

CHAIR:

Garnett W. Chisenhall, Jr.
The DeSoto Building
1230 Apalachee Pkwy.
Tallahassee, FL 32399-0001
(850) 488-9675

CHAIR-ELECT:

Brian A. Newman
Pennington, P.A.
P.O. Box 10095
Tallahassee, FL 32302-2095
(850) 222-3533

TREASURER:

Stephen C. Emmanuel
Ausley McMullen
PO Box 391
Tallahassee, FL 32302-0391
(850) 224-9115

SECRETARY:

Bruce D. Lamb
Gunster
401 E. Jackson St., Ste. 2500
Tampa, FL 33602-5226
(813) 222-6605

Administrative Law Section



Administrative Law Section Executive Council Meeting

Friday June 28, 2019

1:00p – 3:00p

Boca Raton Resort & Club

501 E. Camino Real, Boca Raton, Florida 33432

Meeting Room – Capri I

Dial In Information (888) 376 -5050 Conference Code: 3789654123

Leader Pin:80457

AGENDA

I. CALL TO ORDER- Gar Chisenhall, Chair

II. PRELIMINARY MATTERS

A. Consideration of Minutes

1. April 5, 2019 (Executive council meeting)

B. Treasurer's Report- Stephen Emmanuel

1. Detail Statement of Operations

C. Chair's Report- Gar Chisenhall

III. Committee / Liaison Reports

A. Nominating Committee Report – Jowanna Oates

B. Continuing Legal Education- Bruce D. Lamb

1. 2019 Administrative Law Basic Skills Seminar – October 4, 2019

2. 2020 Practice before DOAH - February 7, 2020

3. 2020 Public Utilities Seminar – February 21, 2020

4. 2020 Administrative Law Webinar Series

January 9, 2020 Audio Webcast***

February 13, 2020 Audio Webcast***

March 12, 2020 Audio Webcast***

April 9, 2020 Audio Webcast***

May 14, 2020 Audio Webcast***

C. Publications

1. Newsletter- Elizabeth W. McArthur / Jowanna N. Oates

2. TFB *Journal*- Lyyli Van Whittle

3. Florida Administrative Practice- Elizabeth W. McArthur

D. Legislative -Brian Newman

E. Public Utilities Law- Michael G. Cooke/Cynthia B. Miller

IMMEDIATE PAST CHAIR:

Robert H. Hosay
Foley & Lardner, LLP
106 E. College Ave., Ste. 900
Tallahassee, FL 32301-7732
(850)222-6100

BOARD LIAISON:

Lawrence E. Sellers, Jr.
P.O. Box 810
Tallahassee, FL 32302-0810
(850)425-5671

P.U.L.C. CHAIR:

Michael G. Cooke
625 E. Twiggs St., Ste. 100
Tampa, FL 33602-3925
(813)318-5700

EXECUTIVE COUNCIL:**Terms Expiring 2019:**

Fred Dudley, Tallahassee
Sharlee Hobbs Edwards, Coral Gables
Stephen C. Emmanuel, Tallahassee
Clark R. Jennings, Tallahassee
Anthony B. Miller, Tallahassee
Patricia A. Nelson, Tallahassee
Daniel E. Nordby, Tallahassee
Christina Shideler, Tallahassee

Terms Expiring 2020:

Francine M. Ffolkes, Tallahassee
Gigi Rollini, Tallahassee
Colin M. Roopnarine, Tallahassee
Suzanne Van Wyk, Tallahassee
Tabitha Gail Harnage, Tallahassee
Paul Drake, Tallahassee
Tara Price, Tallahassee

SECTION ADMINISTRATOR:

Calbrail L. Banner
651 E. Jefferson St.
Tallahassee, FL 32399-2300
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THE FLORIDA BAR

F. TFB Board of Governors Liaisons – Lawrence E. Sellers, Jr.

G. Law School Liaison – Sharlee Edwards

H. TFB Council of Sections – Clark R. Jennings

I. Section / Division Liaison

1. Environmental and Land Use Law- Francine M. Folkes
2. Health Law – Bruce D. Lamb
3. Government Lawyer – Anthony Miller
4. YLD Liaison- Tabitha Jackson
5. RPPTL – Frederick R. Dudley
6. Labor & Employment – Robert Kilbride
7. Animal Law – Gregg Morton
8. TFB Diversity and Inclusion – Lyyli Van Whittle
9. Appellate Court Rules – Gigi Rollini

J. DOAH Update- F. Scott Boyd/ Francine Ffolkes/ Suzanne Van Wyk

IV. OLD BUSINESS

- Certification Exam and Membership Development Update – Gar Chisenhall
- South Florida Subchapter – Sharlee Edwards
- The Florida Bar Foundation – Judge Suzanne Van Wyk

V. NEW BUSINESS

- 2019-2020 Election of Officers & Council Members

VI. INFORMATIONAL

A. Section Bylaws

VII. TIME AND PLACE OF NEXT MEETING

- A. Fall Meeting - October 2019
- B. Budget Call & Approval – October 2019
- C. Long Range Planning Retreat March 2019 (executive council meeting included)

VIII. ADJOURNMENT

THE FLORIDA BAR

2. Health Law – Bruce D. Lamb
3. Government Lawyer – Lynne Quimby - Pennock
4. YLD Liaison- Tabitha Harnage
5. RPPTL – Frederick R. Dudley
6. Labor & Employment – Robert Kilbride
7. Animal Law – Gregg Morton
8. TFB Diversity and Inclusion – Lyyli Van Whittle
9. Appellate Court Rules – Gigi Rollini

J. DOAH Update- F. Scott Boyd/ Lynne A. Quimby-Pennock/ Suzanne Van Wyk

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VIII. ADJOURNMENT

ADMINISTRATIVE LAW SECTION EXECUTIVE COUNCIL MEETING

Friday, April 6, 2019 – 10:00 am to 12:00 pm

1712 Magnolia Road

St. George Island, Florida 32328

Present at the meeting were Gar Chisenhall, Jr., Chair, Brian Newman, Chair-Elect, Bruce Lamb, Secretary, Patricia Nelson, Jowanna Oates, Gigi Rollini, Suzanne Van Wyk, Lyyli Van Whittle, Gregg Morton, Louise St. Laurent, Angela Morrison, Richard Shoop, Jed Berman, Amy Schrader, Tabitha Harnage, and Calbrail Banner. Attending via telephone were Tara Price, Francine Ffolkes and Larry Sellers.

I. CALL TO ORDER

II. PRELIMINARY MATTERS

A. Consideration of Minutes: The November 27, 2018 meeting Minutes were considered. Richard Shoop moved to approve and that motion was seconded by Jowanna Oates and passed unanimously.

B. Treasurer's Report: Stephen Emmanuel was not present but had submitted a written report which is included in the agenda materials along with the detailed statement of operations. Initially the Treasurer's Report was deferred to determine if Stephen would be able to call in later in the meeting. Later in the meeting, Calbrail responded to questions from Judge Van Wyk relating to some of the line items in the budget. There was a discussion as to whether a budget amendment was necessary, and it was determined that an amendment was not needed.

C. Chair's Report: Judge Chisenhall was suffering from laryngitis. Therefore, the Chair's Report was deferred.

III. COMMITTEE/LIAISON REPORTS

A. Nominating Committee Report – Jowanna Oates. Jowanna reported that an email blast will be sent out between April 15 and 19 which will include a poll related to the Section awards. The Section awards will be presented at the June Florida Bar meeting. In addition, the proposed slate of officers and other nominees of the committee will be circulated prior to the meeting and voted on at the June meeting.

B. Continuing Legal Education Committee – Bruce D. Lamb. Bruce presented information relating to the 2019 webinar series, and the Advanced Topics Seminar. He thanked Cathy Sellers for serving as Program Chair for the Advanced Topics Seminar. That seminar will take place on May 31, 2019, in Tallahassee, Florida. There was a discussion concerning the recording of that seminar, including the costs and potential after-market sales. The program will be recorded. Angela Morrison inquired as to the possibility of having links to previous CLE programs on our website. This process is underway.

C. Publications.

1. Newsletter. Jowanna Oates presented the newsletter committee report. Jowanna advised of deadlines that were in the materials.

2. TFB Journal. The Bar Journal report was presented by Lyyli Van Whittle. She advised that she was awaiting on an article to be finalized which will include the discussion of a Supreme Court decision.

3. Florida Administrative Practice Manual. Jowanna Oates reported that the 2019 edition is now available. There was some discussion in regard to this publication's committee, and it was observed by Brian Newman that our section does not appoint that committee.

D. Legislative. Brian Newman presented the report for the legislative committee. He advised that few bills were moving in the legislature so far this year. He related that there was a bill that had been substantially drafted by JAPC which he thinks is a good bill but is not moving. Jowanna Oates observed that no APA bills are moving in the legislature. There is a possibility that a current bill may serve as a vehicle for changes at DOAH. Brian and others are monitoring administrative related legislation. Brian noted that there was a JAPC workshop and he made a presentation on behalf of the section at the same. In addition, Jowanna observed that others presented at the workshop including Judge Cohen, Fred Dudley, and Curt Kiser. Brian observed that there may be a meeting over the summer regarding potential APA revisions.

E. Public Utilities Law. There was no report.

F. Board Liaison Report. Larry Sellers reported regarding the previous meetings of the Board including the out-of-state meeting which took place in Washington D.C. He stated that there were several highlights to this particular meeting including an opportunity to observe the Supreme Court when it was dealing with an administrative law related issue. Larry also mentioned that Bar Committee requests are in and the President-Elect is reviewing applications. He also reported on the new President-Elect nominee and described her practice. Her name is Dory Foster Morales. Larry reported that many Supreme Court members including the three newly appointed members attended the February meeting in Tallahassee. He reported that the Bar is focused on health and wellness. The Bar has recommended three individuals for each opening in the Judicial Nominating Committee. Brian Newman is one of the nominees.

G. Law School Liaison. No report was presented.

H. Council of Sections. Gregg Morton reported on behalf of the counsel. Gregg is the Chair-Elect of the Council and is trying to make the Council more effective. The Council has asked the Board of Governors to consider streamlining the process for section bylaws revisions. Gregg also mentioned the leadership training program of the Bar and encouraged those who were moving into positions of responsibility to attend to get a greater understanding of Bar legislative and finance issues.

I. Section/Division Liaisons.

1. Environmental and Land Use. Francine Ffolkes reported as liaison. She mentioned the participation of that section in the Advanced Topics program and that the section was undertaking a webinar series as well as networking events throughout the state. That section will present a case law update at the June Florida Bar meeting. Suzanne Van Wyk asked whether SFGAP certification credit could be obtained from any of the ELU's programs. Francine was not certain and recommended that she check with the Bar.

2. Health Law. Bruce Lamb reported that the Health Law Section continued to be very active in the presentation of continuing education opportunities including a live program in Daytona Beach and webinars that occur on approximately a monthly basis. This led to a discussion in regard to whether our Section could increase the frequency of webinars. After discussion, it was agreed that the Section would attempt to put on additional webinars, perhaps monthly. In addition Calbrail stated that she had an idea for a webinar series in March to be entitled *March Madness* with four consecutive weeks. It was agreed that the continuing education committee with the assistance of the Executive Council would attempt to identify appropriate speakers and topics to increase the number of webinars presented.

3. Government Lawyer. No report.

4. YLD Liaison. Tabitha Harnage reported as liaison. Tabitha reminded the council that the YLD now has affiliate access to the Bar's YLD and therefore can obtain grants. No grant applications are pending but she intends to apply in the fall. She believes that this status increases our group's visibility. Tabitha reported on several events that have taken place since the last meeting including the Happy Motoring event in April which had a fund-raising component, a March Madness event, which also benefitted a charity and was well attended. She thanked sponsors including the Grossman Furlow firm, the Meenan firm, and the Pennington firm. It was also noted that Gigi Rollini's firm was sponsoring the Pat Dore conference. Brian Newman congratulated the YLD group for their efforts in raising the profile of the Section. Tabitha did indicate that she would have a budget request to assist in regard to the FSU luncheon program. She also asked for any interested parties who could speak at the FSU luncheons. Angela Morrison volunteered to speak on environmental and land use topics. Richard Shoop commented that a student who had been at a program at AHCA had asked if the Section might start a student organization at FSU. Tabitha stated that a student could start it. Gigi stated that she believes that a professor would need to participate. Brian noted that one of his law partners is an adjunct professor and Richard Shoop noted that perhaps Professor Markell would sponsor. Gregg stated that there would be changes that would allow a free student membership in sections.

