

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

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.

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.