

200-RICR-30-15-2

TITLE 200 – BOARD OF EDUCATION

CHAPTER 30 – DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

SUBCHAPTER 15 – PROCEDURES

PART 2 – Declaratory Order Petitions

2.1 Purpose:

This regulation states the requirements for submitting a request for a declaratory order under R.I. Gen. Laws § 42-35-8(b), and the procedure for its consideration and prompt disposition.

2.2 Authority:

This regulation is promulgated pursuant to the authority granted in R.I. Gen. Laws § 42-35-8.

2.3 Definitions:

A. The following definitions shall apply to this regulation:

1. “Declaratory order” means an order issued by the Department that:
 - a. Interprets or applies a statute administered by the Department;
 - b. Clarifies whether a rule, guidance document, or order issued by the Department applies to a Petitioner; or
 - c. Clarifies how a rule, guidance document, or order issued by the Department applies to a Petitioner.
2. “Department” means Rhode Island Department of Education (“RIDE”)
3. “Petition” means a request for a Declaratory Order.
4. “Petitioner” means a person requesting a Declaratory Order.

2.4 Request for Declaratory Order: Form and Submission:

A. A request for Declaratory Order must be in writing and include the following information:

1. The name and address of the Petitioner;
2. A plain statement identifying the statute, rule, guidance document or order at issue;
3. A detailed statement of all facts relied upon by the Petitioner;
4. A copy of any and all documents relied upon by Petitioner that are not otherwise accessible to the Department; and
5. A plain statement requesting a Declaratory Order, and further indicating whether Petitioner seeks:
 - a. An interpretation or application of a statute administered by the Department;
 - b. Clarification as to whether a rule, guidance document, or order issued by the Department applies to Petitioner; and/or
 - c. Clarification as to how a rule, guidance document, or order issued by the Department applies to Petitioner.

B. A request for a declaratory order must be submitted to: Commissioner of Elementary and Secondary Education, Rhode Island Department of Education, 255 Westminster Street, Providence, Rhode Island 02903.

2.5 Consideration and Disposition of Request for Declaratory Order

- A. The Department shall promptly consider and respond to the request for the Promulgation of a Rule as provided in R.I. Gen. Laws § 42-35-8(c).
1. Should the Department schedule the matter for further consideration, the Department shall notify Petitioner in writing of the anticipated date on which the Department will grant or deny the request for Declaratory Order.
- B. The Department may, at its discretion:
1. Hold a hearing for further consideration and discussion on the Petition; or
 2. Request further information or documents from the Petitioner necessary for the full evaluation of his or her Petition.

2.6 Appeal from Department's Final Disposition of Request

A Petitioner may appeal the Department's failure to act within the applicable time under R.I. Gen. Laws § 42-35-8(c) or its final disposition of a request for a Declaratory Order under R.I. Gen. Laws § 42-35-15.