5. RPPTL. No report.

6. Labor and Employment. No report.

7. Animal Law. Gregg Morton reported on behalf of the section. Gregg reported that the section had lobbied against the continuation of greyhound racing and

had acted as an amicus in regard to litigation on the greyhound issues. He also mentioned that section would like to promote legislation that would protect veterinarians if they reported animal cruelty from potential licensure issues.

8. TFB Diversity and Inclusion. Lyyli Van Whittle reported that she had attended a conference at the Bar. She reported that some sections have mentorship programs which help increase diversity and inclusion. She suggested that we may want to consider such a program. Suzanne Van Wyk suggested that the law school liaison committee would be a good group to address diversity and inclusion.

9. Appellate Court Rules. Gigi Rollini reported as liaison. She stated that the administrative law sub-committee has nothing pending and most of the action is in regard to civil rules. She stated that the Commission did review rules for appellate proceedings and many revisions have been suggested. Richard stated that he had been on a sub-committee regarding the consideration of definitions and changes to "rendition" but that ultimately no changes were recommended.

J. DOAH Update. Suzanne Van Wyk reported on behalf of the Division. She stated that there was a change in leadership with Bob Cohen submitting his resignation pursuant to the Governor's request. She reported that the Cabinet was currently reviewing two applications for Chief Judge – John McIver and Kristin Bigham. There will be private interviews and then public interviews. She further reported that Judge Cohen has requested the opportunity to stay on at the Division in some capacity. Suzanne also reported that Li Nelson decided to step down as Deputy Chief and is now a regular ALJ.

IV. OLD BUSINESS.

Certification Exam. Bruce Lamb reported on the status of the certification exam including proposed changes to the standards for certification. Angela Morrison and Patty Nelson inquired as to whether the number of hours to qualify for re-certification would be adjusted. Bruce advised that a revision in the hours was part of the proposal but that it would apparently take a long time before the revisions could become effective. Patty asked whether a separate change could be considered. Bruce advised that he would submit that to the examination review committee for consideration.

V. NEW BUSINESS.

A. South Florida Sub-Chapter and Budget. Tabitha reported that Paula and Charlie are doing a good job and they have had at least two events in South Florida.

B. The Florida Bar Foundation. Suzanne Van Wyk distributed materials and reported on the activities of the Foundation. She has been on the Board of the Foundation for seven years and currently the Board is trying to raise awareness. Suzanne reminded the Council that the Foundation is not an arm of The Florida Bar. She related that the lack of representation has progressed such that it impacts not only low income but mid-income residents. The funding via the IOTA fund is much less than it was previously. Most of the grantees are legal aid programs, however, they also give grants to law school based clinics. Due to the drop off in interest income, fund raising has become a focus. She would like the section to consider a contribution.

She also discussed the "Fellows" program which involves a \$1,000 pledge that goes to the endowment and can be made over time. The materials contained historic information with regard to contributions from sections with this section listed at \$2,500. Brian inquired how that \$2,500 figure had been identified. Suzanne did not know the answer. A decision was reached to consider the request at the budget meeting.

VI. INFORMATIONAL

- A. Section Bylaws were provided in the agenda materials.

VII. TIME AND PLACE OF NEXT MEETING

- A. June 28, 2019, Boca Raton, Florida in conjunction with the Florida Bar annual meeting. This will include election of new officers.
- B. New officers call will be scheduled for July of 2019.
- C. A fall meeting and budget vote will take place in October of 2019.

VIII. ADJOURNMENT

Jowanna Oates made a motion to adjourn and Richard Shoop seconded it. It passed by acclamation.

THE FLORIDA BAR

Administrative Law Section
 For the Eleven Months Ending Friday, May 31, 2019

	May	YTD 2019	FY 18-19 Budget
3001-Annual Fees		\$26,978	\$25,933
3002-Affiliate Fees		\$275	\$370
Total Fee Revenue	\$	\$27,253	\$26,303
3301-Registration-Live		\$1,915	
3331-Registration-Ticket			\$2,400
Total Registration Revenue	\$	\$1,915	\$2,400
3391 Section Profit Split	\$686	\$6,318	\$6,300
3392-Section Differential		\$1,523	\$2,500
Other Event Revenue	\$686	\$7,841	\$8,800
3899-Investment Allocation	(\$6,022)	\$1,494	\$10,484
Non-Operating Income	(\$6,022)	\$1,494	\$10,484
Total Revenue	(\$5,336)	\$38,502	\$47,987
4133-Internet Service			\$450
4134-Web Services		\$105	\$2,500
4301-Photocopying			\$50
4311-Office Supplies			\$50
Total Staff & Office Expense	\$	\$105	\$3,050
5051-Credit Card Fees	\$67	\$235	\$240
5101-Consultants			\$10,000
5121-Printing-Outside		\$1,879	\$10,500
Total Contract Services	\$67	\$2,114	\$20,740
5501-Employee Travel		\$38	\$658
5531-Board/Off/Memb Travel			\$1,475
5599-Other Travel			\$1,000
Total Travel	\$	\$38	\$3,133
6001-Post 1st Class/Bulk			\$75
6301-Mtgs TFB Annual Meeting	\$489	\$489	\$2,500
6311-Mtgs General Meeting	\$57	\$403	\$300
6319-Mtgs Other Functions		\$480	\$3,500
6325-Mtgs Hospitality		\$1,111	
6401-Speaker Expense			\$100
6451-Committee Expense			\$300

6599-Brd/Off Other			\$500
7001-Grant/Award/Donation	\$683	\$2,867	\$4,200
7999-Other Operating Exp			\$815
Total Other Expense	\$1,229	\$5,351	\$12,290
8021-Section Admin Fee		\$14,112	\$19,602
8101-Printing In-House		\$1,782	\$150
8171-Course Approval Fee		\$150	
Total Admin & Internal Expense	\$	\$16,044	\$19,752
9692-Transfer Out-Council of Sections		\$300	\$300
Total InterFund Transfers Out	\$	\$300	\$300
Total Expense	\$1,296	\$23,952	\$59,265
Net Income	(\$6,633)	\$14,550	(\$11,278)
2001-Fund Balance, Beginning		\$206,691	
Fund Balance, Ending	\$	\$221,242	\$

Budget
% Utilized

104.03%
74.32%
103.61%

0.00%
0.00%
79.79%

100.28%
60.93%
89.10%

14.25%
14.25%

80.23%

0.00%
4.20%
0.00%
0.00%
3.44%

97.85%
0.00%
17.89%
10.19%

5.83%
0.00%
0.00%
1.22%

0.00%
19.55%
134.41%
13.72%
0.00%
0.00%
0.00%

0.00%

68.26%

0.00%

43.54%

71.99%

1188.23%

0.00%

81.23%

100.00%

100.00%

40.41%

-129.02%

0.00%

0.00%

My initial thought several months ago was that my final Chair Column would be devoted to describing the Section's activities over the past year and thanking everyone whose time and energy contributed to the Section's efforts. However, I already accomplished both of those goals via the Section's Annual Report that I submitted for the May/June issue of *The Florida Bar Journal*. Therefore, I will refer you to the *Journal* for that information and take this opportunity to provide an update on the Section's most recent activities and offer a preview of what is to come during the 2019-20 Bar year.

On April 18, 2019, the Section held a networking event at Happy Motoring in Tallahassee. In addition to providing our younger members with an opportunity to mingle with experienced attorneys and administrative law judges, the event collected donations for a local food bank, Second Harvest of the Big Bend. We ultimately collected \$700 in monetary donations (enough to provide 2,800 meals!) and 327 pounds of food. The Section is very grateful to Tabitha Harnage, Alexandra Lozada, Taylor Anderson, and Mattie Birster for doing an outstanding job organizing this event.

The Section's Executive Council met on April 5, 2019, and conducted its annual Long-Range Planning meeting. When one takes a step back and examines all of the activities the Section has implemented in the past year and those it plans to implement in the coming year, it is clear that we are focusing on helping our newer members get "from graduation to certification." As I have mentioned before, the Section implemented a monthly speaker series at the law school at Florida State University in order to build awareness of the Section and Administrative Law among future practitioners. In the Fall of 2019, Brian Newman, the incoming Section Chair, will be kicking off the inaugural version of the "DOAH Trial Academy," a week-long program designed to teach litigation skills to young Section members. Mr. Newman is also looking to continue offering customized CLE programs to state agencies. Those customized programs will have ALJs and experienced practitioners teach litigation skills and discuss topics of interest specific to particular agencies. We are also planning to have a comprehensive Administrative Law CLE program that will assist young attorneys with satisfying their basic skills course requirement. In addition to helping young attorneys obtain skills necessary to be successful practitioners, the Section will be continuing to provide networking opportunities in Tallahassee and South Florida. In particular, Christina Shideler will be bringing back the Tables of 8 that were so successful a few years ago. Finally, now that the State and Federal Government Administrative Practice Exam has been re-engineered to focus exclusively on state and federal administrative law, it should be much more appealing to Section members and open the door to more attorneys becoming board certified in Administrative Law. Therefore, the Section will be doing everything it can over the next few years to make attorneys aware of this change and to assist them with preparing to take the exam. This will be a multi-year effort because one must satisfy several requirements before being eligible to sit for the exam.

The Executive Council's next meeting will be held on June 28, 2019, in Boca Raton, Florida, in conjunction with the Florida Bar Convention. I am looking forward to that meeting because the Honorable Robert S. Cohen will receive the S. Curtis Kiser Administrative Lawyer of the Year Award, and Jowanna Oates will receive the Administrative Law Section's Outstanding Service Award. We could not have found two more deserving recipients. Judge Cohen was responsible for creating the first paperless judicial system in Florida and has been repeatedly recognized for his skill, judgment, management, and administration of the Division of Administrative Hearings.

Judge Cohen currently serves as Vice Chair-Elect of the National Conference of the Administrative Law Judiciary, is a past President of the National Association of Administrative Law Judiciary, and is Treasurer of the National Association of Workers' Compensation Judiciary. He serves on the Second Judicial Circuit Professionalism Committee, is an alumni member of the William Stafford Inn of Court, a Past President of the Tallahassee Bar Association, a two-time past President of the Legal Aid Foundation, and has held or holds leadership roles in numerous community organizations. He is a Fellow of the Florida Bar Foundation, the American Bar Foundation, and a Charter Life Mentor of the National Administrative Law Judiciary Foundation. He is also a past recipient of the Florida Bar's Pro Bono Service Award for the Second Judicial Circuit and the Tallahassee Bar Association's Lifetime Professionalism Award. In addition, Judge Cohen has been a great friend to the Section by allowing us to use DOAH's facilities for numerous CLEs over the years, and he actively encourages ALJs to participate in Section activities and leadership.

For as long as I can remember, Ms. Oates has served as a co-editor for the Section's quarterly newsletter. The newsletter may be the Section's most popular service, and Ms. Oates is substantially responsible for the newsletter's success. Also, Ms. Oates was one of the Section's more successful chairs, and she has been very generous with advising her successors (especially me) on how to make the most of their tenures as chair. Ms. Oates has written articles for the Section, served on numerous steering committees, and recently co-chaired the highly successful 2018-19 edition of the Pat Dore Conference. In fact, the 2018-19 edition of the Pat Dore Conference was the most successful one in recent memory. I have no doubt that Ms. Oates has devoted several hundred hours of service to the Section.

During the course of my term, we have worked hard to make non-members aware of what the Section does and what it can do for them. Despite the existence of e-mail and social media, I have seen first-hand how the best tool for accomplishing those goals is still word-of-mouth advertising. Over the last year, I have seen several people become involved with the Section and make substantial contributions simply because an acquaintance invited them to an Executive Council meeting or a Section event. If you are a member in Tallahassee or South Florida, please take advantage of the new activities being offered by the Section and bring a friend or co-worker. Take every opportunity to get the word out about the Section's networking events, the DOAH Trial Academy, the customized CLE programs for state agencies, the comprehensive Administrative Law CLE program for young attorneys, and the re-engineered SFGAP exam.

