

240-RICR-00-00-2

## TITLE 240 – DEPARTMENT OF CORRECTIONS

### CHAPTER 00 – Administration

#### SUBCHAPTER 00 – N/A

#### PART 2 – Declaratory Order Petitions

### 1.1 Purpose

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

### 1.2 Authority

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

### 1.3 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 the Rhode Island Department of Corrections.
  - 3. "Petition" means a request for a Declaratory Order.
  - 4. "Petitioner" means a person as defined by R.I. Gen. Laws § 42-35-1, requesting a Declaratory Order
  - 5. "Rule" is defined by R.I. Gen. Laws § 42-35-1 (19). The term is used interchangeably with the term "Regulation." The term does not include:

- a. A statement that concerns only the internal management of an agency and that does not affect private rights or procedures available to the public;
- b. An intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to the public;
- c. An opinion of the attorney general, or an opinion of the ethics commission pursuant to § 36-14-11;
- d. A statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, settling commercial disputes, negotiating commercial arrangements, or defending, prosecuting, or settling cases, if disclosure of the criteria or guidelines would enable persons violating the law to avoid detection, facilitate disregard of requirements imposed by law, or give an improper advantage to persons that are in an adverse position to the state;
- e. A form developed by an agency to implement or interpret agency law or policy; or
- f. A guidance document; or.
- g. Any policies or procedures created by the director pursuant to R.I. Gen. Law 42-56-10, for the internal management of the agency.

#### **1.4 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: Rhode Island Department of Corrections, Attn: Office of Legal Counsel, 40 Howard Avenue, Cranston, RI 02920 via mail, overnight carrier, or in hand delivery to a representative of the Department at the foregoing address, with a copy sent via email to [DOC.Legal@doc.ri.gov](mailto:DOC.Legal@doc.ri.gov). The Department encourages individuals who choose to submit petitions by mail to consider using delivery methods that provide confirmation of receipt, such as certified mail or return receipt service, to help ensure successful delivery.

## **1.5 Consideration and Disposition of Request for Declaratory Order**

- A. The Department shall promptly consider and respond to the request for Declaratory Order 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 agency 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.
- C. A Petitioner may appeal the Department's final disposition of the request for Declaratory Order as provided in R.I. Gen. Laws § 42-35-15.