STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

CARRIE JOHNSON, AS LAWFUL CUSTODIAN AND NEXT FRIEND OF MINOR CHILD, JEVON EVENS,	)	
Petitioners,	)	
vs.	)	Case Nos. 08-3106RP
DEPARTMENT OF CHILDREN AND FAMILY SERVICES,	)	
Respondent.	)	

SUMMARY FINAL ORDER

A formal administrative hearing was unnecessary in this case before the Division of Administrative Hearings, by Daniel M. Kilbride, Administrative Law Judge, and this matter is decided on Cross Motions for Summary Final Order.

APPEARANCES

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STATEMENT OF THE ISSUES

Whether the Notice of Change to proposed rule 65A-1.900(2)(a) of Respondent is an invalid exercise of delegated legislative authority, under Subsection 120.56(1)(c), Florida Statutes, because the proposed rule is arbitrary and capricious and because Respondent has failed to follow rulemaking procedure or requirements in attempting to change its proposed rule.

PRELIMINARY STATEMENT

There are several interrelated cases which commenced when Petitioner challenged, as an unadopted agency statement meeting the definition of a rule, an unpromulgated policy of Respondent's. This policy prohibited payment of pre-October 1, 2007, cash assistance withheld from Petitioner Carrie Johnson and her grandson Jevon Evens. The Petition to Determine Invalidity of Unadopted Rule, dated November 2, 2007, [hereafter "First Petition] was assigned DOAH Case No. 07-5066RU. After undertaking discovery, Petitioner moved for summary final order on February 1, 2008, asking this tribunal to find the unadopted policy invalid. Respondent then proposed a rule which

"address[ed] the agency statement Petitioner contends constitutes an unpromulgated rule" and moved, inter alia, to abate the case. See Respondent's Motion to Dismiss or Alternative Stay/Abate Administrative Proceedings [hereafter "Motion to Abate"]. Petitioner did not object to abatement, and the unpromulgated rule challenge, Case No. 07-5066RU, was placed in abeyance. An Order placing the case in abeyance was entered on March 13, 2008.

After entry of the abatement of Petitioner's First Petition, Respondent published a proposed rule amending 65A-1.900(2)(a) to incorporate the agency statement challenged as unpromulgated. Petitioner challenged the validity of the substance of the proposed rule as being beyond delegated legislative authority. Petition to Determine Invalidity of Proposed Rule, filed March 28, 2008, [hereafter "Second Petition] was assigned DOAH Case No. 08-1577RU. The unpromulgated rule challenge, First Petition, and the proposed rule challenge, Second Petition, were consolidated by Order dated April 9, 2008.

Petitioner thereafter moved for summary final order on her Second Petition, the proposed rule challenge. Respondent responded by stating it would delete the contested sentence that allegedly makes the proposed rule an invalid exercise of delegated legislative authority. Thereafter, Respondent's

Notice of Change was published in the Florida Administrative Weekly demonstrating that the challenged language providing ". . . [c]ash assistance benefits will not be paid to offset recovery prior to October 1, 2007 from individuals who were children in the overpaid assistance group . . ." is deleted from proposed rule 65A-1.900(2)(a). Based on this chain of events, Petitioner moved to set aside its March 13, 2008, Order Placing Case 07-5066RU in Abeyance.

Timely following Respondent's publication of its Notice of Change, Petitioner challenged the validity of the Notice of Change as being beyond delegated legislative authority. Petitioner charges that Respondent materially failed to follow rulemaking procedures/requirements and acted arbitrarily and capriciously. Petition to Determine Invalidity of Notice of Change to Proposed Rule 65A-1.900(2)(a) was filed June 25, 2008 (hereafter "Third Petition"), and assigned DOAH Case No. 08-3106RP. Petitioner further filed a motion to consolidate the Third Petition with the first two challenges.

Following the filing of the Third Petition, Respondent moved for summary disposition of same. After responding to same, Petitioner cross-moved for summary final order on her Third Petition. On September 9, 2008, Respondent published in the Florida Administrative Weekly, a Notice of Proposed Rule 65A-4.220, which sets out inter alia, Respondent's proposal for

limiting the application of policy changes in the Temporary Cash Assistance (TCA) program, and if, and when, it will notify TCA recipients about policy changes that may affect them. A public hearing was held on the proposed rule on October 8, 2008.

