosure
 - v. Contains facts to show "the disclosure was not made in bad faith or for a wrongful purpose or occurred after an agency's initiation of a personnel action against the employee which includes documentation of the employee's violation of a disciplinary standard or performance deficiency."
- b. If the case lacks conditions necessary to require temporary reinstatement, **Attorney** shall make a notation in the case notes that the review occurred and that temporary reinstatement was not appropriate.
- c. If the case has all the conditions necessary to require temporary reinstatement, **Attorney** shall:
- i. alert **DGC** who will then alert **General Counsel**
 - ii. shall comply by the requirements of the statute. Currently, Section 112.31895(8)(b) says, FCHR "shall apply for an expedited order from the appropriate agency or circuit court for the immediate reinstatement of the employee who has been discharged subsequent to the disclosure made under s. 112.3187, pending the issuance of the final order on the complaint." The form of this compliance will be determined in conjunction with **General Counsel**.

Standard Operating Procedure: Reviewing Casefiles and Drafting Determinations (Employment/PA)

1. **Attorney** will select the case from his/her inventory in the *Legal Attorney Review* step. **Attorney** will click the File Notes icon to open the case notes section and review the case notes.

- a. References to 180-Day letter or Withdrawal or Election of Rights should cause you to look for the letters to confirm if the case was withdrawn
2. **Attorney** will read the Investigative Memorandum (IM).
3. **Attorney** will confirm issues and bases listed in the Issues and Bases section of the case file.
4. **Attorney** will review Folder A - Intake and Case Documents Folder for pertinent intake documents
 - a. Date stamp is filing date. Keep this in mind for analyzing timeliness. Date(s) of harm should be mentioned throughout the case file.
5. **Attorney** will review Folders D and C for Respondent's and Complainant's evidence and Folder B for unredacted documentation.
6. It is highly recommended that **Attorney** outline the analysis of each element of each issue of the complaint before drafting the determination.
7. **Attorney** will generate the appropriate determination
 - a. In the Documents section, click "Generate"
 - b. Type part of the name of the template you're looking for
 - c. Destination is Folder E - Closure
 - d. "After Generating..." Open in MS Office
 - e. Click green Generate button
8. **Attorney** will modify the template as necessary
 - a. Confirm letterhead is correct
 - b. Delete entire line with certified receipt number, if applicable
 - c. If there is no EEOC number, delete the entire line
 - d. Repeat for the second page
9. **Attorney** will modify the address fields
 - a. Extra spaces between first and last name
 - b. Mr./Ms. when name includes "Esq."
 - c. Delete errant dashes
 - d. Copy and paste corrected addresses onto page 2
10. **Attorney** will decide if the investigation is complete
11. **Attorney** will write the analysis between the two boilerplate paragraphs (if a Cause Determination). In a No Cause Determination, the **Attorney** will modify the template as necessary to include the bases (and issues if warranted for clarification).
 - a. All adverse actions and bases identified in the complaint and amendments must be

addressed in a Cause Determination.

- b. A note must be made in the Recent File Notes section for No Cause Determinations (an analysis of the issues and explanation of how a No Cause was reached).
12. **Attorney** will edit the document, keeping in mind the SMART Expectation for Quality.
13. **Attorney** will save the document. To do this, click Actionstep at the top of MS Word, then click Save. Do not go to File → Save.
14. **Attorney** does not need to save the IM as a PDF, as had been done in the past. The IM is now being uploaded in its final state by the **Investigator** or **Unit Manager**.
15. **Attorney** will transfer the case to **DGC** for review in the *Legal Review* step or to **Closure** in the *Determinations* step, if permitted.

Standard Operating Procedure: Reviewing Fully-Investigated Casefiles for Cause and No Jurisdiction Determinations (Housing)

1. **Attorney** will select the case from his/her inventory in the *Legal Attorney Review* step.
2. **Attorney** will click the File Notes icon to open the case notes section and review the case notes.
3. **Attorney** will log into HEMS and click on the Investigations tab to review case related documents.
4. **Attorney** will read the Determination.
 - a. Except as noted below, **Attorney** will not edit the determination. It is not his/her document. If there are problems with the determination, confer with **DGC**.
 - b. **Attorney** will check all statute citations to confirm that they match the legal issue discussed and that they are state citations, not federal citations. **Attorney** will edit the citations as necessary.
5. **Attorney** will review the charging documents (TAQ or 903) found in Folder E or Folder A and in the email section of Actionstep.
 - a. Date stamp is filing date. Keep this in mind for analyzing timeliness. Date(s) of harm should be mentioned throughout the case file.
 - b. **Attorney** will confirm issues and bases listed in the charging document against those listed in the determination.
6. **Attorney** will review the remaining folders:
 - a. Folders D and C for Respondent's and Complainant's evidence

