

21 NCAC 36 .0122 PETITIONS FOR DECLARATORY RULINGS

(a) All requests for declaratory rulings shall be written and mailed to the Board at Post Office Box 2129, Raleigh, NC 27602-2129. The envelope containing the request shall bear the notation: "REQUEST FOR DECLARATORY RULING."

(b) Each Request for Declaratory Ruling shall include the following information:

- (1) the name and address of the person requesting the ruling;
- (2) the statute or rule to which the request relates;
- (3) a statement of the manner in which the requesting person is affected by the statute or rule or its potential application to that person; and
- (4) a statement whether an oral hearing is desired and, if so, the reason.

(c) Upon receipt of a Request for Declaratory Ruling, the Board shall determine whether a ruling is appropriate under the facts stated.

(d) When the Board determines that the issuance of a declaratory ruling is inappropriate, the Board shall notify, in writing, the person requesting the ruling, stating the reasons for the denial of the request.

(e) The Board shall decline to issue a declaratory ruling where:

- (1) there has been a similar controlling factual determination made by the Board in a contested case;
- (2) the rulemaking record shows that the factual issues raised by the request were specifically considered prior to adoption of the rule;
- (3) the subject-matter of the request is involved in pending litigation in any state or federal court in North Carolina; or
- (4) the petitioner fails to show that the circumstances are so changed since the adoption of the statute or rule that a ruling is warranted.

*History Note: Authority G.S. 150B-4; 90-171.23(b)(3);
Eff. November 1, 2020.*