Petitioner filed a Petition to Determine Invalidity of Proposed Rule 65A-4.220 on October 20, 2008 (Fourth Petition), which was assigned DOAH Case No. 08-5227RP. The Fourth Petition remains pending.

FINDINGS OF FACT

The undisputed material facts are as follows:

1. Carrie Johnson is the maternal grandmother and caretaker of Jevon Kyshan Evens, aged 17, and Willard Cody Sanders, aged 15. Ms. Johnson and her grandchildren live at 806 E. James Street, Tampa, Florida 33603. Ms. Johnson has court-ordered custody of both of her grandchildren. During all times relevant to these proceedings, Jevon Kyshan Evens was a minor child.

2. Ms. Johnson currently receives a maximum of $637 in Supplemental Security Income (hereafter "SSI") subsistence disability benefits. She gets governmental housing assistance. She also gets TCA for both grandsons to help her care for them. For her two grandsons, the most Ms. Johnson is eligible to receive in TCA is a grant of $241 each month.

3. Respondent's records show that, at least as early as 1992, Jevon lived with Ms. Johnson.

4. At one time, Jevon went to live with his natural mother. However, Jevon moved back in with his grandmother, Carrie Johnson.

5. Respondent charged Jevon's natural mother with an overpayment of $2,562 in TCA benefits.

6. Respondent reduced Petitioner's cash assistance benefits as a means to recover the outstanding cash assistance overpayment claim established against the mother. The authority cited for Respondent's action was Florida Administrative Code Rule 65A-1.900, which implements Section 414.41, Florida Statutes.

7. Prior to October 1, 2007, Respondent began to collect Jevon's mother's overpayment by reducing the amount of TCA it gave to Carrie Johnson for Jevon. Respondent recouped at least $369 of Jevon's mother's overpayment from Jevon's temporary assistance between 2005 and the end of 2007. Respondent continued to reduce Ms. Johnson's TCA benefits to recoup Jevon's mother's overpayment until the end of December 2007.

8. Effective October 1, 2007, however, Respondent changed its cash assistance program's benefit recovery policy based on a different interpretation of Subsection 414.41(1), Florida Statutes. Prior to October 1, 2007, all participants in the

cash assistance program at the time an overpayment occurred were identified as a "responsible person" for purposes of repayment of a cash assistance overpayment claim. However, as of October 1, 2007, the meaning of "responsible person" was changed by making "adults" the only group of people who could be responsible for repaying cash assistance overpayment claims. Therefore, it excluded recovery of cash assistance overpayments from minors.

9. Consistent with the new policy concerning "adults" and "responsible persons," Respondent voluntarily restored cash assistance benefits to currently active cash assistance households that contained a minor child in the assistance group if the household's cash assistance benefits had been reduced to recover repayment of an outstanding overpayment cash assistance claim. The restoration period covered October 1, 2007, through December 31, 2007. Petitioner's household was a benefactor of Respondent's decisions to restore the cash assistance benefits for the months of October and November, 2007.

10. Although Respondent paid Ms. Johnson supplemental TCA to offset the benefits it recovered in October and November 2007, Respondent did not return to Jevon or Carrie Johnson any of the money that it kept from Jevon's cash assistance prior to October 1, 2007, in order to recoup his mother's overpayment.

11. Carrie Johnson is substantially affected by the Proposed Rule and, thus, has standing in this challenge.

12. On December 14, 2007, Respondent published Notice of Development of Rulemaking with the stated purpose of "align[ing] . . . policies for recovery of overpayment in the public assistance programs."

13. On March 7, 2008, Respondent published Notice of Proposed Rule stating that "the proposed rule aligns policies for recovery of overpayment in the public assistance programs. . . . The proposed rule amends language about who is responsible for repayment of overpayment of public assistance benefits."

14. The operative date of October 1, 2007, was set forth in the second sentence of the proposed rule 65A-1.900(2)(a) ("Cash assistance benefits will not be paid to offset recovery prior to October 1, 2007, from individuals who were children in the overpaid assistance group").