- b. Folder B/G for unredacted documentation and investigative processing documents
 - c. Folder E for miscellaneous documents
 - d. Folder F or Closure Folder for the Final Investigative Report (FIR) and Determination
 - e. Email section of Actionstep (inbox and sent box) for correspondence
 - f. HEMS
7. **Attorney** will confirm all findings of fact and legal conclusions made in the determination against the documentation in the casefile and the FIR.
8. **Attorney** will decide if the investigation is complete. If **Attorney** believes the investigation is not complete, he/she will confer with **DGC**. No case shall be returned to the Housing Unit without first conferring with **DGC**. **Attorney** may confer with **Investigator** for clarification of the casefile, as necessary. If the investigation is complete, proceed to next step.
9. **Attorney** must decide if they agree with the legal conclusion and confirm there is ample support for that conclusion. If the determination does not meet those standards, **Attorney** will confer with the **DGC**. Otherwise, proceed.
10. **Attorney** will generate the appropriate NOD.
 - a. In the Documents section, click “Generate”
 - b. Type part of the name of the template you’re looking for
 - c. Destination is Folder F - Status
 - d. “After Generating...” Open in MS Office
 - e. Click green Generate button
11. **Attorney** will modify the template as necessary
 - a. Confirm letterhead is correct
 - b. Keep the line with certified receipt number
 - c. If there is no HUD number, delete the entire line
 - d. Confirm all date fields are correct
12. **Attorney** will modify the address fields
 - a. Extra spaces between first and last name
 - b. Mr./Ms. when name includes “Esq.”
 - c. Delete errant dashes
 - d. Confirm the addresses in the NOD match the case file, editing them if necessary.
13. **Attorney** will edit the NOD, keeping in mind the SMART Expectation for Quality.
14. **Attorney** will save the NOD. To do this, click Actionstep at the top of MS Word, then click

Save. Do not go to File → Save.

15. **Attorney** will transfer the case to **DGC** for review in the *Legal Review* step or to **Closure** in the *Determinations* step, if permitted.
16. It is highly recommended for cause cases that **Attorney** immediately draft a memo for the Attorney General about the case while the case is fresh in his/her mind. Otherwise, **Attorney** can wait until after the Election of Rights is received to draft it.

Standard Operating Procedure: Reviewing Fully-Investigated Casefiles for No Cause Determinations (Housing) Paralegal specialist will select the case from his/her inventory in the *Legal Attorney Review* step.

1. **Paralegal specialist** will click the File Notes icon to open the case notes section and review the case notes.
2. **Paralegal specialist** will log into HEMS and click on the Investigations tab to review case related documents to confirm party and party representatives' addresses.
3. **Paralegal specialist** will read the Determination. Except as noted below, **paralegal specialist** will not edit the determination. It is not his/her document. If there are problems with the determination, confer with **DGC**.
 - a. **Paralegal specialist** will check all statute citations to confirm that they match the legal issue discussed and that they are state citations, not federal citations. **Paralegal specialist** will edit the citations as necessary.
 - b. **Paralegal specialist** will review the charging documents (TAQ or 903) found in Folder E or Folder A and in the email section of Actionstep.
 - i. Date stamp is filing date.
 - ii. **Paralegal specialist** will confirm issues and bases listed in the charging document against those listed in the determination.
4. **Paralegal specialist** will generate the appropriate NOD.
 - a. In the Documents section, click "Generate"
 - b. Type part of the name of the template you're looking for
 - c. Destination is Folder F - Status
 - d. "After Generating..." Open in MS Office
 - e. Click green Generate button
5. **Paralegal specialist** will modify the template as necessary

- a. Confirm letterhead is correct
 - b. Keep the line with certified receipt number
 - c. If there is no HUD number, delete the entire line
 - d. Confirm all date fields are correct
6. **Paralegal specialist** will modify the address fields
- a. Extra spaces between first and last name
 - b. Mr./Ms. when name includes “Esq.”
 - c. Delete errant dashes
7. **Paralegal specialist** will save the NOD. To do this, click Actionstep at the top of MS Word, then click Save. Do not go to File → Save.
8. **Paralegal specialist** will transfer the case to **General Counsel** for review in the *Legal Review* step or to **Closure** in the *Determinations* step, if permitted.