Even though I used the Section's Annual Report to thank everyone who contributed to the Section's efforts this past year, I would like to recognize the continued, outstanding work of the Section's administrator, Calbrail Banner. Ms. Banner never hesitates to go the proverbial "extra mile" for the Section, and she has received countless e-mails and telephone calls from me since I began as the Section's Treasurer. I would also like to thank Chase Early who did a wonderful job filling in for Ms. Banner while she was on maternity leave.

I am very proud of what we have accomplished over the past year, and I am very grateful to everyone who contributed to the Section's success. I hope that the Section's leadership continues to be willing to try new things and "think outside-the-box." I have been working very closely with Mr. Newman over the last several months, and he is ready to hit the ground running once his term begins. I have no doubt that his term will be tremendously successful.

The Administrative Law Section's Annual Report

I am honored to present the Administrative Law Section's annual report for the 2018-2019 term and highlight the hard work of the many members who devoted countless hours to the Section. While the "usual suspects" continued to ensure that the Section was providing exceptional service to its members, I am particularly proud of the newer members who assumed leadership roles and implemented "outside-the-box" measures designed to facilitate the Section's long-term growth.

The 2018-2019 term got off to an inauspicious start due to Hurricane Michael's unexpected arrival in Tallahassee last October. As a result, the Section had to postpone the Pat Dore Administrative Law Conference, its biennial showcase event for continuing legal education. However, thanks to the swift and decisive actions of the conference's co-chairs, Jowanna Oates and Judge Cathy Sellers, the conference was quickly rescheduled for February 8, 2019. Despite the date change, the conference still sold out and was an unqualified success.

Through feature articles and recurring features, the Section's quarterly newsletter continued to provide its members and the legal community with timely information regarding significant developments in administrative law. The informative features included Paula Savchenko's comprehensive article entitled "Rule Challenges Sprout from the Growing Florida Medical Marijuana Industry." As for the recurring features, every edition of the newsletter included "Appellate Case Notes," in which Larry Sellers, Gigi Rollini, and Tara Price provided concise descriptions of every significant administrative law case decided by Florida's appellate courts during the previous quarter. The newsletter's other recurring feature is "DOAH Case Notes," and the DOAH Case Notes team, consisting of myself, Matthew Knoll, Dustin Metz, Virginia Ponder, Christina Shideler, Paul Rendleman, and Tiffany Roddenberry reviewed every recommended and final order issued by the Division of Administrative Hearings and concisely described noteworthy decisions from the preceding quarter.

With regard to the newsletter, I would be remiss if I did not use this opportunity to thank Judge Elizabeth McArthur for her long service as the newsletter's editor and co-editor. Judge McArthur put her heart and soul into every edition of the newsletter for many years but recently decided that a promotion to a senior judge position at DOAH required her to devote more hours to her "day job." Fortunately, Tiffany Roddenberry assumed co-editorial duties. Due to the work of Ms. Roddenberry and the newsletter's other long-time editor, Jowanna Oates, the newsletter continues to be a point of pride for the Section.

The Section's publication efforts were not confined to the newsletter. Lyyli Van Whittle, the new co-chair of the Section's Publications Committee, did an excellent job collecting the following articles: "The Points of Entry for Rule Challenges Post Florida Pulp & Paper" by Virginia Ponder, "Rule or No Rule? An Examination of Recent Unadopted Rule

Challenge Decisions” by Gregory L. Pitt, Jr., and “The Florida Public Records Act in the Era of Modern Technology” by Ralph A. DeMeo and Lauren M. DeWeil.

In a move that was long overdue, the Section created separate awards last year to honor outstanding administrative law practitioners and members who have provided outstanding service to the Section. With regard to the former, the Executive Council named Larry Sellers as the first recipient of the Curtis Kiser Administrative Lawyer of the Year Award. As for the latter, Judge McArthur’s work on the newsletter was surely one of the primary reasons why the Executive Council named her the first recipient of its Outstanding Service Award.

As mentioned in the Section’s two previous annual reports, the Section has been making a concerted effort to increase its membership. In particular, the Section has been focusing its recruitment efforts on law students and young attorneys because those groups represent the Section’s best possibilities for growth. With regard to law students, the Section has long maintained a law school outreach program for building awareness of the Section among law students at every law school in Florida. While that program is still in place, the Section implemented a new program specifically designed to reach students at Florida State University because many of those students ultimately become administrative law practitioners. This new program involves sending a panel of Section members to the law school on monthly basis to speak on topics such as administrative law, health law, and how to succeed in law school. In order to encourage attendance, the Section provides free food and drinks. While these monthly luncheons will not lead to an immediate increase in the Section’s membership, the Section considers them to be long-term investments intended to increase membership by building awareness of the Section among future administrative law practitioners. The Section is very grateful to Tabitha Harnage for conceiving this program, reaching out to student leaders at the law school, organizing each luncheon, and recruiting speakers.

The Section is also making a concerted effort to increase awareness among attorneys employed by administrative agencies. For example, Brian Newman, Louis St. Laurent, Judge Li Nelson, Judge Yolonda Green, Judge Suzanne Van Wyk, and I produced a unique CLE for the Department of Health on June 28, 2018, entitled “The Nuts and Bolts of Administrative Litigation.” This CLE was focused on teaching basic litigation skills to young attorneys. After receiving positive reviews from the Department of Health, the Section plans to produce similar CLEs for other agencies.

On a related note, the Section is in the final stages of planning a “DOAH Trial Academy.” This CLE will be an intensive, week-long litigation skills course held at DOAH and taught by administrative law judges and seasoned practitioners. While the Section anticipates limiting enrollment to 20 Section members, both private and public sector attorneys will be eligible to enroll. The Section has high hopes for the DOAH Trial Academy and hopes to make it an annual event.

In order to appeal to socially conscious young attorneys, the Section began coupling networking/social activities with charitable endeavors. For instance, Ms. Harnage, James Ross, and Virginia Ponder organized the Section's inaugural "Fall FSU Law Mixer & Turkey Drive" to benefit students of an elementary school in Tallahassee. The mixer was held at a local bar on November 1, 2018, and those attending donated canned goods and money for the purchase of food. Then, Ms. Harnage, Mr. Ross, Ms. Ponder, and other Section members met the Saturday before Thanksgiving to assemble the meals. Because the mixer was so successful, the Section was able to donate a large amount of surplus food to a homeless shelter in Tallahassee.

Ms. Harnage and Mr. Ross also worked in conjunction with Meenan, P.A. in order to organize a backpack drive that collected school supplies for the Boys Town charity in Tallahassee. That event resulted in \$650 of donations, 60 backpacks, and nearly 400 individual items of school supplies.

A description of the Section's efforts to attract young attorneys would not be complete without mentioning how Paul Drake, Christina Shideler, Gregg Morton, and the other members of the Section's Technology Committee continued doing an outstanding job maintaining and updating the Section's website and social media platforms on Facebook, Twitter, and LinkedIn. Given the ubiquitous nature of such technology among young adults, the Technology Committee's work is absolutely essential to the Section's efforts to attract law students and young attorneys.

Because the events described above occurred in Tallahassee, one could understandably conclude that the Section's activities are overwhelmingly focused on the Section's Tallahassee membership. Given that most of the significant state agencies are headquartered in Tallahassee and that the vast majority of the Section's members practice there, the Section has spent several years struggling with how to be more relevant to members in other parts of Florida. This is particularly important because administrative law practitioners outside Tallahassee represent a substantial source of new members. Therefore, in order to better serve existing members and to attract new members, the Section established the South Florida Chapter so that there will be Section leaders in South Florida responsible for organizing CLEs and networking events for our South Florida members. Sharlee Edwards and Paula Savchenko volunteered to implement this new initiative and have already organized two networking events, the first of which was a joint happy hour in Fort Lauderdale with the Florida Bar's Tax Section and the Broward County Bar Association's Young Lawyers' Section. In addition, Ms. Edwards and Ms. Savchenko have a tentative plan for 2019 that calls for the South Florida Chapter to substantially replicate the activities available to the Section's Tallahassee members. The Section is confident that the South Florida Chapter will be successful and hopes to establish chapters in other parts of Florida such as Tampa and Jacksonville in the near future.

In closing, I would like to recognize the continued, outstanding work of the Section's administrator, Calbrail Banner. Ms. Banner never hesitates to go the proverbial "extra mile" for

the Section. I would also like to recognize Chase Early who did a wonderful job filling in for Ms. Banner while she was on maternity leave.

Garnett Chisenhall - Chair



REPORT FROM *The Florida Bar Board of Governors*

The Florida Bar Board of Governors met on May 24, 2019, Palm Beach. The major actions of the board and reports received included:

The Board approved a [proposed amendment to Rule 4-7.13](#), regarding misleading advertisements. At issue is a common approach, often through Google AdWords, that allows a lawyer to use a competitor's name to trigger search engine results and drive internet traffic to the advertising lawyer's website. The amendment prohibits "any statement or implication that a lawyer or law firm is affiliated or associated with the advertising lawyer or law firm when that is not the case."

A new member benefit, [Ross Intelligence](#), was approved and added to the more than 60 free or discounted products and services already offered to Florida Bar members. Ross Intelligence is a legal research platform powered by artificial intelligence for U.S. law. Using cutting edge Natural Language Processing (NLP), its technology can accurately determine the answers to your legal research questions in seconds. Members will receive a 10 percent discount on monthly subscription rates. ROSS will be in the Legal Marketplace at Annual Convention, June 24-26, for the first time. Visit the exhibit booth to learn more about ROSS Intelligence and EVA (ROSS' document analyzer).

As an outgrowth of President Michelle Suskauer's [Criminal Justice Summit](#) in October, the Board created a 10 to 15-member committee to "act as a forum for discussion and provide subject-matter expertise in criminal justice legislation, without advocating for a particular legislative position." The committee is scheduled to begin work in July, and has a June 30, 2020 deadline.

The Board of Governors approved a \$44.6 million budget, marking 18 consecutive years without a member fee increase. The General Fund Budget includes \$42.1 million in total revenues and nearly \$44.6 million in total expenses. The budget now goes to the Florida Supreme Court for final approval.

The Board made the following special appointments:

- ABA House of Delegates: Scott M. Dimond, Miami; John F. Harkness, Jr., Tallahassee (reappointed); Richard P. Lawson, New York (remainder term)
- Florida Lawyers Assistance, Inc. Board of Directors: Lawyers: Hillary B. Cassel, Hollywood; Natasha B. Dorsey, Chicago; Barnaby L. Min, Miami (reappointed). Non-lawyers: R. Fairlie Brinkley, Dunedin (reappointed); Louis P. Kalivoda, Jr., Gainesville
- Florida Board of Bar Examiners: Nominated to Supreme Court (six nominated for two terms): Robert J. Alwine, II, Key Biscayne; Melinda L. McNichols, Miami; Bonnie Phillips-Williams, Miami; Paul J. Schweip, Miami; Caryn D. Shaw, Orlando; Stanley Wakshlag, Miami

In addition, the Board elected three members to the Board Executive Committee: Melissa VanSickle of Tallahassee, Wayne LaRue Smith of Key West, and Lorna Brown-Burton of Fort Lauderdale.



The Florida Bar Board of Governors met on March 29, 2019, in Washington, D.C. The major actions of the board and reports received included:

The Budget Committee presented the proposed Florida Bar budget for the 2019-20 fiscal year to the Board. The spending plan includes \$42.1 million in total revenues and nearly \$44.6 million in total expenses. Lawyer regulation, at \$21.7 million, will continue to represent one of the biggest single expenditures. That figure includes \$2 million for intake services through the Attorney/Consumer Assistance Program (ACAP). Annual member fees, which represent the bulk of Bar revenue, are projected to increase by nearly \$577,000, nearly topping \$29 million. However, for the 18th straight year, annual fees are proposed to stay the same and the cost to practice law in Florida remains among the lowest for mandatory bars in the country. The budget is ultimately approved by the Florida Supreme Court. The full budget will be posted on The Florida Bar News site and published in the next print edition.