15. Petitioner alleged that the operative date of October 1, 2007, was arbitrary and capricious.

16. Proposed rule 65A-1.900(2)(a), as published on March 7, 2008, reads, in its pertinent parts, as follows:

* * *

(2) Persons Responsible for Repayment of Overpayment.

> (a) Persons who received AFDC and cash assistance overpayments as an adult shall be responsible for repayment of the overpayment. . . . Cash assistance benefits will not be paid to offset recovery prior to October 1, 2007 from individuals who were children in the overpaid assistance group.
>
> * * *
>
> (e) For the purpose of this rule, an adult is defined as:
> 1. Eighteen (18) years of age or older,
> 2. A teen parent receiving assistance for themselves as an adult,
> 3. An emancipated minor, or
> 4. An individual who has become married even if the marriage ended in divorce.
> (Underlining in original)

17. The summary section of the proposed rule states that it ". . . amends language about who is responsible for repayment of overpayment of public assistance benefits. . . ." The purpose and effect of the proposed rule making is the alignment of policies for recovery of overpayment in the public assistance program.

18. Subsection 414.41(1), Florida Statutes, reads, in its pertinent parts, as follows:

> **414.41. Recovery of payments made due to mistake or fraud.** --
> (1) Whenever it becomes apparent that any person . . . has received any public assistance under this chapter to which she or he is not entitled, through either simple mistake or fraud on the part of the department or on the part of the recipient or participant, the department shall take all necessary steps to recover the overpayment. Recovery may include Federal

> Income Tax Refund Offset Program collections activities in conjunction with Food and Consumer Service and the Internal Revenue Service to intercept income tax refunds due to clients who owe food stamp or WAGES debt to the state. The department will follow the guidelines in accordance with federal rules and regulations and consistent with the Food Stamp Program. The department may make appropriate settlements and shall establish a policy and cost-effective rules to be used in the computation and recovery of such overpayments.
> (Emphasis added.)

19. Following the filing of Petitioner's Motion for Summary Final Order on the Second Petition, Respondent moved to delete the contested sentence Petitioner objected to. Thereafter, Respondent's Notice of Change was published in the Florida Administrative Weekly striking the sentence which read: ". . . [c]ash assistance benefits will not be paid to offset recovery prior to October 1, 2007, from individuals who were children in the overpaid assistance group. . . ."

20. Following publication of the Notice of Change, the Third Petition was filed, in which Petitioner seeks a determination that the Notice of Change, the scheduled public hearing, and Respondent's intent to change the language of proposed rule 65A-1.900(2)(a), Florida Administrative Code, as originally published in the Florida Administrative Weekly, by deleting a sentence constitute an invalid exercise of delegated legislative authority. See § 120.52(8)(a), Fla. Stat. (2007)

21. At no time at any public hearing on proposed rule 65A-1.900(2)(a) was testimony given suggesting that the sentence challenged by Petitioner in proposed rule 65A-1.900(2)(a) should be placed in a rule other than Rule 65A-1.900.

22. Respondent did not receive any written material or objections from the Joint Administrative Procedures Committee (JAPC) advising Respondent that the challenged sentence should be moved from Rule 65A-1.900.

23. When Respondent submitted documents to JAPC concerning a Notice of Change to Proposed Rule 65A-1.900, no reason for the change was included in these documents. JAPC wrote to Respondent and asked the agency to explain the reason for the Notice of Change. Respondent has not responded to JAPC's request for an explanation of the reason for the Notice of Change.

24. There is no written record of JAPC instructing Respondent to hold a public hearing to discuss the Notice of Change.

25. Respondent published a Notice of Rule Development to amend Florida Administrative Code Rule 65A-4.220. The draft text of the proposed rule was published and a public hearing was held on October 8, 2008. Following the public hearing, a Petition to Determine the Invalidity of Proposed Rule 65A-4.220

was filed October 20, 2008 (hereafter "Fourth Petition"), and assigned DOAH Case No. 08-5227RP.

CONCLUSIONS OF LAW

Jurisdiction

26. The Division of Administrative Hearings has jurisdiction over the parties and the subject matter of this proceeding pursuant to Section 120.56, Florida Statutes (2007).

27. Petitioner is an individual whose substantial interests will be affected by the proposed rule, and has standing to bring this rule challenge.