Standard Operating Procedure: Reviewing Fully-Investigated Casefiles for Withdrawals (Housing)

1. **Paralegal specialist** will select the case from his/her inventory in the *Legal Attorney Review* step.
2. **Paralegal specialist** will click the File Notes icon to open the case notes section and review the case notes, specifically reviewing the signed withdrawal form in Tab C.
3. **Paralegal specialist** will log into HEMS and click on the Investigations tab to review case related documents to confirm party and party representatives’ addresses.
4. **Paralegal specialist** will generate the appropriate NOD, specifying whether the withdrawal is with or without settlement.
 - a. In the Documents section, click “Generate”
 - b. Type part of the name of the template you’re looking for
 - c. Destination is Folder F - Status
 - d. “After Generating...” Open in MS Office
 - e. Click green Generate button
5. **Paralegal specialist** will modify the template as necessary
 - a. Confirm letterhead is correct
 - b. Keep the line with certified receipt number
 - c. If there is no HUD number, delete the entire line

- d. Confirm all date fields are correct
6. **Paralegal specialist** will modify the address fields
 - a. Extra spaces between first and last name
 - b. Mr./Ms. when name includes “Esq.”
 - c. Delete errant dashes
7. **Paralegal specialist** will save the NOD. To do this, click Actionstep at the top of MS Word, then click Save. Do not go to File → Save.
8. **Paralegal specialist** will transfer the case to **General Counsel** for review in the *Legal Review* step or to **Closure** in the *Determinations* step, if permitted.

Standard Operating Procedure: Reviewing Casefiles and Drafting Determinations (Whistle-blower)

1. **Attorney** will select the case from his/her inventory in the *Legal Attorney Review* step. **Attorney** will click the File Notes icon to open the case notes section and review the case notes.
2. **Attorney** will read the Investigative Memorandum (IM).
3. **Attorney** will review Folder A - Intake and Case Documents Folder for pertinent intake documents
 - a. Date stamp is filing date. Keep this in mind for analyzing timeliness. Date(s) of harm should be mentioned throughout the case file.
4. **Attorney** will review Folders D and C for Respondent’s and Complainant’s evidence and Folder B for unredacted documentation.
5. It is highly recommended that **Attorney** outline the analysis of each element of each individual act of retaliation in the complaint before drafting the determination.
6. **Attorney** will generate the appropriate determination. A “Notice of Termination of Investigation” is for determinations where Complainant has not proved the case. A “Fact-Finding Report” is for determinations where Complainant has proved the case.
 - a. In the Documents section, click “Generate”
 - b. Type part of the name of the template you’re looking for
 - c. Destination is Folder E - Closure
 - d. “After Generating...” Open in MS Office

- e. Click green Generate button
7. **Attorney** will modify the template as necessary.
 - a. Confirm letterhead is correct
 - b. Delete entire line with certified receipt number, if applicable
 - c. Repeat for the second page
8. **Attorney** will modify the address fields.
 - a. Extra spaces between first and last name
 - b. Mr./Ms. when name includes “Esq.”
 - c. Delete errant dashes
 - d. Copy and paste corrected addresses onto page 2
9. **Attorney** will decide if the investigation is complete.
10. **Attorney** will write the analysis between the two boilerplate paragraphs
 - a. There is no page limit for the determination.
 - b. All individual alleged acts of retaliation identified in the complaint and amendments must be addressed.
11. **Attorney** will edit the document, keeping in mind the SMART Expectation for Quality.
12. **Attorney** will save the document. To do this, click Actionstep at the top of MS Word, then click Save. Do not go to File → Save.
13. **Attorney** does not need to save the IM as a PDF, as had been done in the past. The IM is now being uploaded in its final state by the **Investigator** or **Unit Manager**.
14. **Attorney** will transfer the case to **DGC** for review in the *Legal Review* step or to **Closure** in the *Determinations* step, if permitted.

