

1-23-01

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AT

STATE OF FLORIDA  
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

FILED

01 MAR -1 AM 10:45

COOL SCHOOL, INC. d/b/a  
ANTOINETTE GARRITY,

Petitioner,

v.

DEPARTMENT OF CHILDREN  
AND FAMILY SERVICES,  
(DISTRICT 4)

Respondent.

CASE NO. 00-1421  
RENDITION NO. DCF-01-092-FO  
(Affirming Imposition of Fine)

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

FILED

FEB 28 2001

DCF Department Clerk

FINAL ORDER IMPOSING FINE AND CLOSING CASE FILE

THIS CAUSE is before me as the result of the attached Recommended Order, which was issued by the Administrative Law Judge who had been assigned to hear this case by the Division of Administrative Hearings (DOAH).<sup>1</sup> The Administrative Law Judge's order states that Ms. Garrity failed to appear for hearing. Consequently, the unopposed allegations of the administrative complaint were adopted.

Upon receiving the Recommended Order, Ms. Garrity filed exceptions. She maintains that she was at the building where the hearing was being held, but that she could not find the room. Then, as part of her exceptions, Ms. Garrity also submits evidence designed to refute the Administrative Law Judge's findings of fact.

<sup>1</sup>When a licensure discipline case file is sent to DOAH for a hearing, DOAH requires the department to label itself as the petitioner rather than as the respondent. DOAH's requirement in that regard reflects the legal reality that, at hearing, the burden of proof would have been on the department to show that the license should be disciplined. Despite DOAH's requirement in this regard, however, the fact remains that the person asking for a hearing is the "petitioner" and should be labeled as such. By this order, therefore, all pleadings and papers in this case are hereby amended to reflect the appropriate style of this cause, with the department as the "Respondent" and the person asking for the hearing as the "Petitioner."

I cannot accept this evidence. Even if I could, however, the Administrative Law Judge's findings of fact cannot be overturned because I do not have the entire record before me. Section 120.57(1)(l), F.S.

Consequently, the Administrative Law Judge's order is attached and incorporated herein by reference. I adopt its findings of fact and conclusions of law regarding the violations of Section 402.305, F.S., and Rule 65C-22.006(5), F.A.C.

Accordingly, it is hereby **ORDERED** in Case No. 00-1421 that the imposition of the fine of \$350 is **affirmed** and that the Department's case file is **closed**. Cool School, Inc., d/b/a Antoinette Garrity shall remit full payment to the Department, through its district office, within thirty (30) days of the date on which this Final Order is rendered. If the Department, through its district office, does not receive full payment within this time, it shall pursue payment through any and all legal means.

DONE and ORDERED this 23<sup>rd</sup> day of Feb, 2001, in Tallahassee, Leon County, Florida.

  
KATHLEEN A. KEARNEY, Secretary  
Department of Children and Families

Copies of this Final Order are being furnished to:

Don W. Davis  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Bldg.  
1230 Apalachee Parkway  
Tallahassee, FL 32399-3060

Robin Whipple-Hunter  
District 4 Legal Counsel  
Department of Children and Family Services  
Post Office Box 2417  
Jacksonville, FL 32231-0083

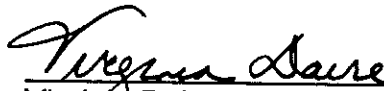
Antoinette Garrity  
Cool School, Inc.  
57 College Drive  
Orange Park, FL 32065

## NOTICE OF RIGHT TO APPEAL

A party who is adversely affected by this final order is entitled to judicial review. To initiate judicial review, the party seeking it must file one copy of a "Notice of Appeal" with the Agency Clerk. The party seeking judicial review must also file another copy of the "Notice of Appeal," accompanied by the filing fee required by law, with the First District Court of Appeal in Tallahassee, Florida, or with the District Court of Appeal in the district where the party resides. The Notices must be filed within thirty (30) days of the rendition of this final order.<sup>2</sup>

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing **FINAL ORDER** has been sent by U.S. Mail or by hand delivery to each of the persons named above on this 28 day of January, 2001.



Virginia Daire, Agency Clerk  
Department of Children and Families  
1317 Winewood Blvd. Bldg. 2 Room 204X  
Tallahassee, FL 32399-0700

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<sup>2</sup>The date of the "rendition" of this Final Order is the date that is stamped on its first page. The Notices of Appeal must be received on or before the thirtieth day after that date.