The Legislation Committee reported that there appeared to be no legislation that would negatively impact the legal profession or the judicial system at this point in the 2019 Legislative Session and Florida Bar legislative consultants predict that lawmakers will likely approve a measure that would increase the jurisdiction of county courts from the current \$15,000 threshold. For updates on legislation of interest to the legal profession, weekly updates, the session schedule, links to contact legislators and other information sources, as well as the policies on Florida Bar advocacy and all approved legislative positions, please visit <http://www.floridabar.org/legislativeactivity>.

The Board approved changes to rules, procedures, and policies, including clarifications and updates affecting grievance mediation fee arbitration, fees and costs for legal services, policies of the Board of Legal Specialization and Education, The Clients' Security Fund rules and regulations. For information on rule changes, please visit The Florida Bar News.

A new member benefit, UniCourt, was approved and will soon be added to the more than 60 free or discounted products and services already offered to Florida Bar members. UniCourt is a nationwide case research, tracking, management, and analytics platform that integrates court data from federal (PACER) and state courts into a single, cloud-based application. More than a dozen member benefit providers offer free trials, demos or initial services,

including practice resources, legal forms and legal research. Visit www.floridabar.org/memberbenefits for the growing list and start saving today.

APPOINTMENTS FOR MAY

The Board will consider nominees for the following May appointments:

- ABA House of Delegates: Two lawyers for two-year terms and one lawyer for a partial term.
- Florida Lawyers Assistance, Inc. Board of Dir.: Three lawyers and two nonlawyers for three-year terms. Deadline for applications has been extended to April 26, 2019.
- Florida Board of Bar Examiners: Two lawyers for five-year terms and one nonlawyer for a three-year term.

Applications can be found on [The Florida Bar website](#).



**INTERIM REPORT
UNIFORM RULES OF
PROCEDURE COMMITTEE**
June 28, 2019

THE UNIFORM RULES OF PROCEDURE

- ▶ The APA directs the Administration Commission (Governor and Cabinet) to adopt one or more sets of uniform rules of procedure.
- ▶ The Uniform Rules of Procedure are codified in Chapters 28-101 through -110 and 28-112.
- ▶ They are posted on the DOAH web site.

UNIFORM RULES OF PROCEDURE LAST REVISED IN 2013

- ▶ The Uniform Rules were last updated in 2013, based on recommendations from the Administrative Law Section of The Florida Bar. These recommendations were developed by an ad hoc committee and approved by the Section's Executive Council.
- ▶ These changes are summarized in the [April 2013](#) issue of the ALS newsletter.
- ▶ An ad hoc committee has been tasked with reviewing the Uniform Rules and recommending updates.
- ▶ As in 2013, any amendments to the Uniform Rules must be formally proposed and adopted by the Administration Commission before they may become effective.

ALS AD HOC UNIFORM RULES OF PROCEDURE COMMITTEE

- ▶ ALJ Yolonda Green
- ▶ ALJ Elizabeth McArthur
- ▶ ALJ LI Nelson
- ▶ ALJ David Watkins
- ▶ Seann Frazier
- ▶ Shaw Stiller
- ▶ Paul Drake, Reporter
- ▶ Larry Sellers, Chair

ALS AD HOC UNIFORM RULES OF PROCEDURE COMMITTEE MEETING DATES

- ▶ June 10, 2019
- ▶ May 20, 2019
- ▶ April 22, 2019
- ▶ March 11, 2019
- ▶ February 4, 2019
- ▶ January 14, 2019
- ▶ Next meeting is August 5, 2019

EFFORTS TO SOLICIT INPUT

- ▶ ALS newsletter
- ▶ ALS e-mail blast
- ▶ DOAH ALJs
- ▶ FGBA
- ▶ FGCCA
- ▶ ALS CLEs



SUMMARY OF RECOMMENDED CHANGES TO DATE (JUNE 12 Draft)

Rule 28-101.001 Statement of Agency Organization and Operation

- Requires agencies to describe how to e-file documents as part of their statement of agency organization and operation.

Rule 28-105.0027 Intervention

- ▶ Revises rule governing intervention in declaratory statement proceedings.
- ▶ Provides that an intervenor may, within 7 days of (or such later time as specified in) the order granting intervention, file a response to the petition for declaratory statement.
- ▶ Prohibits reply or other paper directed to a timely response absent leave granted by order of the presiding officer.

Rule 28-105.003 Agency Disposition

- ▶ Removes unnecessary language stating that, if an agency is headed by a collegial body, it shall take action on a petition for declaratory statement only at a duly notice public meeting.

Rule 28-106.103 Computation of Time

- ▶ Adds to Saturdays, Sundays and legal holidays, "any other day in which the agency clerk's office is closed."
- ▶ Such days are not included as the last day of a period of time or when the period of time is less than 7 days.

Rule 28-106.104 Filing

- ▶ Provides that a document that has been e-filed shall be deemed “received” by the recipient for purposes of the Uniform Rules or any order of a presiding officer.
- ▶ Requires pleadings to include the Florida Bar number, if applicable, of the person filing the pleading.
- ▶ Relocates some language to Rule 28-106.110, Service of Papers.

Rule 28-106.105 Appearances

- ▶ A qualified representative who has filed a request for hearing is deemed the qualified representative until the presiding officer makes the determination required by Rule 28-106.106 (relating to qualified representatives).
- ▶ Requires the party seeking representation by a qualified representative who filed the initial pleading to make the filing required by Rule 28-106.106 within 7 days of assignment of a presiding officer.

Rule 28-106.106 Who May Appear; Criteria for Qualified Representatives

- ▶ Requires a person seeking representation by a qualified representative to make the required filing as soon as practicable if the representative did not file the initial pleading.
- ▶ Provides that attorneys appearing in administrative proceedings must be members of the Florida Bar in good standing.
- ▶ Clarifies that attorney's licensed in other jurisdictions must file a written request to appear as a qualified representative.

Rule 28-106.106 Who May Appear; Criteria for Qualified Representatives

- ▶ Requires a qualified representative to disclose: (a) prior proceedings in which they have been granted or denied permission to appear as a representative and (b) whether they have been denied admission to the Bar of any jurisdiction.
- ▶ Requires a lawyer seeking to appear as a qualified representative to disclose all jurisdictions where the lawyer is licensed to practice.
- ▶ Prohibits a person who is admitted to practice in any jurisdiction from being a qualified representative if that person has been disbarred or is currently suspended in any jurisdiction or is a member of The Florida Bar but ineligible to practice.

Rule 28-106.110 Service of Papers

- ▶ Consolidates existing provisions regarding service.
- ▶ Provides that service after 5:00 p.m. shall be deemed service as of 8:00 a.m. the following day.
- ▶ Consistent with other changes, requires that if the address of record includes an e-mail address, service shall be by e-mail.

Rule 28-106.111 Point of Entry into Proceedings and Mediation

- ▶ Requires the notice of administrative rights to include directions on how to e-file.
- ▶ Requires the notice of administrative rights to advise of the right to request an extension of time to file a request for hearing.

Rule 28-106.204 Motions

- ▶ Revises the provision governing duty to confer to also require the movant to indicate whether any party intends to file a response to the motion.

Rule 28-106.205 Intervention

- ▶ Requires an intervenor who seeks to raise new issues to also include the information required by Rule 28-106.201(2)(c)-(g) (prescribing contents of petition).
- ▶ This information includes: a statement of all disputed issues of material fact, a concise statement of ultimate facts, a statement of the specific rules or statutes that require reversal or modification of the agency's position, and a statement of relief sought.

Rule 28-106.2115 Motions to Disqualify

- ▶ New rule prescribes the process to be used and the standards for evaluating a motion to disqualify a presiding officer. Much of the text mirrors the provisions of the Rules of Judicial Administration (RJA) governing such motions, while adjusting the process to comport with the time frames in Section 120.569(2)(a), F.S.

Rule 28-106.213 Evidence

- ▶ Requires a party seeking to offer testimony by telephone to advise the presiding officer at least 5 days prior to the date noticed for the final hearing.

Rule 28-106.214 Recordation

- ▶ Establishes a procedure for the use of interpreters and translators.

Rule 28-106.217 Exceptions and Responses

- ▶ Consistent with other changes, requires that if the address of record includes an e-mail address, then service of any exceptions or responses shall be by e-mail.

Part III Proceedings and Hearings Not Involving Disputed Issues of Material Fact

- ▶ Generally makes changes to conform to similar rules in Part II, Hearings Involving Disputed Issues of Material Fact.

Rule 28-106.301

- ▶ After the entry of an order determining the absence of material fact and relinquishing jurisdiction, allows a party to amend its petition for hearing without leave, to comply with the requirements for initiating an informal proceedings.

Rule 28-106.3015 Amendment of Petitions

- ▶ Adds new rule establishing procedures for amendment of petitions in informal proceedings.
- ▶ Similar to Rule 28-106.202, governing amendments to petitions in proceedings involving disputed issues of fact.

Rule 28-106.3016 Intervention

- ▶ Adds new rule governing intervention in proceedings not involving disputed issues of fact.
- ▶ Similar to existing Rule 28-106.205, governing intervention in proceedings involving disputed issues of fact.

Rule 28-106.302 Notice of Proceeding

- ▶ More closely aligns the Rule to requirements of Section 120.57(2), Florida Statutes.
- ▶ Adds rule governing continuances (formerly Rule 28-106.304).

Rule 28-106.303 Motions

- ▶ Conforms to Rule 28-106.204 and requires that the motion state whether any party intends to file a response to the motion.

Rule 28-106.304 Continuances

- ▶ Moved to Rule 28-106.302(3); Notice of Proceedings.

Rule 28-106.305 Conduct of Proceedings

- ▶ Makes minor editorial changes.
- ▶ Removes references to bifurcating the proceeding and to discovery as unnecessary in informal proceedings.

Rule 28-106.306 Recordation

- ▶ Requires a notice of recordation in a manner consistent with the existing requirement for formal proceedings in Rule 28-106.204(2).

Rule 28-106.307 Post-Hearing Submittals

- ▶ Repeals this provision, as it does not appear to be authorized.
- ▶ The only authority for proposed findings of fact and orders is found in Section 120.57(1)(b), relating to formal proceedings.

Rule 28-106.501 Emergency Action

- ▶ Provides that the required administrative proceedings be instituted “contemporaneously with” rather than simply “within 20 days after” the emergency suspension, limitation or restriction of a license.
- ▶ Conforms the rule to the statutory requirement that such proceedings be “promptly instituted and acted upon.”

Rule 28-110.003 Notice of Protest

- ▶ Makes conforming changes designed to clarify that the notice of protest is to be addressed to the agency clerk of the agency that issued the solicitation or made any other decision that is intended to be protested, unless otherwise designated by the solicitation.

Rule 28-110.005 Bond

- ▶ Clarifies that a protest bond is due at the time of filing a formal written protest.
- ▶ Makes changes to the protest bond form to simplify the form and remove references to exceptional purchases, which are uncommon.

SUGGESTIONS STILL UNDER CONSIDERATION

- ▶ Providing advance notice of proposed emergency orders to affected persons.

SUGGESTIONS CONSIDERED BUT NOT RECOMMENDED

- ▶ Motions for reconsideration or rehearing (as at PSC).
- ▶ Changing filing deadline from 5:00 p.m. to conform to RJAs.
- ▶ E-service by DOAH (authorizing legislation not enacted).
- ▶ Extending from 7 days to 10 days the time for filing a response to motions.

SUGGESTIONS CONSIDERED BUT NOT RECOMMENDED

- ▶ Defining “good cause” for continuances.
- ▶ Requiring a continuance to be granted if agreed to by all parties.
- ▶ Eliminating the requirement for a “certified” court reporter.
- ▶ Revising definition of “Notice of Intended Decision.”
- ▶ Prescribing time limit for remand to DOAH.

SPECIAL THANKS TO THOSE WHO SUBMITTED SUGGESTIONS

- ▶ Attorneys at PERC
- ▶ ALJ Gary Early
- ▶ Laura Gaffney
- ▶ Mike Glazer
- ▶ David Miller
- ▶ Eric Miller
- ▶ ALJ John Newton
- ▶ Richard Shoop
- ▶ ALJ Suzanne Van Wyk
- ▶ Karen Walker

PROCESS GOING FORWARD

- ▶ June 12 Draft distributed for comments.
- ▶ Next committee meeting is August 5, 2019.
- ▶ Final Report to ALS Executive Council.
- ▶ ALS Recommendation to Administration Commission.