Standard Operating Procedure: Supervisory Review of Drafted Determinations

1. In Actionstep, **DGC** will filter for cases in the *Legal Review* step, using a view where case age, filing date, and days in the current step can be seen.
2. **DGC** will send cases to the Closure Unit on or before the 13th day in the step (the 13th day since the case file was sent to DGC by the reviewing **Attorney**) or before the compliance deadline, whichever is sooner. When a case is sent to Closure and the compliance deadline is within 2 days, **DGC** will alert the **Commission Clerk** and **Deputy Clerk**.
3. When reviewing determination drafts, **DGC** will ensure the following standards are met:
 - a. Current letterhead was used

- b. The correct template was used
 - c. Addresses on the determination match the notice of determination (E/PA/H)
 - d. If there is a CP Rep (check parties section of ActionStep case file), the address used is for the CP Rep
 - e. There is enough space for the Executive Director to sign
 - f. The determination fits on two pages (E/PA)
 - g. There is no mention of the certified mail receipt number under the caption of the case on page (E/PA/WB)
 - h. The analysis of the issues is correct and is supported (E/PA/WB/H)
 - i. The document is appropriate for presentation to the Executive Director with regard to grammar, spelling, punctuation (E/PA/WB)
 - j. The determination addresses the issues and bases covered in the “Statute, Issues, Bases” section of the case in Actionstep, when applicable
4. If the case is appropriate to send to the Closure Unit, **DGC** will:
- a. Click “Determinations” in the yellow area on the ribbon at the top of the case file in ActionStep
 - b. Scroll down to where it says parties.
 - c. On the Deputy Clerk line, click the text field for “Add a participant” and select the Deputy Clerk’s name
 - d. On the Clerk line, click the text field for “Add a participant” and select the Clerk’s name
 - e. Assign the case to **Clerk**
 - f. Scroll back down to the File Note area and type “Reviewed” or another comment indicating that the review has occurred.
 - g. Click submit
5. If the case is not appropriate to send to the Closure Unit, **DGC** will return the case to the reviewing **Attorney** in the *Legal Attorney Review* step.
- a. Change the step to *Legal Attorney Review*.
 - b. Assign the case to **Attorney**.
 - c. Make a file note explaining the reason for the return.

Standard Operating Procedure: Drafting and Issuing Subpoenas

1. An **Investigator** or the **Investigations Supervisor** will email **General Counsel** to request a subpoena. **Investigator** should have consulted with his or her supervisor before approaching Legal.
2. **General Counsel** will assign this project to **DGC** or to himself or herself. The task may also be assigned to **Attorney**.
3. **Attorney** will meet with **Investigator** to discuss the need for a subpoena. A subpoena is necessary in a Housing case if there is specific information or documents necessary for the investigation. In Employment cases, the need is narrower. If a party requests a subpoena for certain requested information during the course of the investigation, FCHR will send a subpoena to obtain the information.
4. **Attorney** may ask **Investigator** to draft the list of questions or documents to be included in the subpoena. **Attorney** may need to edit the drafted list.
5. **Attorney** will draft the subpoena, modeling after samples provided, and edit it.
6. **Attorney** will consult with **Investigator** and/or **Investigations Supervisor** to confirm the subpoena meets the investigatory needs.
7. **Attorney** will submit the drafted subpoena to **General Counsel** for review.
8. **General Counsel** will review the subpoena for quality and will present the document to **Executive Director** for signature.
9. **Executive Director** will return the signed document to **General Counsel**, who will route it to **Closure**—possibly through **Attorney**.
10. **Clerk** or **Deputy Clerk** will scan and mail the subpoena by certified mail.
11. **Attorney** will set a task in the ActionStep case file due the day after the subpoena is due. The task will be assigned to **Investigator** and will be due the day after the subpoena deadline.
12. If compliance with the subpoena is not achieved, **Attorney** may draft another subpoena for service by a sheriff.

APPENDIX 5

Closure Standard Operation Procedure

- I. Receiving Closures from Legal
 - a. Check the addresses in Actionstep for accuracy by reviewing the complainant's correspondence (Tab C) and the respondent's correspondence (Tab D).
 - b. Ensure that each case has the correct forms, such as the correct EEOC form, withdrawal form, negotiated settlement form, etc.
 - c. Print the determination letter (if there's a determination) or the dismissal letter (if an administrative closure) for signature.
 - d. Notify executive assistant that documents are ready for signature and deliver to Executive Suite.
- II. Employment and Public Accommodations Cases
 - a. Cause determinations
 - i. Sign and date the determination and the notice of determination the same day the letters are being mailed. Stamp for Clerk and initial.
 - ii. Make two copies of the determination and notice of determination
 - iii. Scan original into Actionstep after signed by the Executive Director
 - iv. Mail one set by certified mail to the complainant with a blank petition for relief form
 - v. Mail the other set certified to the respondent
 - vi. Transfer the case to mediation staff to attempt conciliation
 - vii. Place case in suspense for 35 days to allow the complainant to return their completed petition for relief
 1. If conciliation attempts result in an impasse, after 35 has passed without a petition for relief being filed, close the case
 2. If conciliation attempts result in settlement, close the case upon completion of the terms of the agreement
 - b. No cause determinations
 - i. Sign and date the determination and the notice of determination the same day the letters are being mailed. Stamp for Clerk and initial.
 - ii. Make two copies of the determination and notice of determination