Burden of Proof

28. Initially, Petitioner "shall state with particularity the objections to the proposed rule and the reasons that the proposed rule is an invalid exercise of delegated legislative authority." § 120.56(2)(a), Fla. Stat (2007). Then, the Respondent "has the burden to prove by a preponderance of the evidence that the proposed rule is not an invalid exercise of delegated legislative authority as to the objections raised." Id.; see also Southwest Florida Water Management District v. Charlotte County, 774 So. 2d 903, 908 (Fla. 2nd DCA 2001) ("Nothing in Subsection 120.56(2) requires the agency to carry the burden of presenting evidence to disprove an objection alleged in a petition challenging a proposed rule. Instead a

party challenging a proposed rule has the burden of establishing a factual basis for the objections to the rule, and then the agency has the ultimate burden of persuasion to show that the proposed rule is a valid exercise of delegated legislative authority."), citing St. Johns River Water Management District v. Consolidated-Tomoka Land Co., 717 So. 2d 72, 76 (Fla. 1st DCA 1998). The court in Consolidated-Tomoka Land Co., declined to require the agency to go forward with evidence to disprove every objection made in the petition. Consolidated-Tomoka Land Co., 717 So. 2d at 76. Instead, the court adopted a practical approach that requires the party challenging the proposed rule to establish a factual basis for the objections put forth in the petition. Id. at 77.

29. A rule may not be declared invalid on any ground other than whether the rule is an invalid exercise of delegated legislative authority without impermissibly extending the authority of the Administrative Law Judge (ALJ). See Schiffman v. Department of Professional Regulation, Board of Pharmacy, 581 So. 2d 1375, 1379 (Fla. 1st DCA 1991)("An administrative agency has only the authority that the legislature has conferred on it by statute.") Thus, a proposed rule may not be invalidated simply because the ALJ believes it is not the wisest or best choice. See Bd. of Trustees of Internal Improvement Fund v. Levy, 656 So. 2d 1359, 1364 (Fla. 1st DCA 1995)("The issue

before the [ALJ] in this [rule challenge] case was not whether the Trustees made the best choice . . . or whether their choice is one that the appellee finds desirable . . . ."); Dravo Basic Materials Co., Inc. v. Department of Transportation, 602 So. 2d 632, 634 (Fla. 2nd DCA 1992)("It is not our task, however, to write the best rule for DOT. That was not the task of the [ALJ].").

Statutory Construction

30. Legislative intent is the polestar that guides a court's statutory construction analysis. Reynolds v. State, 842 So. 2d 46, 49 (Fla. 2002). In determining the Legislature's intent in using a particular word in a statute, the courts may examine other uses of the word in similar contexts. Hankey v. Yarian, 755 So. 2d 93, 96 (Fla. 2000).

31. Statutory phrases are not to be read in isolation, but rather within the context of the entire section. Jones v. ETS of New Orleans, Inc., 793 So. 2d 912, 915 (Fla. 2001). The legislative use of different terms in different sections is strong evidence that different meanings were intended. Department of Professional Regulation, Board of Medical Examiners v. Durrani, 455 So. 2d 515, 518 (Fla. 1st DCA 1984).

32. When the Legislature enacts a statute, it is presumed to know existing statutes and the case law construing them. Williams v. Christian, 335 So. 2d 358, 360 (Fla. 1st DCA 1976).

33. The statutory construction principle in pari materia requires two statutes relating to the same thing or subject to be construed together "so as to harmonize both statutes and give effect to the Legislature's intent." Maggio v. Florida Department of Labor and Employment, 899 So. 2d 1074, 1078 (Fla. 2005).

34. Legislative intent can be discerned by reading the statute as a whole. See, e.g., Young v. Progressive Southeastern Ins. Co., 753 So. 2d 80 (Fla. 2000); Acosta v. Richter, 671 So. 2d 149 (Fla. 1996); and Klonis v. Department of Revenue, 766 So. 2d 1186 (Fla. 1st DCA 2000). Legislative history concerning Subsection 414.41(1), Florida Statutes, can also be used to discern legislative intent. See Department of Insurance v. Insurance Services Offices, 434 So. 2d 908, 911 (Fla. 1st
DCA 1983).