ANY AMENDMENTS MUST BE FORMALLY ADOPTED

- ▶ REMINDER: As in 2013, any amendments to the Uniform Rules must be formally proposed and adopted by the Administration Commission before they may become effective.

**The Florida Bar Administrative Law Section's
Recommended Changes to the Uniform Rules of Procedure
(June 18, 2019)**

THE FULL TEXT OF THE PROPOSED RULE IS:

28-101.001 Statement of Agency Organization and Operation.

(1) No change.

(2) The Statement of Agency Organization and Operation shall:

(a) through (d) No change.

(e) ~~State whether~~ Describe the manner by which documents can be filed by electronic mail ~~or~~ and facsimile transmission, including applicable telephone numbers and electronic mail addresses where filings may be submitted, and set forth the acceptable nature and scope of such filings, including the following:

That the filing date for a document transmitted by electronic mail or by facsimile shall be the date the agency receives the complete document. Any document received by the office of the agency clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.

(f) No change.

(g) Set forth the agency's hours of operation ~~during which filings will be accepted.~~

(h) No change.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07, 12-24-07, 2-5-13, 6-26-13, _____.

Comment: Requires agencies to describe how to e-file documents as part of their Statement of Agency Organization and Operation.

THE FULL TEXT OF THE PROPOSED RULE IS:

28-105.0027 Intervention.

(1) Persons other than the original parties to a pending proceeding whose substantial interests will be affected by the disposition of the declaratory statement and who desire to become parties may move the presiding officer for leave to intervene. ~~The presiding officer shall allow for intervention of persons meeting the requirements for intervention of this rule.~~ Except for good cause shown, motions for leave to intervene must be filed within 21 days after publication of (or such later time as is specified in) the notice in the Florida Administrative Register. ~~The presiding officer may impose terms and conditions on the intervenor to limit prejudice to other parties.~~

(2) The motion to intervene shall contain the following information:

(a) The name, address, the e-mail address, and facsimile number, if any, of the intervenor; if the intervenor is not represented by an attorney or qualified representative; and

(b) The name, address, e-mail address, telephone number, and any facsimile number of the intervenor's attorney or qualified representative, if any; and

(c) Allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or that the substantial interests of the intervenor are subject to determination or will be affected by the declaratory statement; and

(d) The signature of the intervenor or intervenor's attorney or qualified representative; and

(e) The date.

(3) Any party may, within seven days of service of the motion, file a response in opposition.

(4) The presiding officer shall allow for intervention of persons meeting the requirements of this rule. The presiding officer may impose terms and conditions on the intervenor to limit prejudice to other parties.

(5) An intervenor may, within 7 days of (or such later time as is specified in) the order granting intervention, file a response to the petition for declaratory statement. No reply or other paper directed to a timely response may be filed absent leave granted by order of the presiding officer.

Rulemaking Authority 14.202, 120.54(5)(b)6. FS. Law Implemented 120.54(5)(b)6. FS. History—New 1-15-07, Amended 2-5-13, _____.

Comment: *The change proposed in new subsection (4) would relocate two sentences from existing subsection (1) for improved organization and clarity. New subsection (5) would provide basic guidelines for an intervenor's written submission and responses thereto from others.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-105.003 Agency Disposition.

The agency may hold a hearing to consider a petition for declaratory statement. ~~If the agency is headed by a collegial body, it shall take action on a petition for declaratory statement only at a duly noticed public meeting.~~ The agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within 90 days of the filing of the petition, the agency shall render a final order denying the petition or issuing a declaratory statement.

Rulemaking Authority 14.202, 120.54(5)(b)6. FS. Law Implemented 120.54(5)(b)6. FS. History—New 4-1-97, Amended 1-15-07, _____.

Comment: *Removes language stating that, if an agency is headed by a collegial body, it shall take action on a petition for declaratory statement only at a duly noticed public meeting. The existing language is proposed for deletion as unnecessarily repetitive of the Sunshine Law. This suggestion was submitted by PERC.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.103 Computation of Time.

In computing any period of time allowed by this chapter, by order of a presiding officer, or by any applicable statute, the day of the act from which the period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday, ~~or~~ legal holiday, or any other day on which the agency clerk's office is closed, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, ~~or~~ legal holiday, or any other day on which the agency clerk's office is closed. When the period of time allowed is less than 7 days, intermediate Saturdays, Sundays, ~~and~~ legal holidays, and any other days on which the agency clerk's office is closed shall be excluded in the computation. As used in these rules, legal holiday means those days designated in Section 110.117, F.S. Except as provided in Rule 28-106.217, F.A.C., five

days shall be added to the time limits when service has been made by regular U.S. mail. One business day shall be added when service is made by overnight courier. No additional time shall be added if service is made by hand, facsimile transmission, or electronic mail or when the period of time begins pursuant to a type of notice described in Rule 28-106.111, F.A.C.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07, _____.

Comment: *This change is to clarify that days on which the agency clerk’s office is closed (e.g., emergency closures or discretionary closures by executive order) are treated like weekends and legal holidays in the computation of time.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.104 Filing.

(1) No change.

(2) In construing these rules or any order of a presiding officer, received shall include receipt of a document that has been electronically filed.

~~(23)~~ All pleadings filed with the agency shall contain the following:

(a) through (c) No change.

(d) The name, address, any e-mail address, Florida Bar number, if applicable, and telephone number of the person filing the pleading;

(e) through (f) No change.

~~(34)~~ Any document received by the office of the agency clerk before 5:00 p.m. shall be filed as of that day but any document received after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.

~~(45) Whenever a party files a pleading or other document with the agency, that party shall serve copies of the pleading or other document upon all other parties to the proceeding. Each pleading or document filed with the agency subsequent to the initial pleading shall contain a certificate of service shall accompany each pleading or other document filed with the agency.~~

~~(56)~~ All parties, if they are not represented, or their attorneys or qualified representatives shall promptly notify all other parties and the presiding officer of any changes to their contact information by filing a notice of the change.

~~(67)~~ All papers filed shall be titled to indicate clearly the subject matter of the paper and the party requesting relief.

~~(78)~~ All original pleadings shall be on white paper measuring 8 1/2 by 11 inches, with margins of no less than one inch. Originals shall be printed or typewritten.

~~(89)~~ A document shall be filed by only one method (e-filing, facsimile, courier, hand-delivery, or U.S. mail) and shall not be filed multiple times. A duplicate filing will not be docketed and will be destroyed.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07, 2-5-13, _____.

Comment: *First sentence moved to Rule 28-106.110. Second sentence shifted to the active voice. New subsection (2) added to specifically recognize documents that are electronically filed as being ‘received.’*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.105 Appearances.

(1) Counsel ~~or qualified representatives~~ who files a request for a proceeding~~hearing~~ involving disputed issues of material fact with the agency ~~have~~has entered an appearance in the proceeding and shall be deemed counsel ~~or qualified representative~~ of record. All others who seek to appear shall file a notice of appearance as soon as possible.

(2) A qualified representative who has filed a request for a proceeding shall be deemed the qualified representative of record until the presiding officer makes the determination required by Rule 28-106.106, F.A.C. The party on whose behalf the qualified representative filed the initial pleading shall make the required filings under Rule 28-106.106, F.A.C within seven days of assignment of a presiding officer.

~~(2)~~(3) Service on counsel of record or on a qualified representative shall be the equivalent of service on the party represented.

(3)(4) On written motion served on the party represented and all other parties of record, the presiding officer shall grant counsel of record and qualified representatives leave to withdraw for good cause shown. The motion shall contain the address, any e-mail address, and telephone number of the party represented.

~~(4) A qualified representative who has filed an initial pleading or notice of appearance for a party shall be deemed the qualified representative of record until the presiding officer makes the determination required by Rule 28-106.106, F.A.C.~~

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 2-5-13, _____.

Comment: *Requires a person seeking representation by a qualified representative to make the required filings within 7 days of filing a request for hearing if the representative makes the initial filing.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.106 Who May Appear; Criteria for Qualified Representatives.

(1) Any party who appears in any agency proceeding has the right, at his or her own expense, to be represented by counsel or by a qualified representative. Counsel means a member of The Florida Bar in good standing or a law student certified pursuant to Chapter 11 of the Rules Regulating The Florida Bar. ~~An attorney disbarred in any state shall not be authorized to serve as a qualified representative.~~ Qualified representative means a person who meets the qualifications of this section and has been authorized by order of the presiding officer to represent a party in a proceeding. An attorney licensed solely in jurisdiction(s) other than Florida must file a written request to appear as a qualified representative.

(2)(a) A party seeking representation by a qualified representative shall file a written request within seven days of assignment of the presiding officer. A party seeking representation by a qualified representative after assignment of the presiding officer shall file a written request as soon as practicable, but no later than any pleading filed by the person seeking to appear on behalf of the party. The request shall identify the name, address, e-mail address, and telephone number of the representative and shall state that the party is aware of the services which the representative can provide, and is aware that the party can be represented by counsel at the party's own expense and has chosen otherwise

include the following:

(a) The name, address, e-mail address, and telephone number of the representative;

~~(b) The presiding officer shall consider whether the representative is qualified to appear in the administrative proceeding and capable of representing the rights and interests of the party. The presiding officer may consider a representative's sworn affidavit setting forth the representative's qualifications.~~

~~(c) The presiding officer shall determine the qualifications of the representative within a reasonable time after the request required by paragraph (a) is filed.~~

(b) A statement that the party is aware of the services which the representative can provide, aware that the party can represent themselves or be represented by counsel at their own expense, and has chosen otherwise.

(c) A sworn affidavit from the representative setting forth her or his qualifications, listing all proceedings in the past 2 years in which they have been granted or denied authorization as a representative, and stating whether the proposed representative has been denied admission to the Florida Bar or the bar of any jurisdiction.

(d) If the representative is a lawyer, the sworn affidavit shall also include a list of the jurisdictions in which the lawyer is currently admitted to practice and a certification that the lawyer does not meet any of the disqualifying criteria in paragraph (4).

(3) The presiding officer shall authorize the representative to appear if the presiding officer is satisfied that the representative has the necessary qualifications to responsibly and capably represent the party's rights and interests in a manner which will not impair the fairness of the proceeding or the correctness of the action to be taken.

~~(4) The presiding officer shall make a determination of the qualifications of the representative in light of the nature of the proceedings and the applicable law. The presiding officer shall consider:~~

~~(a) The nature of the proceedings and the applicable law~~representative's knowledge of jurisdiction;

(b) The representative's sworn affidavit;

~~(c) The representative's knowledge of the Florida Rules of Civil Procedure relating to discovery in an administrative proceeding;~~

~~(d) The representative's knowledge regarding the rules of evidence, including the concept of hearsay in an administrative proceeding;~~

(e) The representative's knowledge of Chapter 120, F.S., and the uniform rules adopted pursuant to section 120.54(5), F.S.;

~~(f) The representative's knowledge regarding the factual and legal issues involved in the proceedings; and~~

~~(g) The representative's knowledge of and compliance with the Standards of Conduct for Qualified Representatives, Rule 28-106.107, F.A.C.~~

(4) No person admitted to practice law in any jurisdiction may be authorized as a qualified representative under this rule if that person:

(a) is disbarred or currently suspended from practice in any jurisdiction; or

(b) is a member of The Florida Bar but ineligible to practice law.

(5) Within a reasonable time after the request under paragraph (2) is filed, If the presiding officer shall determines whether a representative is or is not qualified, If the presiding officer determines that the proposed representative is not qualified, the reason(s) for the decision shall be in writing and included in the record.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07, 2-5-13, _____.