- iii. Scan original into Actionstep after signed by the Executive Director
- iv. Mail one set to the respondent by regular mail
- v. Mail the other set by certified mail to the complainant with a blank petition for relief form
- vi. Place case in suspense for 35 days to allow the complainant to return their completed petition for relief
- vii. After 35 has passed without a petition for relief being filed, close the case
- c. No jurisdiction determinations
 - i. Sign and date the determination and the notice of determination the same day the letters are being mailed. Stamp for Clerk and initial.
 - ii. Make two copies of the determination and notice of determination
 - iii. Scan original into Actionstep after signed by the Executive Director
 - iv. Mail one set to the respondent by regular mail
 - v. Mail the other set by certified mail to the complainant with a blank petition for relief form
 - vi. Place case in suspense for 35 days to allow the complainant to return their completed petition for relief
 - vii. After 35 has passed without a petition for relief being filed, close the case
- d. Administrative closures (withdrawal, right to sue, negotiated settlement, etc.)
 - i. Case will be transferred to closure from a manager or lead
 - ii. Prepare the appropriate dismissal letter for signature
 - iii. Scan original into Actionstep after signed by the Executive Director
 - iv. Sign and date the dismissal letter the same day the letter is being mailed. Stamp for Clerk and initial.
 - v. Make two copies of the dismissal
 - vi. Mail one copy to the complainant and the other to the respondent
 - vii. Close the case

III. Whistle-blower Retaliation Cases

- a. Notice of termination of investigation
 - i. Sign and date the letters the same day they are being mailed. Stamp for Clerk and initial.
 - ii. Make two copies of the letters.
 - iii. Scan original into Actionstep after signed by the Executive Director

- iv. Send one copy to the complainant and the other copy to the respondent.
- v. Close the case
- b. Fact-finding report
 - i. Sign and date the letters the same day they are being mailed. Stamp for Clerk and initial.
 - ii. Make two copies of the letters.
 - iii. Send one copy to the complainant and the other copy to the respondent.
 - iv. Scan original into Actionstep after signed by the Executive Director
 - v. Transfer case to mediation staff to attempt conciliation
 - vi. Place case in suspense for 35 days to allow the parties to settle
 - 1. If conciliation attempts result in an impasse, mail a termination of investigation and close the case
 - 1. If conciliation attempts result in settlement, close the case upon completion of the terms of the agreement

IV. Housing Cases

- a. Cause determinations
 - i. Sign and date the determination and the notice of determination the same day the letters are being mailed. Stamp for Clerk and initial.
 - ii. Make a copy of the determination and notice of determination for each of the parties
 - iii. Scan original into Actionstep after signed by the Executive Director
 - iv. Mail one set by certified mail to the complainant with a blank election of rights form
 - v. Mail the other copies to the respondents
 - vi. Hold the case in suspense until 30 days after the complainant receives the notices, as indicated on the USPS website
 - vii. If election of rights form not returned, close the case
- b. No cause/no jurisdiction determinations
 - i. Sign and date the determination and the notice of determination the same day the letters are being mailed. Stamp for Clerk and initial.
 - ii. Make a copy of the determination and notice of determination for each of

the parties

- iii. Scan original into Actionstep after signed by the Executive Director
- iv. Mail one set by certified mail to the complainant with a clank petition for relief form
- v. Mail the other copies to the respondents
- vi. Hold the case in suspense until 30 days after the complainant receives the notices, as indicated on the USPS website
- vii. If petition for relief form not returned, close the case

APPENDIX 6

Mediations/Conciliations Standard Operating Procedure

1. Purpose

Describes the mediation and conciliation processes.

2. Scope

The mediators and the General Counsel, as the mediators' supervisor, are the staff primarily following this procedure.

3. Prerequisites

General:

- a. Mediators will work as a team on case assignments to assure equal case load and proper case coverage when a mediator is out of the office or on leave.
- b. On the last business day of every month, mediators submit their reports of cases mediated or conciliated to the local mediator, who will merge and submit the data the General Counsel.
- c. An annual mediation report will be provided to the General Counsel after the end of the state's fiscal year.

