

21 NCAC 64 .0703 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 request.

(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. When good cause is deemed to exist, it will notify the petitioner of its decision in writing, stating the reasons for the denial of the 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) if 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;
- (4) if 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-17; 90-304(a)(3);
Eff. February 15, 1977;
Amended Eff. May 1, 1989;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016.*