

10A NCAC 89B .0108 DECLARATORY RULINGS

(a) All requests for declaratory rulings shall be by written petition and shall be submitted to:

A.P.A. Coordinator
Division of Vocational Rehabilitation Services
805 Ruggles Drive
2801 Mail Service Center
Raleigh, North Carolina 27699-2801

(b) Every request for a declaratory ruling shall include the following information:

- (1) the name, address, and telephone number of the petitioner;
- (2) the statute, rule, or order to which the petition relates;
- (3) a concise statement of the reasons why the petitioner is aggrieved by the rule, statute, or order, or its potential application to the petitioner; and
- (4) the consequences of a failure to issue a declaratory ruling.

(c) Whenever the Director believes for good cause that the issuance of a declaratory ruling is undesirable, the Director may decline to issue one. In such cases, the Director shall notify the petitioner in writing of the decision stating the reasons for the denial of a declaratory ruling. The Director may decline to issue a declaratory ruling in the following specific circumstances:

- (1) if the request for a declaratory ruling addresses a situation or facts similar to those specifically considered at the rule-making hearing and is found in the rule-making record;
- (2) if the petitioner cannot show that the circumstances are so changed since adoption of the rule that such a ruling would be warranted; or
- (3) if the circumstances stated in the request indicate that there is a factual dispute and a contested case hearing would be more appropriate.

(d) When issuing a declaratory ruling is deemed appropriate, the Director shall issue the ruling within 60 days of receipt of the petition.

(e) A declaratory ruling procedure may consist of written submissions, oral hearings, or such other procedures as may be deemed appropriate by the Director in a particular case.

(f) The Director may notify persons who might be affected by the ruling that they may submit written comments or make oral presentations at a scheduled hearing.

(g) A record of all declaratory ruling proceedings shall be maintained by the Division's A.P.A. Coordinator and shall be available for inspection during regular business hours. This record shall contain:

- (1) the original request,
- (2) all written memoranda and information submitted,
- (3) a tape recording or transcript of any oral hearing, and
- (4) a statement of the ruling or the reasons for refusing to issue a ruling.

History Note: Authority G.S. 143-545; 143-546; 143B-10(j)(2); 150B-11; 150B-17;
Eff. February 1, 1976;

Amended Eff. April 1, 1990; April 1, 1988;

Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.