35. It is widely recognized that "[a]gencies are to be accorded wide discretion in the exercise of their lawful rulemaking-authority, clearly conferred or fairly implied and consistent with the agency's general statutory duties." Department of Natural Resources v. Wingfield Development Company, 581 So. 2d 193, 197 (Fla. 1st DCA 1991).

36. Respondent is to be "accord[ed] great deference to administrative interpretations of statutes which the . . .

agency is required to enforce." Department of Environmental Regulation v. Goldring, 477 So. 2d 532, 534 (Fla. 1985).

37. "[T]he agency's interpretation of a statute need not be the sole possible interpretation or even the most desirable one; it need only be within the range of possible interpretations." Durrani, supra at 517. See Board of Podiatric Medicine v. Florida Medical Association, 779 So. 2d 658, 660 (Fla. 1st DCA 2001) (upholding agency's definition "[i]n light of the broad discretion and deference which is accorded an agency in the interpretation of a statute which it administers, and because such an interpretation should be upheld when it is within the range of permissible interpretations[.]").

38. The ALJ has the discretion to declare the proposed rule wholly or partly invalid. § 120.56(2)(b), Fla. Stat. (2007).

39. Petitioner contends that when the Legislature amended Subsection 414.41(1), Florida Statutes, it intended to prohibit or preclude Respondent from reducing her cash assistance benefits to repay the overpayment claim established against Jevon Evens' mother. Petitioner contends that when the Legislature amended Subsection 414.41(1), Florida Statutes, it also intended to incorporate by reference Title 7 Code of Federal Regulations subpart 273.17, Restoration of lost benefits. Subpart 273.17 is the basis for Petitioner's claim of

entitlement to restored cash assistance benefits prior to October 1, 2007. In the Third Petition, it is alleged that Respondent cannot remove the offensive sentence through a Notice of Change because Respondent now seeks to place that sentence in a completely different rule [see Fourth Petition].

40. However, Respondent must effect its intended change to proposed rule 65A-1.900(2)(a) through a notice of change because the intended change is not merely technical. Respondent has adequate discretion to schedule a public hearing on its intended change. And, scheduling a public hearing on Respondent's intended change of proposed rule 65A-1.900(2) does not impair Petitioner's substantial interest in the rulemaking proceedings concerning proposed rule 65A-1.900(2)(a). Scheduling a public hearing on the intended change of proposed rule 65A-1.900(2) also does not impair Petitioner's substantial interest in the rulemaking proceedings concerning proposed rule 65A-1.900(2)(a). Scheduling a public hearing on the intended change of proposed rule 65A-1.900(2) also does not impair the fairness of the rulemaking proceedings.

41. Subsection 120.54(3)(d), Florida Statutes, provides in its pertinent part:

> (d) Modification or withdrawal of proposed rules. --
>
> 1. After the final public hearing on the proposed rule, or after the time for

> requesting a hearing has expired, if the rule has not been changed from the rule as previously filed with the committee, or contains only technical changes, the adopting agency shall file a notice to that effect with the committee at least 7 days prior to filing the rule for adoption. Any change, other than a technical change that does not affect the substance of the rule, must be supported by the record of public hearings held on the rule, must be in response to written material received on or before the date of the final public hearing, or must be in response to a proposed objection by the committee. In addition, when any change is made in a proposed rule, other than a technical change, the adopting agency shall provide a copy of a notice of change by certified mail or actual delivery to any person who requests it in writing no later than 21 days after the notice required in paragraph (a). The agency shall file the notice of change with the committee, along with the reasons for the change, and provide the notice of change to persons requesting it, at least 21 days prior to filing the rule for adoption. The notice of change shall be published in the Florida Administrative Weekly at least 21 days prior to filing the rule for adoption. This subparagraph does not apply to emergency rules adopted pursuant to subsection (4).

42. Subsection 120.54(3)(d)1., Florida Statutes, requires non-technical changes like the one intended for proposed rule 65A-1.900(2) in the case sub judice to be implemented using a notice of change. It is also clear that the notice of change must be published in the Florida Administrative Weekly. Respondent has satisfied the requirements of Subsection 120.54(3)(d)1.

