

21 NCAC 52 .1003 DISPOSITION OF REQUESTS

(a) When the board deems it appropriate to issue a declaratory ruling, it shall issue such declaratory ruling within 60 days of receipt of the petition.

(b) A declaratory ruling proceeding may consist of written submissions, an oral hearing, or other procedure as may be appropriate in the circumstances of the particular request.

(c) Whenever the board believes "for good cause" that the issuance of a declaratory ruling is undesirable, it may refuse to issue such ruling. If the board refuses to issue such a ruling, it shall notify the petitioner of its decision in writing, stating the reasons for the denial of the declaratory ruling.

(d) For purposes of Paragraph (c) of this Rule, "good cause" exists and the board shall refuse to issue a declaratory ruling:

- (1) unless the petitioner shows that the circumstances are so changed since the adoption of the rule that such a ruling would be warranted;
- (2) unless the petitioner shows that the agency did not give to the factors specified in the request for a declaratory ruling a full consideration at the time the rule was issued;
- (3) where there has been a similar controlling factual determination in a contested case, or where the factual context being raised for a declaratory ruling was specifically considered upon the adoption of the rule or directive being questioned, as evidenced by the rulemaking record; or
- (4) where the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina.

*History Note: Authority G.S. 150B-4;
Eff. February 1, 1976;
Readopted Eff. September 1, 2016.*