Comment: Requires a person seeking representation by a qualified representative to make the required filings as soon as practicable if the representative did not file the initial pleading. Clarifies that attorneys appearing in administrative proceedings must be members of The Florida Bar in good standing. Clarifies that attorneys licensed in other jurisdictions must file a written request to appear as a qualified representative. Requires a qualified representative to disclose (a) prior proceedings in which they have been granted or denied permission to appear as a representative and (b) whether they have been denied admission to the bar of any jurisdiction. Requires a lawyer seeking to appear as a qualified representative to disclose all jurisdictions where they are licensed to practice. Prohibits a person who is admitted to practice in any jurisdiction from being a qualified representative if that person has been disbarred or is currently suspended in any jurisdiction or is a member of the Florida Bar but ineligible to practice.

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.110 Service of Papers.

~~Unless the presiding officer otherwise orders, every pleading and every other paper filed in a proceeding, except applications for witness subpoenas, shall be served on each party or the party's representative at the last address of record.~~

(1) Whenever a party files a pleading or other document with the agency, that party shall serve copies of the pleading or other document upon all other parties to the proceeding.

(2) Service upon an unrepresented party shall be made by service upon that party at their address of record. Service upon a represented party shall be made by service upon that party's attorney or qualified representative at the attorney or representative's address of record.

(3) If the address of record includes an e-mail address, service shall be made by electronic mail.

(4) A pleading or document served by e-mail after 5:00 p.m. shall be deemed served as of 8:00 a.m. the following day.

(5) When any party, representative, or attorney certifies in substance:

"I certify that the foregoing document has been furnished to (here insert name or names, addresses used for service, and mailing addresses) by (e-mail) (delivery) (mail) (fax) on (date) Attorney"

the certificate is taken as prima facie proof of such service in compliance with this rule.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, _____.

Comment: Consolidates existing provisions regarding service from several rules into one. Adds requirement for service by e-mail when address of record includes an e-mail address, a form for certificate of service, and a provision that service by e-mail after 5:00 p.m. shall be deemed service as of 8:00 a.m. the following day.

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.111 Point of Entry into Proceedings and Mediation.

(1) The notice of agency decision shall contain the information required by Section 120.569(1), F.S. The notice shall include the address, e-mail address, and telephone number for the agency clerk, instructions on how to electronically file documents with the agency clerk, and, if applicable, instructions on how to file documents with the agency clerk by facsimile transmission, including the telephone number for facsimile transmission. The notice shall also advise whether mediation under Section 120.573, F.S., is available, and if available, that pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement.

(2) No change.

(3) ~~An agency may, for good cause shown, grant a~~ The notice of rights shall advise that a person may request for an extension of time for to filing an initial pleading. Requests for extension of time must be filed with the agency prior to the applicable deadline. Such requests for extensions of time shall contain a certificate that the moving party has consulted with all other parties, if any, concerning the extension and that the agency and any other parties agree to or oppose the extension. An agency may grant the request for extension for good cause shown. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

(4) Any person who receives written notice of an agency decision and who fails to file a timely written request for a hearing ~~within 21 days~~ waives the right to request a hearing on such matters. This provision does not eliminate the availability of equitable tolling as a defense.

(5) No change.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 3-18-98, 1-15-07, _____.

Comment: *Requires the notice of administrative rights to include directions on how to e-file. Requires the notice of administrative rights to advise of the right to request an extension of time to file a request for hearing.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.204 Motions.

(1) through (2) No change.

(3) All motions, other than a motion to dismiss, shall include a statement that the movant has conferred with all other parties of record and shall state as to each party whether the party has any objection to the motion and whether any party intends to file a response to the motion. Any statement that the movant was unable to contact the other party or parties before filing the motion must provide information regarding the date(s) and method(s) by which contact was attempted.

(4) No change.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07, 2-5-13, _____.

Comment: *The proposed change would require parties to indicate in a motion whether any party intends to file a response so that the presiding officer will know whether to wait for the time allowed for a response to elapse before ruling on the motion.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.205 Intervention.

(1) Persons other than the original parties to a pending proceeding whose substantial interest will be affected by the proceeding and who desire to become parties may move the presiding officer for leave to intervene. Except for good cause shown, motions for leave to intervene must be filed at least 20 days before the final hearing unless otherwise provided by law. The parties may, within 7 days of service of the motion, file a response in opposition. The presiding officer may impose terms and conditions on the intervenor to limit prejudice to other parties.

(2) The motion to intervene shall contain the following information:

(a) The name, address, e-mail address, telephone number, and any facsimile number of the intervenor, if the intervenor is not represented by an attorney or qualified representative; and

(b) The name, address, e-mail address, telephone number, and any facsimile number of the intervenor's attorney or qualified representative; and

(c) Allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or that the substantial interests of the intervenor are subject to determination or will be affected by the proceeding; and

(d) A statement as to whether the intervenor supports or opposes the preliminary agency action; and

(e) If the intervenor seeks to raise new issues, the information required by Rule 28-106.201(2)(c)-(g); and

(ef) The statement required by subsection 28-106.204(3); and

(fg) The signature of the intervenor or intervenor's attorney or qualified representative; and

(gh) The date.

(3) Specifically-named persons, whose substantial interests are being determined in the proceeding, may become a party by entering an appearance as a named party and need not request leave to intervene.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History--New 4-1-97, Amended 1-15-07, 2-5-13, _____.

Comment: *Requires an intervenor who seeks to raise new issues to also include the information required by Rule 28-106.201(2)(c)-(g) (prescribing contents of petition).*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.2115 Motions to Disqualify.

(1) Any party may request the disqualification of an administrative law judge by filing with the Division of Administrative Hearings prior to the taking of evidence at a hearing a motion to disqualify, accompanied by an affidavit, stating the grounds with particularity.

(2) The motion must be in writing and allege specifically the facts and reasons upon which the movant relies as grounds for disqualification. The affidavit must allege a well-founded fear that the movant will not receive a fair trial before the administrative law judge because of the prejudice of the administrative law judge against the affiant or in favor of an adverse party, and the reasons for such fear; that the administrative law judge is related to an attorney or counselor of record in the cause by consanguinity or affinity within the

third degree; or that the administrative law judge is a material witness for or against one of the parties to the cause.

(3) The motion must also include the dates of all previously granted motions to disqualify in the case and the dates of the orders ruling on such motions.

(4) Determination: Initial and Successive Motions.

(a) The administrative law judge against whom an initial motion to disqualify is directed shall determine only the legal sufficiency of the motion and shall not pass on the truth of the facts alleged. If the motion is legally sufficient, the administrative law judge shall immediately enter an order granting disqualification and the case shall be transferred to another administrative law judge. If the motion is legally insufficient, an order denying the motion shall immediately be entered. No other reason for denial shall be stated, and an order of denial shall not take issue with the motion.

(b) If an administrative law judge has been disqualified previously on a motion for alleged prejudice or partiality, a successor administrative law judge shall not be disqualified based on a successive motion by the same party unless the successor administrative law judge rules that he or she is in fact not fair or impartial in the case. A successor judge may rule on the truth of the facts alleged in support of the motion.

(5) Any motion to disqualify shall be ruled on immediately, but in no event more than 15 days after service of the motion. Any motion not ruled upon after 15 days will be deemed granted.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5), 120.569(2)(a) FS. History - New _____.

***Comment:** This rule is created to clarify the process to be used and the standards for evaluating a motion to disqualify a presiding officer. Much of the text mirrors that of the Rules for Judicial Administration, while adjusting the process to comport with the timeframe in section 120.569(2)(a).*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.213 Evidence.

(1) through (4) No change.

(5) If requested and if the necessary equipment is reasonably available, the presiding officer may enter an order allowing testimony ~~may~~ to be taken by means of video teleconference or by telephone.

(a) No change.

(b) Except in cases of emergency, any party seeking to offer testimony by telephone must file a motion for leave to do so with the presiding officer at least five days prior to the date noticed for the hearing. For any testimony taken by telephone, a notary public must be physically present with the witness to administer the oath. The notary public shall provide a written certification to be filed with the presiding officer confirming the identity of the witness, and confirming the affirmation or oath by the witness. It shall be the responsibility of the party calling the witness to secure the services of a notary public and to file the written certification with the presiding officer.

(6) No change.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07, 2-5-13, _____.

Comment: Requires a party seeking to offer testimony by telephone to advise the presiding officer at least five days prior to the day noticed for hearing.

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.214 Recordation.

(1) through (2) No change.

(3) No later than 7 days prior to any hearing, a party who needs a translator or interpreter in order to testify, present or understand evidence, or otherwise fully participate in the hearing shall give notice to all other parties. This notice shall include the name of the translator or interpreter the party intends to use, the nature of the translation or interpretation services needed, contact information for the translator or interpreter, and a disclosure of the relationship, if any, of the translator or interpreter to the person for whom translation or interpretation services will be provided. This notice shall be served on each party or the party's representative at the last address of record. If the address of record includes an e-mail address, then service shall be made by e-mail.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 3-18-98, _____.

Comment: This rule change is to establish a procedure for the use of interpreters and translators.

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.217 Exceptions and Responses.

(1) No change.

(2) Exceptions and responses thereto shall be served in accordance with Rule 28-106.110 provided to all parties by facsimile or electronic mail, if a facsimile number or e-mail address has been provided number or address provided, the same day they are filed with the agency.

(3) No change.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07, 2-5-13, _____.

Comment: Amended for consistency with amended Rule 28-106.110. No intended change to existing rule requirements.

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.301 Initiation of Proceedings.

(1) Unless otherwise provided by statute and except for agency enforcement and disciplinary actions initiated under subsection 28-106.2015(1), F.A.C., initiation of a proceeding shall be made by written petition to the agency responsible for rendering final agency action. The term “petition” includes any document which requests a proceeding. Each petition shall be legible and on 8 1/2 by 11 inch white paper or on a form provided by the agency. Unless printed, the impression shall be on one side of the paper only and lines shall be doubled-spaced.

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, any email address, and telephone number of the petitioner, if

the petitioner is not represented by an attorney or qualified representative; the name, address, email address, facsimile number, and telephone number of the petitioner's representative; if any, which shall be the address for service purposes during the course of the proceeding;

(c) An explanation of how the petitioner's substantial interests will be affected by the agency determination;

(d) A statement of when and how the petitioner received notice of the agency decision;

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;

(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action;

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action; and

(h) A statement that no material facts are in dispute.

(3) If an administrative law judge determines that no genuine issue as to any material fact remains in a proceeding brought under Section 120.57(1) and enters an order relinquishing jurisdiction to the agency, the party that initiated the proceeding may amend their petition to comply with subsection (2) of this rule without leave of the presiding officer no later than 14 days after entry of the order relinquishing jurisdiction. The amended petition shall not raise any issues of disputed fact that could have been raised before the administrative law judge.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5), 120.57(1)(i); FS. History—New 4-1-97, Amended 1-15-07, 2-5-13,_____.

Comment: *Allows a party to amend a petition for hearing without leave to comply with the requirements for initiating an informal proceeding following an order determining the absence of material fact and relinquishing jurisdiction.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.3015 Amendment of Petitions.

A petition may be amended prior to the designation of the presiding officer by filing and serving an amended petition in the manner prescribed for filing and serving an original petition. Thereafter the petition may be amended only upon order of the presiding officer.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New _____.

Comment: *The existing uniform rules governing proceedings and hearings not involving disputed issues of fact do not establish procedures for the amendment of petitions. This proposed rule would establish these procedures. The proposed rule is a copy of existing Rule 28-106.202, which governs amendments to petitions in proceedings and hearings involving disputed issues of fact.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.3016 Intervention.

(1) Persons other than the original parties to a pending proceeding whose substantial interest will be affected by the proceeding and who desire to become parties may move the presiding officer for leave to intervene. The parties may, within 7 days of service of the motion, file a response in opposition. The presiding officer may impose terms and

conditions on the intervenor to limit prejudice to other parties.

(2) The motion to intervene shall contain the following information:

(a) The name, address, e-mail address, telephone number, and any facsimile number of the intervenor, if the intervenor is not represented by an attorney or qualified representative;

(b) The name, address, e-mail address, telephone number, and any facsimile number of the intervenor's attorney or qualified representative;

(c) Allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to agency rule, or that the substantial interests of the intervenor are subject to determination or will be affected by the proceeding;

(d) A statement as to whether the intervenor supports or opposes the preliminary agency action;

(e) If the intervenor seeks to raise new issues, the information required by Rule 28-106.301(d)-(g);

(f) The statement required by subsection 28-106.303(2);

(g) The signature of the intervenor or intervenor's attorney or qualified representative;
and

(h) The date.