4. Responsibilities

The mediators within the Office of the General Counsel have primary responsibility of the SOP.

5. Procedure

Mediation Process within 45 days after assignment to mediation:

- a. Investigators transfer cases to the mediator after receiving the signed "Agreement to Mediate" and "Confidentiality Agreement" from both parties.
- b. Investigators email the mediator with the case information, stating that a case has been assigned to them for mediation. After mediation, if the case is not settled, the mediator returns the case to the investigator for investigation and notifies the investigator via e-mail that the case was not successfully mediated and has been returned.
- c. After mediation, if the case is settled, the mediator retains the case until the settlement terms are completed, after which the mediator transfers the case for dismissal by notifying the Deputy Clerk via e-mail. The case is then transferred to the Clerk for closure.

Conciliation Process within 35 days after assignment to conciliation:

- a. The conciliation process begins after a “Determination: Cause” is issued by the FCHR.
- b. The Deputy Clerk transfers the case to the mediator for conciliation as soon as the “Determination: Cause” is mailed to the parties. The mediator contacts the parties to offer conciliation.
- c. If the parties elect not to conciliate or the conciliation ends in an impasse, the case is transferred back to the closure unit, and the mediator notifies the Deputy Clerk via e-mail.
- d. If conciliation is successful, the mediator will provide the fully executed conciliation agreement to the Deputy Clerk for case closure.

References

Rules of Mediation (below)

7. Definitions

Mediation and Conciliation are neutral and voluntary settlement negotiation meetings between the parties that are held either in-person or telephonically.



MEDIATION RULES

FCHR mediation is a process in which a neutral mediator helps complainant and respondent resolve their dispute by suggesting different ways of settling the matter. The mediator will not make any judgment or determination and will not provide legal advice. Mediation will not be used as a fact-finding or discovery proceeding.

Mediation will be conducted **within 45 days** from the date the case was assigned to FCHR’s mediation unit. Participation in mediation is voluntary; any participant may withdraw from or suspend the mediation process at any time for any reason. The participants are to act in good faith in the mediation and work toward a satisfactory resolution. “Good faith” means an affirmative duty to listen to the concerns and suggestions of the other participants and to communicate honestly and with integrity. Good faith also means that **participants come to the mediation with sufficient**

authority to negotiate an agreement and they are prepared to provide a settlement request/offer.

Complainant must be able to present sufficient information concerning the reason(s) he/she believes discrimination occurred. Complainant will be prepared to present what **relief/resolution** he/she is requesting **with an itemized statement of losses.**

Respondent must furnish information that supports the respondent's position. Respondent representative must have the **authority to settle** and provide a **settlement offer.**

Please remember that mediation is designed to explore resolution and will not be used as evidentiary exchange. The parties will be prepared to explore settlement options and be open to compromise.

BENEFITS OF MEDIATION

Confidential – The process is private, off the record and informal.

Impartial – The mediator is a neutral party whose goal is to facilitate mutual resolution.

Free – Mediation is provided at no cost to either party unless the mediator is requested to travel.

Everyone wins – Mediation is the best way to preserve or build a better working or parting relationship.

REASONS TO MEDIATE v. LITIGATE

Mediation lets you create your own solution

Mediation is fair and neutral

Mediation improves communication

Mediation saves time and money

Mediation helps to uncover the real issues in your workplace

Mediation leads to cooperation in the workplace

If resolution is reached, it's done in a "no fault" manner
Mediation avoids litigation

