**Section 338.90 Internal Review**

a) After the Administrative Hearings Unit has received the appellant's request for an appeal, the Administrator of the Administrative Hearings Unit shall notify the Department that the appellant has appealed and the Department shall send to the Administrator a copy of the notice of denial of the application for a foster family home license. The notice of denial shall be prima facie evidence that the Department had a basis for refusing to license the home.

b) The Administrator shall ask both the Department and the appellant to submit any documents, records, statements, or other materials pertinent to the Department's denial of the application for licensure to create an appeal file. The Administrator shall further advise the Department and the appellant of the intent to examine the appeal file, including all materials submitted for the appeal file, to determine whether a genuine issue of material fact exists. Within fifteen days after the date of the Administrator's request for materials, both the Department representative and the appellant shall submit to the Administrative Hearings Unit and to the opposing party any and all documents, records, statements, materials, or evidence to establish that the Department's decision to deny the license was either correct or incorrect. Fifteen days after the Administrator's request for materials, the Administrator shall then proceed to complete the internal review based on the materials received.

c) The Administrator shall examine the entire appeal file, including all materials submitted by both parties, and shall determine if a genuine issue of material fact exists.

d) If the Administrator determines that no genuine issue of material fact exists, the Administrator shall dismiss the appeal. The letter dismissing the appeal shall be the final administrative decision of the Department.

e) If the Administrator determines that there is no genuine issue of material fact as to one or more of the major issues in the case but that substantial controversy exists with respect to other major issues, the Administrator shall specify in writing the major issue(s) about which there is no dispute. The Administrator shall direct that a hearing be held only on the contested issues. At the hearing, facts specified by the Administrator as without dispute shall be deemed established and the hearing conducted accordingly. The Administrator shall notify the parties of the matters which may be appealed.

f) If the Administrator determines that all the issues are contested, the Administrator shall direct that a hearing be held and notify the parties of the decision.