(3) Specifically-named persons, whose substantial interests are being determined in the proceeding, may become a party by entering an appearance as a named party and need not request leave to intervene.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New

Comment: The existing uniform rules governing proceedings and hearings not involving disputed issues of fact do not establish procedures for intervention. This proposed rule would establish these procedures. The proposed rule is a copy of existing Rule 28-106.205, which governs amendments to petitions in proceedings and hearings involving disputed issues of fact, with two changes. First, it includes the proposed changes from this ad hoc committee. Second, the rule references have been modified to the appropriate subsections.

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.302 Notice of Proceeding.

(1) Not later than 21 days after receipt of a petition it has determined to be in substantial compliance with this Rule, the agency shall serve written notice on all parties of:

(a) The agency action or refusal to take action;

(b) The factual and legal grounds for the action or refusal to take action;

(b) The opportunity to submit written evidence; and

(c) The opportunity to request an informal hearing before the agency.;

(2) The notice shall provide the parties allowing at least 14 days from the date of the notice for the parties to provide material file written evidence in support of or opposition to the agency action or refusal to act or in aggravation or mitigation of any penalty which may be imposed. The notice shall also provide the parties at least 7 days to file written evidence in response to written evidence filed by another party. No further written evidence may be submitted without first obtaining leave of the agency. any "Written evidence" includes documents, memoranda of law, or and all other written material in support of

~~or opposition to the agency action or refusal to act or in aggravation or mitigation of any penalty which may be imposed. If only written evidence is submitted, the notice shall provide the parties at least 7 that all other parties shall have 14 days to file respond in writing to that written evidence.~~

(23) The notice shall provide the parties at least 14 days to file a request for an informal hearing before the agency. The agency may schedule an informal hearing with or without such a request on the matter for the purpose of taking oral evidence or argument. If it does so, the agency shall serve written notice at least 14 days prior to the hearing, setting forth the place, date, time of the hearing, and legal authority and jurisdiction under which the hearing is to be held. The presiding officer may grant a continuance of a hearing for good cause shown. Except in cases of emergency, requests for continuance must be made at least five days prior to the date noticed for the hearing.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5), 120.57(2) FS. History—New 4-1-97, Amended 3-18-98, 12-24-07, _____.

Comment: *These amendments designed to add clarity and more closely align this rule with the requirements of Section 120.57(2). The last sentence previously resided in Rule 28-106.304.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.303 Motions.

(1) All requests for relief shall be by motion. All motions shall be in writing unless made on the record during a hearing and shall fully state the action requested and the grounds relied upon. The original motion shall be filed with the presiding officer. When time allows, the other parties may, within seven days of service of a written motion, file a response in opposition. No reply to the response shall be permitted unless leave is sought from and given by the presiding officer. Written motions will normally be disposed of after the response period has expired, based on the motion, together with any supporting or opposing memoranda. The presiding officer shall conduct proceedings and enter such orders as are deemed necessary to dispose of issues raised by the motion.

(2) All motions, other than a motion to dismiss, shall include a statement that the movant has conferred with all other parties of record and shall state whether any party has an objection to the motion and whether any party intends to file a response to the motion.

(3) Motions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and shall state good cause for the request.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 2-5-13, _____.

Comment: *The proposed change would require parties to indicate in a motion whether any party intends to file a response to that the presiding officer will know whether to wait the time allowed for a response to elapse before ruling on the motion.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.304 Continuances.

~~The presiding officer may grant a continuance of a hearing for good cause shown. Except in cases of emergency, requests for continuance must be made at least five days prior to the date noticed for the hearing.~~

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New

4-1-97, Repealed _____.

Comment: *This Rule was moved to Rule 28-106.302(3).*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.305 Conduct of Proceedings.

The presiding officer before whom a ~~proceeding~~^{case} is pending may issue any orders necessary to ~~effectuate discovery~~, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the ~~case, including bifurcating the proceeding.~~
Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 1-15-07, _____.

Comment: *Reference to case changed to proceeding for clarity. References to bifurcation and discovery eliminated as unnecessary in informal proceedings.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.306 Recordation.

(1) ~~Responsibility for preserving the testimony at final hearings shall be that of the~~ agency responsible for taking final agency action. ~~Proceedings shall ensure that any informal hearings shall be~~ are recorded by a certified court reporter or by recording instruments. The agency shall serve on all parties written notice of the method of recordation not later than 7 days before the scheduled commencement of the informal hearing.

(2) Any party to a ~~proceeding~~^{hearing} may, at its own expense, provide a certified court reporter ~~for a hearing~~ if the agency does not. The presiding officer may provide a certified court reporter. At hearings reported by a court reporter, any party who wishes a transcript of the testimony shall order the same at its own expense. If a court reporter records the proceedings, the recordation shall become the official transcript.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Amended 3-18-98, _____.

Comment: *Requires a notice of recordation in a manner consistent with the existing requirement for same in formal proceedings (Rule 28-106.204(2)).*

THE FULL TEXT OF THE PROPOSED RULE IS:

~~28-106.307 Post-Hearing Submittals.~~

~~The presiding officer may permit all parties to submit proposed findings of fact, conclusions of law, orders, and memoranda on the issues within a time designated by the presiding officer. Unless authorized by the presiding officer, proposed orders shall be limited to 40 pages.~~

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 4-1-97, Repealed _____.

Comment: *Deleted for lack of a law to implement. The statutory authority for proposed findings of facts and orders is found only in Section 120.57(1)(b).*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.501 Emergency Action.

(1) through (2) No change.

(3) In the case of the emergency suspension, limitation, or restriction of a license, unless otherwise provided by law, ~~within 20 days after~~ contemporaneously with the emergency action taken pursuant to section (1) of this rule, the agency shall initiate emergency proceedings in compliance with sections 120.569, 120.57 and 120.60, F.S., and Rule 28-106.2015, F.A.C.

Rulemaking Authority 14.202, 120.54(5), FS. Law Implemented 120.54(5) History – New 1-15-07, Amended 12-24-07, _____.

Comment: *Section 120.60 requires that a suspension or revocation proceeding must also be “promptly instituted and acted upon.” The current version of the rule allows the agency to file its administrative complaint within 20 days. The Committee members agreed that for the recipient of the emergency order, a delay of 20 days before the licensee can even request a hearing is not “prompt institution of emergency proceedings.”*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-110.003 Notice of Protest.

(1) A notice of protest shall be addressed to the agency clerk of the agency office that issued the solicitation or made any other decision that is intended to be protested, unless otherwise designated by the solicitation; shall identify the solicitation by number and title or any other language that will enable the agency to identify it; and shall state that the person intends to protest the decision. If a bond is required, it shall not be filed with the notice unless otherwise required by law.

(2) and (3) No change.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.57(5) FS. History–New 4-1-97, Amended 1-15-07, _____.

Comment: *Changes to Rule 28-110.003 regarding where to file a notice of protest are intended to make 110.003(1) consistent with 110.003(2). Both provisions now call for filing with the agency clerk, unless otherwise designated by the solicitation.*

THE FULL TEXT OF THE PROPOSED RULE IS:

28-110.005 Bond.

(1) No change.

(2) Bonds required by Section 337.11(5)(a), F.S., must be filed with the notice of protest. Other bonds are not to be filed with the notice of protest, but must be filed at the time of filing with the formal written protest ~~or within the 10-day period allowed for filing the formal written protest~~. The bond must accompany a protest filed pursuant to Section 24.109(2)(a), F.S. A bond can be in substantially the following form:

STATE OF FLORIDA ~~ADMINISTRATION COMMISSION~~ PROCUREMENT
PROTEST BOND

Bond Number: _____

Contract Number: _____

KNOW ALL PERSONS BY THESE PRESENTS:

That we, _____ a (mark one) [] corporation, []

partnership, [] proprietorship, organized and existing under the laws of the State of _____, and having its principal place of business at _____, as PRINCIPAL; and _____, a surety company, organized under the laws of the State of _____, and duly authorized to do business in the State of Florida, whose principal place of business is _____, as SURETY, are held and firmly bound unto the STATE OF FLORIDA, _____ (Agency), as OBLIGEE, in the amount of \$_____ for the payment of which sum we, as Principal and Surety, bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally.

THIS BOND is issued under the provisions of _____ Florida Statutes. The above-named Principal has initiated an administrative protest regarding the Obligee's decision or intended decision pertaining to ~~(mark one) []~~ Bid Number _____ ~~[]~~ an agency's request for approval of an exceptional purchase of _____ submitted by _____. Said protest is conditioned upon the posting of a bond at the time of filing the formal written protest.

NOW, THEREFORE, the condition of this Bond is that if the Principal, after the administrative hearing process and/or any appellate court proceedings regarding the protest, shall satisfy all costs and charges allowed by final order and/or judgment, and interest thereon, in the event the Obligee prevails, then the obligation shall be null and void; otherwise it shall remain in full force and effect.

The Obligee may bring an action in a court of competent jurisdiction on this bond for the amount of such liability, including all costs and attorneys' fees.

PRINCIPAL: _____
BY: _____
Title: _____ (CORPORATE SEAL)
ATTEST: _____

SURETY: _____
BY: _____
Title: _____ (CORPORATE SEAL)
Florida Resident Agent: _____

(Note: Power of Attorney showing authority of Surety's agent or Attorney in Fact must be attached).

Bonds must be countersigned by an agent licensed in Florida. Section 287.042(2)(c), F.S., authorizes a cashier's check or money order in lieu of a bond, for procurements governed by Chapter 287, F.S.

(3) and (4) No change.

Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History--New 4-1-97, Joint Administrative Procedures Committee Objection Filed - See FAW Vol. 24,

No. 20, May 15, 1998, Amended 1-15-07, Joint Administrative Procedures Committee objection resolved by Chapter 2006-82, Laws of Florida, Florida Administrative Weekly Vol. 35, No. 27, July 10, 2009, _____.

Comment: *Changes to 28-110.005(2) are intended to clarify that a protest bond is due at the time of filing a formal written protest. See § 287.042(2)(c), Fla. Stat. Changes to the protest bond form are intended to simplify the form and remove reference to exceptional purchases, which are uncommon.*



Administrative Law Section
Nominating Committee Report

Administrative Law Section 2019-2020 Officers

Chair	Brian Newman (automatic per bylaws)
Chair-Elect	Bruce Lamb
Secretary	Stephen Emmanuel
Treasurer	Tabitha Jackson

Executive Council Members (Term Ending 2021)

1. Fred Dudley
2. Sharlee Hobbs-Edwards
3. Clark R. Jennings
4. Anthony Miller
5. Patricia A. Nelson
6. Marc Ito
7. Lyyli Van Whittle

Executive Council Member (Term Ending 2020)

1. James Ross

Administrative Law Newsletter Schedule 2019-2020

June Edition	September Edition	December Edition	March Edition
Articles to Editors: April 17, 2019	Articles to Editors: July 12, 2019	Articles to Editors: October 18, 2019	Articles to Editors: January 17, 2019

Potential Agency Snapshots

Agency Name	Date Last Snapshot was Published
Florida Parole Commission	12/2003
Department of Law Enforcement	---
Administration Commission	--
Department of Military Affairs	--
Department of Children and Families	---
Agency for Persons with Disabilities	---
Department of Corrections	--
Commission on Ethics	12/2006
OPPAGA	3/2008
Department of Veterans Affairs	1/2010
Fish and Wildlife Conservation Commission	3/2010
Commission on Human Relations	6/2010

If you are interested in writing an "Agency Snapshot" please contact Jowanna N. Oates at oates.jowanna@leg.state.fl.us



Administrative Law Newsletter Schedule 2019-2020

September Edition	December Edition	March Edition	June Edition
Articles to Editors: July 12, 2019	Articles to Editors: October 18, 2019	Articles to Editors: January 17, 2019	Articles to Editors: April 17, 2019

If you are interested in writing a feature article or an “Agency Snapshot” please contact Jowanna N. Oates at oates.jowanna@leg.state.fl.us

BYLAWS OF THE ADMINISTRATIVE LAW SECTION

ARTICLE I DESCRIPTION

Section 1. Name. The name is "Administrative Law Section, The Florida Bar."

