

21 NCAC 34A .0108 REQUESTS FOR DECLARATORY RULING

(a) For the purpose of dealing with a request by a person aggrieved for a declaratory ruling, pursuant to G.S. 150B-4, the following procedures shall apply:

- (1) The request shall be in writing on a form provided by the Board, dated and verified by the person submitting the same, and shall be submitted in person or by mail to the office of the Board.
- (2) The form shall require the individual to submit the name and address of the person submitting the same; his or her license number or numbers if licensed by the Board; his or her current employment; a description of the rule or statute referred to; a statement of any facts the applicability of which to a rule or statute the person is questioning; and a statement of the manner in which the person is aggrieved by the rule or statute or its potential application to him or her.
- (3) Within 30 days after receiving such a request completed form, the Board shall meet, at which meeting at least a quorum of its members shall be present, to consider the request. At such meeting the Board shall make a decision by majority vote of those present as to whether to issue the ruling. The Board shall issue a ruling except:
 - (A) when it finds that the person making the request is not a "person aggrieved", as defined in G.S. 150B-2(6); or
 - (B) when it finds, in a request concerning the validity of a rule, that the circumstances are so unchanged since the adoption of the rule in question that a ruling would not be warranted; or
 - (C) when it finds, in a request concerning the validity of a rule, that the rulemaking record shows that the Board considered all specified relevant factors when it adopted the rule in question.

(b) The Board shall, not later than the 60th day after it received such a request, deposit in the United States mail, postage prepaid, a written statement addressed to the person making the request and setting forth the Board's ruling on the merits of the request for a declaratory ruling, or setting forth the reason the ruling was not made, as the case may be. If the Board decides to make the ruling, it may make the ruling at the meeting convened to consider the request, or it may defer its ruling until a later date, but not later than the 60th day after the request for a ruling is received. Before making the ruling the Board may gather additional information, may give notice to other persons and may permit such other persons to submit information or arguments under such conditions as are set forth in such notice. Such ruling shall be made by the Board at a meeting at which at least a quorum of its members shall be present and by majority vote of those present.

*History Note: Authority G.S. 90-210.23(a); 150B-4;
Eff. February 1, 1976;
Readopted Eff. September 27, 1977;
Amended Eff. January 1, 2009; July 1, 2004;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. August 19, 2017.*