**Section 337.40 Department and Provider Agency Responsibilities on Appealable Issues**

The Department or provider agency which made the decision, or intends to take the action being appealed, shall be responsible as follows.

a) When the Department is the service provider, the Department's responsibilities are to:

1) provide timely and adequate notice as required in Section 337.90 of this Part;

2) make a determination whether the children are in imminent risk of harm;

3) provide continuing services when there is a stay of action and reinstate services when the decision is made to do so;

4) within 15 calendar days from the date of appeal, prepare and submit to the Administrator of the Administrative Hearings Unit and the appellants a written summary of the intended action or action already taken. Such summary shall include a statement and specific citation of the law or policy, reasons for the action, and a summary of the facts supporting the action;

5) make available to the appellant the documents considered or created in taking the action(s) or reaching the decision(s) under appeal;

6) provide, at the hearing, a staff person who is familiar with the case and proposed action(s) or decision(s) being appealed; and

7) arrange for transportation or a telephone conference to ensure the child's participation or presence at the proceeding, if a child for whom the Department is legally responsible will participate in or attend any part of the appeal process. The Department shall bear the cost of the transportation or the telephone conference.

b) When the provider agency is the service provider, the provider agency's responsibilities are to:

1) provide timely and adequate notice as required in Section 337.90 of this Part;

2) provide continuing services when there is a stay of action and reinstate services when the decision is made to do so;

3) obtain a determination from the Department whether the children are at imminent risk of harm;

4) conduct a review of the action(s) taken or decision(s) made prior to the emergency review or mediation. Such agency review shall be conducted by an administrator of the provider agency;

5) within 15 calendar days from the date of appeal, submit to the Administrator of the Administrative Hearings Unit and the appellants a summary of the outcome of the review. Such summary shall include a statement and specific citation of the law or policy, reasons for the action, and a summary of the facts supporting the action;

6) provide to the Department all information and records pertinent to the action(s) or decision(s) under appeal;

7) make available to the Department and the appellant the documents considered or created in reaching the decision(s) under appeal;

8) provide, at the hearing, a staff person who is familiar with the case and action(s) or decision(s) being appealed; and

9) arrange for transportation or a telephone conference to ensure the child's participation or presence at the proceeding, if a child for whom the Department is legally responsible will participate in or attend any part of the appeal process. The provider agency shall bear the cost of the transportation or the telephone conferences.