Section 2. Purposes. The purposes of this section are to provide:

(a) an organization within The Florida Bar open to members thereof in good standing having an interest in administrative law and procedure on both the state and federal levels; and

(b) a forum for discussion and exchange of ideas leading to the improvement and development of the fields of administrative law and procedure and agency practice, to serve the public and The Florida Bar in interpreting and carrying out the professional needs and objectives in these fields, and to promote and encourage professionalism among its members.

Section 3. Aspirational Goal. It is an aspirational goal to achieve fair balance between government attorneys and private practitioners among the executive council members of the section.

ARTICLE II MEMBERSHIP

Section 1. Eligibility. Any member in good standing of The Florida Bar interested in the purposes of this section is eligible for membership upon application and payment of this section's annual dues. Any member who ceases to be a member of The Florida Bar in good standing will no longer be a member of the section.

Section 2. Administrative Year. The administrative year of the section runs concurrently with the administrative year of The Florida Bar.

Section 3. Annual Dues. The annual dues will be the amount fixed by the executive council and approved by The Florida Bar. After an applicant has become a member, dues are payable in advance of each membership year and will be billed by The Florida Bar at the time that regular dues of The Florida Bar are billed.

Section 4. Affiliate Membership.

(a) **Eligibility.** Any person who is not a member of The Florida Bar but who has an interest in administrative law and processes may become an affiliate member of the Administrative Law Section. Affiliate Members may include, but are not limited to, members of administrative boards, agency staff, law students, legal assistants, members of the legislature and legislative staff, and other administrative personnel.

(b) Privileges and Responsibilities. Affiliates are members of this section only. Affiliates have all the privileges accorded to members of the section except that affiliates can not vote on any matter or hold any section office. Affiliate members must pay annual dues as determined by the executive council.

(c) Membership Limits and Administrative Expenses. The number of affiliate members must not exceed one-third of the section membership. The section will reimburse the bar for expenses incurred by the bar in administering this section's affiliate membership.

ARTICLE III OFFICERS

Section 1. Officers. The officers of this section are a chair, a chair-elect, a secretary and a treasurer.

Section 2. Duties of Officers. The duties of the officers are as follows:

(a) Chair. The chair presides at all meetings of the section and at all meetings of the executive council. The chair appoints all committees and committee chairs with the approval of the executive council, is responsible for all reports to be submitted to The Florida Bar, and performs all duties as customarily pertain to the office of chair. The chair is an ex-officio member of each committee of the section.

(b) Chair-Elect. The chair-elect becomes chair in the event of the death, resignation, or failure of the chair to serve for any reason. The chair-elect serves as acting chair for the duration of the chair's temporary disability or absence. The chair-elect is responsible for other duties designated by the chair. The chair-elect is an ex-officio member of each committee of the section.

(c) Secretary. The secretary is responsible for all permanent files and records of the section, including the minutes of the meetings of the section and the executive council and all committee reports. The secretary keeps accurate minutes of the proceedings of all meetings of the section and the executive council and furnishes copies of the minutes to the executive director of The Florida Bar and to the section coordinator.

(d) Treasurer. The treasurer serves as liaison to The Florida Bar and other sections on matters involving section finances and has the responsibility of accounting for all funds of the section, approves all disbursements, prepares annual financial statements under the supervision of the executive council, and prepares budget requests and amendments in a timely manner in accordance with the procedures of the budget committee of The Florida Bar.

Section 3. Term of Office.

(a) Chair. The term of office of the chair begins at the conclusion of the next annual meeting of the section after the chair was elected chair-elect and ends at the

conclusion of the next succeeding annual meeting. The chair is automatically succeeded by the chair-elect on expiration of the chair's term.

(b) Other Officers. The terms of office of the other officers run concurrently with that of the chair.

Section 4. Election of Officers. The chair-elect, secretary and treasurer are elected by a plurality of the membership of the section in attendance at its annual meeting. Nominations are made by the nominating committee of the executive council and may be accepted from the floor.

Section 5. Vacancies. Any permanent vacancy occurring in an office will be filled for the balance of the unexpired term by vote of the executive council at its next meeting.

ARTICLE IV EXECUTIVE COUNCIL

Section 1. Governing Body. The executive council is the governing body of the section between the annual meetings of the section and is composed of 14 members of the section plus the chair, chair-elect, immediate past chair, secretary, treasurer, chair of the public utilities law committee, and all past chairs of the section. The chair of the public utilities law committee and all other past chairs of the section are ex-officio members. As ex-officio members, the chair of the public utilities law committee and all past chairs have the same rights, privileges, and obligations as any other member of the executive council, except the attendance requirement set forth in these bylaws. Past chairs become permanent members automatically on expiration of their term on the executive council. If the term of chair-elect or chair of the executive council expires before completion of service on the executive council as enumerated in these bylaws, that officer will be an additional member of the executive council for that period of time. The chair of the section is the chair of the executive council and the secretary of the section is the secretary of the executive council. The executive council has general supervision and control of the affairs of the section, subject to the provisions of the Rules Regulating The Florida Bar and the bylaws of this section. It authorizes all commitments or contracts which entail the payment of money and the expenditures of all section funds. It will not authorize commitments, contracts, or expenditures involving amounts of money in excess of the total amount which is anticipated as receipts from dues during the fiscal year plus the amount that has been previously collected from dues and remains unexpended. As the governing body of the section, it is vested with the power and authority to determine matters of policy concerning the affairs and purposes of the section. All recommendations of the section to The Florida Bar, any branch of the judiciary, or to any other group or body to which recommendations by the section are authorized to be made must first be approved by the executive council. Any recommendation made to other than The Florida Bar must have the prior approval of The Florida Bar.

Section 2. Term of Office. All members of the executive council, excluding ex-officio members, serve for a term of 2 years. The terms of the members are staggered so that 7 members take office at the conclusion of every annual section meeting and serve until the conclusion of the annual meeting of the section 2 years after.

Section 3. Election of Executive Council Members. The members of the executive council are elected each year for 2-year terms by a plurality vote of the membership in attendance at the annual meeting of the section. Nominations are made by the executive council and may be accepted from the floor.

Section 4. Vacancies. Except as otherwise provided in these bylaws, any permanent vacancy occurring in the membership of the executive council is filled for the balance of the expired term by vote of the executive council at its next meeting.

Section 5. Duties. Executive council members must participate in at least 1 standing or ad hoc committee or serve as an executive council liaison to other Florida Bar committees or sections in addition to attending meetings of the executive council and of the section.

ARTICLE V MEETINGS

Section 1. Meetings of the Membership.

(a) The annual meeting of the section is held at each annual convention of The Florida Bar. The active members of the section attending any meeting of the section constitutes a quorum for the transaction of business and a majority vote of those present is binding.

(b) Special meetings of the entire membership of this section may be called by the executive council only if 30 days' notice is given to each member of the section.

Section 2. Meetings of the Executive Council.

(a) The executive council will meet at least 3 time each year, 1 of which is held in conjunction with the annual convention of The Florida Bar.

(b) Regular meetings of the executive council are called by the chair of the section with 15 days' written notice to the members of the executive council.

(c) Special meetings of the executive council are called by the chair of the section with written notice that is reasonable under the circumstances. For a special meeting, the purpose of the meeting must be stated in the call of the chair and no vote may be taken on business other than that stated in the call.

(d) The executive council must conduct its business at regular and special meetings as provided for in these bylaws; except that the business of the executive council between regular meetings may be conducted by correspondence as authorized by the chair. Meetings may be held by telephonic or electronic means.

(e) Those participating in a meeting or in transacting business by correspondence as authorized above constitute a quorum and majority vote of those participating is binding.

(f) In the event a member of the executive council is absent from any 2 regular meetings during the fiscal year, the member's office is deemed vacant and is filled as provided in these bylaws.

ARTICLE VI COMMITTEES

Section 1. The permanent, standing committees within the section are:

(a) **Budget Committee.** The budget committee prepares and revises proposed budgets for submission to the executive council for approval. The budget committee is composed of the section chair, immediate past chair, chair-elect, and treasurer.

(b) **Long Range Planning Committee.** The long range planning committee develops long-range goals for the section, reviews the present activities of the section and submits reports and recommendations to the executive council for adoption. The long range planning committee is composed of the chair-elect of the section and other persons the chair appoints.

(c) **Legislative Committee.** The legislative committee is composed of 3 members appointed by the section chair who also appoints the chair of the committee.

(1) *Legislative Positions.* The legislative committee makes recommendations to the executive council regarding requests for the section to adopt a legislative position. Recommendations require a 2/3 vote of the executive council to be adopted as the section position.

(2) *Legislature in Session.* When the legislature is in session, the chair of the committee consults with the chair and, if available, the chair-elect of the section. The chair of the committee may then act on pending or proposed legislation in accordance with section legislative positions if it is not reasonably possible or feasible for the executive council to act. The chair of the section notifies all members of the executive council of action taken as soon as it is reasonably possible to do so.

(d) **Publications Committee.** The publications committee is composed of the chair of the committee, the editors of the section's column in *The Florida Bar Journal* and the section's newsletter, and any other section members appointed by the chair. The chair of the section appoints the chair of the committee each year. The chair of the committee appoints the editors for the section's publications, who will be responsible for the timeliness, quality, and contents of those publications.

(e) **Public Utilities Law Committee.** The public utilities law committee's purpose is to gather and disseminate information, share expertise, and advise its members on the legal, technical, and economic issues related to regulated utilities providing electric, gas, water, sewer, and telephone services. Any member of the section may become a member of the committee by notifying the chair of the committee in writing. The committee may present at least 1 CLE program which

receives bar approval for CLE credits each year. All CLE presentations must be approved by the executive council. The section's newsletter must provide space to the committee to feature the committee's own column for matters of special interest to section members.

(f) Law School Outreach Committee. The law school outreach committee is composed of members appointed by the chair. The committee coordinates section activities with Florida law schools to stimulate students' interest in administrative law with the goal of increasing the number of law students with an interest in administrative law.

(g) Nominating Committee. The nominating committee is composed of 3 executive council members appointed by the chair to propose a slate of candidates for any vacancy which occurs either during an executive council member's term or at the conclusion of any executive council member's term. Consideration for re-appointment of any executive council member will be based on that member's contributions to the executive council during the term that is about to expire. The nominating committee is also responsible for the selection and criteria of any award or recognition authorized by the executive council. Nominations for awards or other recognition may come from any member of the executive council and may be solicited from the members of the section by the committee.

(h) Young Lawyers Committee. The young lawyers committee is composed of members appointed by the chair. The committee is responsible for cultivating interest in the section among young lawyers (those under the age of 36 and those who have been a member of the Bar for 5 years or less) and planning, organizing, and promoting section activities and benefits specifically designed for young lawyers. The goal of the committee is to help increase the section's membership by encouraging young lawyers to join the section and to cultivate the next generation of executive council members and officers by encouraging young lawyers to get involved in the activities of the section.

(i) Technology Committee. The technology committee is composed of members appointed by the chair. The committee is responsible for the design and content of the section's website as well as any social media platforms the section decides to participate in. The goal of the committee is to promote the section through various technological platforms, use those platforms to communicate with the section's membership, keep the section's membership informed of the section's activities, and alert the section's membership of news that affects the practice of administrative law.

Section 2. Ad Hoc Committees. The chair establishes ad hoc committees as the need arises.

**ARTICLE VII
MISCELLANEOUS**

Section 1. Action of The Florida Bar. No action of the section will be represented or construed as the action of The Florida Bar until the action has been approved by The Florida Bar.

Section 2. No action of any member or committee of the section will be represented as the action or position of the section except as otherwise provided in these bylaws.

Section 3. Financial Obligations. All financial obligations must be approved in the manner specified by the executive council before payment.

Section 4. Compensation and Expenses. No salary or other compensation will be paid to any member of the section for performance of services to the section, but the chair may authorize the payment of reasonable out-of-pocket expenses resulting from performance of these services.

Section 5. Amendments. These bylaws may be amended only by The Florida Bar upon recommendation made by the executive council of the section.

Section 6. The section may take no action contrary to the policies of The Florida Bar.