APPENDIX 7

760.11 Administrative and civil remedies; Construction.—

(1) Any person aggrieved by a violation of ss. 760.01-760.10 may file a complaint with the commission within 365 days of the alleged violation, naming the employer, employment agency, labor organization, or joint labor-management committee, or, in the case of an alleged violation of s. 760.10(5), the person responsible for the violation and describing the violation. Any person aggrieved by a violation of s. 509.092 may file a complaint with the commission within 365 days of the alleged violation naming the person responsible for the violation and describing the violation. The commission, a commissioner, or the Attorney General may in like manner file such a complaint. On the same day the complaint is filed with the commission, the commission shall clearly stamp on the face of the complaint the date the complaint was filed with the commission. In lieu of filing the complaint with the commission, a complaint under this section may be filed with the federal Equal Employment Opportunity Commission or with any unit of government of the state which is a fair-employment-practice agency under 29 C.F.R. ss. 1601.70-1601.80. If the date the complaint is filed is clearly stamped on the face of the complaint, that date is the date of filing. The date the complaint is filed with the commission for purposes of this section is the earliest date of filing with the Equal Employment Opportunity Commission, the fair-employment-practice agency, or the commission. The complaint shall contain a short and plain statement of the facts describing the violation and the relief sought. The commission may require additional information to be in the complaint. The commission, within 5 days of the complaint being filed, shall by registered mail send a copy of the complaint to the person who allegedly committed the violation. The person who allegedly committed the violation may file an answer to the complaint within 25 days of the date the complaint was filed with the commission. Any answer filed shall be mailed to the aggrieved person by the person filing the answer. Both the complaint and the answer shall be verified.

(2) If other agency of the state or of any other unit of government of the state has jurisdiction of the subject matter of any complaint filed with the commission and has legal authority to investigate the complaint, the commission may refer such complaint to such agency for an investigation. Referral of such a complaint by the commission does not constitute agency action within the meaning of s. 120.52. If the commission refers a complaint to another agency under this subsection, the commission shall accord substantial weight to any findings and conclusions of any such agency. The referral of a complaint by the commission to a local agency does not

(3) Except as provided in subsection (2), the commission shall investigate the allegations in the complaint. Within 180 days of the filing of the complaint, the commission shall determine if there is reasonable cause to believe that discriminatory practice has occurred in violation of the Florida Civil Rights Act of 1992. When the commission determines whether or not there is reasonable cause, the commission by registered mail shall promptly notify the aggrieved person and the respondent of the reasonable cause determination, the date of such determination, and the options available under this section.

(4) If the commission determines that there is reasonable cause to believe that a discriminatory practice has occurred in violation of the Florida Civil Rights Act of 1992, the aggrieved person may either:

(a) Bring a civil action against the person named in the complaint in any court of competent jurisdiction; or

(b) Request an administrative hearing under ss. 120.569 and 120.57.

The election by the aggrieved person of filing a civil action or requesting an administrative hearing under this subsection is the exclusive procedure available to the aggrieved person under this act.

(5) In any civil action brought under this section, the court may issue an order prohibiting the discriminatory practice and providing affirmative relief from the effects of the practice, including back pay. The court may also award compensatory damages, including, but not limited to, damages for mental anguish, loss of dignity, and any other intangible injuries, and punitive damages. The provisions of ss. 768.72 and 768.73 do not apply to this section. The judgment for the total amount of punitive damages awarded under this section to an aggrieved person shall not exceed \$100,000. In any action or proceeding under this subsection, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action. The right to trial by jury is preserved in any such private right of action in which the aggrieved person is seeking compensatory or punitive damages, and any party may demand a trial by jury. The commission's determination of reasonable cause is not admissible into evidence in any civil proceeding, including any hearing or trial, except to establish for the court the right to maintain the private right of action. A civil action brought under this section shall be commenced no later than 1 year after the date of determination of reasonable cause by the commission. The commencement of such action shall divest the commission of jurisdiction of the complaint, except that the commission may intervene in the civil action as a matter of right.

Notwithstanding the above, the state and its agencies and subdivisions shall not be liable for punitive damages. The total amount of recovery against the state and its agencies and subdivisions shall not exceed the limitation as set forth in s. 768.28(5).

(6) Any administrative hearing brought pursuant to paragraph (4)(b) shall be conducted under ss. 120.569 and 120.57. The commission may hear the case provided that the final order is issued by members of the commission who did not conduct the hearing or the commission may request that it be heard by an administrative law judge pursuant to s. 120.569(2)(a). If the commission elects to hear the case, it may be heard by a commissioner. If the commissioner, after the hearing, finds that a violation of the Florida Civil Rights Act of 1992 has occurred, the commissioner shall issue an appropriate proposed order in accordance with chapter 120 prohibiting the practice and providing affirmative relief from the effects of the practice, including back pay. If the administrative law judge, after the hearing, finds that a violation of the Florida Civil Rights Act of 1992 has occurred, the administrative law judge shall issue an appropriate recommended order in accordance with chapter 120 prohibiting the practice and providing affirmative relief from the effects of the practice, including back pay. Within 90 days of the date the recommended or proposed order is rendered, the commission shall issue a final order by adopting, rejecting, or modifying the recommended order as provided under ss. 120.569 and 120.57. The 90-day period may be extended with the consent of all the parties. An administrative hearing pursuant to paragraph (4)(b) must be requested no later than 35 days after the date of determination of reasonable cause by the commission. In any action or proceeding under this subsection, the commission, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action.