43. Subsection 120.54(3)(c), Florida Statutes, in pertinent part states:

* * *

> (c) Hearings. --
>
> 1. If the intended action concerns any rule other than one relating exclusively to procedure or practice, the agency shall, on the request of any affected person received within 21 days after the date of publication of the notice of intended agency action, give affected persons an opportunity to present evidence and argument on all issues under consideration. The agency may schedule a public hearing on the rule and, if requested by any affected person, shall schedule a public hearing on the rule. . . . (Emphasis added.)

44. Subsection 120.53(3)(c), Florida Statutes, gives Respondent discretion to schedule a public hearing on its intended change of proposed rule 65A-1.900(2). Moreover, scheduling a public hearing on the intended change of proposed rule 65A-1.900(2)(a) is not contrary to public policy as it relates to rulemaking procedures. Furthermore, a public hearing affords the general public, including Petitioner, the opportunity to review the intended change and to present evidence and argument on all pertinent issues prior to finalizing proposed rule 65A-1.900(2)(a) for adoption. This is the overall purpose of the procedures required by Section 120.54, Florida Statutes.

45. In addition, Subsection 120.56(1)(c), Florida Statutes, provides, in pertinent part:

* * *

> (c) . . . The failure of an agency to follow the applicable rulemaking procedures or requirement set forth in this chapter shall be presumed to be material; however, the agency may rebut this presumption by showing that the substantial interests of the petition and the fairness of the proceedings have not been impaired.

46. In the case sub judice, Respondent intends to remove a sentence from the proposed rule. Petitioner was not precluded from fully participating in the scheduled public hearing. Petitioner could have offered additional evidence and argument on the intended change to proposed rule 65A-1.900(2)(a) at the public hearing. Consequently, with full rights of participation in the scheduled public hearings intact, Petitioner's substantial interests were not impaired at the public hearing scheduled on the change to proposed rule 65A-1.900(2)(a). Similarly, scheduling the public hearing did not impair the fairness of the rulemaking procedures or either Petitioner's ability to continue to litigate any of her pending administrative rulemaking challenges filed, to date. Specifically, DOAH is not divested of subject-matter jurisdiction solely because Respondent schedules a public hearing on its intended change to proposed rule 65A-1.900(2)(a).

47. Therefore, under the governing law, any deviation by Respondent in the rulemaking procedures or requirements set forth in Section 120.54, Florida Statutes, concerning or governing the scheduling of public hearings was not a material deviation in this case.

48. Petitioner interprets Subsection 120.54(3)(d)1., Florida Statutes, as only authorizing a non-technical notice of change to a propose rule under limited and specific circumstances, i.e., (a) supported by the record of the public hearing on the proposed rule; (b) in response to written materials received on or before the date of the final public hearing; or (c) in response to a proposed objection by the JAPC. If none of those limitations exist, the Administrative Procedure Act (APA) limits rulemaking through a notice of change.

49. However, in applying this section of the statute to the case sub judice, the sentence that Respondent seeks to remove from the proposed rule is the very sentence for which Petitioner has filed two of her prior rule challenges (DOAH Case No. 07-5066RU and 08-1577RP). These two rule challenges, and this case as well, clearly qualify as a "response to written materials received . . . before the date of the final public hearing, . . .". § 120.54(3)(d)1., Fla. Stat. Therefore, Petitioner's contention that Respondent failed to follow Subsection 120.54(3)(d), Florida Statutes, is incorrect. The

use of the Notice of Change to remove language from the proposed rule is not improper, and is not an invalid exercise of delegated legislative authority. Department of Health and Rehabilitative Services v. Florida Medical Center, 578 So. 2d 351, 354 (Fla. 1st DCA 1991).

ORDER

Based on the foregoing findings of fact and conclusions of law, it is

ORDERED that (1) Petitioner's Motion for Summary Final Order is Denied, (2) Respondent's Motion for Final Summary Order is Granted, and (3) the Petition to Determine Invalidity of Proposed Rule 65A-1.900(2)(a) is dismissed.

DONE AND ORDERED this 4th day of November, 2008, in Tallahassee, Leon County, Florida.

DANIEL M. KILBRIDE
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 4th day of November, 2008.

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NOTICE OF RIGHT TO APPEAL

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original Notice of Appeal with the agency Clerk of the Division of Administrative Hearings and a copy, accompanied by filing fees prescribed by law, with the District Court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The notice of appeal must be filed within 30 days of rendition of the order to be reviewed.