

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

FILED
07 NOV 14 PM 1:33
DIVISION OF
ADMINISTRATIVE
HEARINGS

MELVIN and TAMMY GEIGER,

Petitioners,

v.

CASE NO. 07-0085

RENDITION NO. DCF-07-347-FO

DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Respondent.

FILED
NOV 13 2007

FINAL ORDER

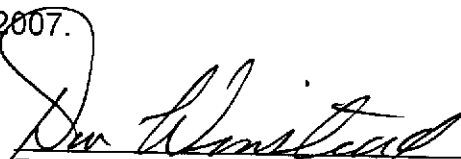
THIS CAUSE is before me for entry of a Final Order. The Recommended Order concludes that petitioners presented preponderant evidence to establish their fitness for licensure as foster parents under section 409.175, Florida Statutes. No exceptions to the Recommended Order have been filed. The Recommended Order is approved and adopted with one exception explained below.

At several points in the Recommended Order, the administrative law judge (ALJ) alludes to the preponderance of evidence standard when assessing the Department's stated reasons for denying petitioners' foster care license application. To the extent the Recommended Order could be read to conclude that the applicable standard is preponderance of the evidence, it is rejected. The Department, when denying a foster care license, must provide specific reasons for the denial, and those reasons must be supported by competent substantial evidence, not a preponderance of the evidence. Mayes v. Department of

Children and Family Services, 801 So. 2d 980 (Fla. 1st DCA 2001). This modification does not affect the outcome of the proceeding.

Accordingly, petitioners' application for a foster care license under section 409.175, Florida Statutes, is hereby GRANTED.

DONE AND ORDERED at Tallahassee, Leon County, Florida, this 13 day of November, 2007.



Don Winstead, Deputy Secretary
Department of Children and Family Services

RIGHT TO APPEAL

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW WHICH SHALL BE INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF CHILDREN AND FAMILIES, AND A SECOND COPY ALONG WITH FILING FEE AS PRESCRIBED BY LAW, IN THE FIRST DISTRICT COURT OF APPEAL OR IN THE DISTRICT COURT OF APPEAL WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA RULES OF APPELLATE PROCEDURE. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Copies furnished to:

Ralph J. McMurphy
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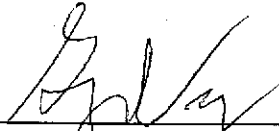
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Claudia Llado, Clerk
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Pkwy
Tallahassee, FL 32399-3060

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this Final Order was provided to the above-named individuals at the listed addresses, by U.S. Mail, this 13 day of November, 2007.



Gregory D. Venz, Agency Clerk
Department of Children and Families
1317 Winewood Blvd.
Bldg. 2, Rm. 204-X
Tallahassee, FL 32399-0700