(7) If the commission determines that there is not reasonable cause to believe that a violation of the Florida Civil Rights Act of 1992 has occurred, the commission shall dismiss the complaint. The aggrieved person may request an administrative hearing under ss. 120.569 and 120.57, but any such request must be made within 35 days of the date of determination of reasonable cause and any such hearing shall be heard by an administrative law judge and not by the commission or a commissioner. If the aggrieved person does not request an administrative hearing within the 35 days, the claim will be barred. If the administrative law judge finds that a violation of the Florida Civil Rights Act of 1992 has occurred, he or she shall issue an appropriate recommended order to the commission prohibiting the practice and recommending affirmative relief from the effects of the practice, including back pay. Within 90 days of the date the recommended order is rendered,

the commission shall issue a final order by adopting, rejecting, or modifying the recommended order as provided under ss. 120.569 and 120.57. The 90-day period may be extended with the consent of all the parties. In any action or proceeding under this subsection, the commission, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action. In the event the final order issued by the commission determines that a violation of the Florida Civil Rights Act of 1992 has occurred, the aggrieved person may bring, within 1 year of the date of the final order, a civil action under subsection (5) as if there has been a reasonable cause determination or accept the affirmative relief offered by the commission, but not both.

(8) If the commission fails to conciliate or determine whether there is reasonable cause on any complaint under this section within 180 days after the filing of the complaint:

(a) An aggrieved person may proceed under subsection (4) as if the commission determined that there was reasonable cause.

(b) The commission shall promptly notify the aggrieved person of the failure to conciliate or determine whether there is reasonable cause. The notice shall provide the options available to the aggrieved person under subsection (4) and inform the aggrieved person that he or she must file a civil action within 1 year after the date the commission certifies that the notice was mailed.

(c) A civil action brought by an aggrieved person under this section must be commenced within 1 year after the date the commission certifies that the notice was mailed pursuant to paragraph (b).

(9) No liability for back pay shall accrue from a date more than 2 years prior to the filing of a complaint with the commission.

(10) A judgment for the amount of damages and costs assessed pursuant to a final order by the commission may be entered in any court having jurisdiction thereof and may be enforced as any other judgment.

(11) If a complaint is within the jurisdiction of the commission, the commission shall simultaneously with its other statutory obligations attempt to eliminate or correct the alleged discrimination by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent civil proceeding, trial, or hearing. The commission may initiate dispute resolution procedures, including voluntary arbitration, by special magistrates or mediators. The commission may adopt rules as to the qualifications of persons who may serve as special magistrates and mediators.

(12) All complaints filed with the commission and all records and documents in the custody of the commission, which relate to and identify a particular person, including, but not limited to, a complainant, employer, employment agency, labor organization, or joint labor-management committee shall be confidential and shall not be disclosed by the commission, except to the parties or in the course of a hearing or proceeding under this section. The restriction of this subsection shall not apply to any record or document which is part of the record of any hearing or court proceeding.

(13) Final orders of the commission are subject to judicial review pursuant to s. 120.68. The commission's determination of reasonable cause is not final agency action that is subject to judicial review. Unless specifically ordered by the court, the commencement of an appeal does not suspend or stay the order of the commission, except as provided in the Rules of Appellate Procedure. In any action or proceeding under this subsection, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the cost. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action. In the event the order of the court determines that a violation of the Florida Civil Rights Act of 1992 has occurred, the court shall remand the matter to the commission for appropriate relief. The aggrieved party has the option to accept the relief offered by the commission or may bring, within 1 year of the date of the court order, a civil action under subsection (5) as if there has been a reasonable cause determination.

(14) The commission may adopt, promulgate, amend, and rescind rules to effectuate the purposes and policies of this section and to govern the proceedings of the commission under this section.

(15) In any civil action or administrative proceeding brought pursuant to this section, a finding that a person employed by the state or any governmental entity or agency has violated s. 760.10 shall as a matter of law constitute just or substantial cause for such person's discharge.

History.—s. 8, ch. 92-177; s. 3, ch. 92-282; s. 1, ch. 94-91; s. 417, ch. 96-406; s. 302, ch. 96-410; s. 1, ch. 2001-187; s. 97, ch. 2004-11; s. 7, ch. 2015-68.