

220-RICR-90-00-1

TITLE 220 – DEPARTMENT OF ADMINISTRATION

CHAPTER 90 – DIVISION OF LEGAL SERVICES

SUBCHAPTER 00 - N/A

PART 1 – Rules Governing Declaratory Rulings and Petitions

1.1 Authority

This regulation (“Regulation”) is promulgated pursuant to the authority granted in R.I. Gen. Laws § 42-11-1 et seq., R.I. Gen. Laws § 42-35-1 et seq., R.I. Gen. Laws § 42-35-6, and R.I. Gen. Laws § 42-35-8.

1.2 Definitions

When used in this Regulation, the following words shall have the following meaning:

“Department” shall mean the Department of Administration.

“Director” shall mean the Director of the Department.

1.3 Applicability

If any Division within the Department has promulgated regulations pursuant to requests for a declaratory ruling relating to a statutory provision or rule or order within that Division's jurisdiction, those regulations shall be applicable to that Division. To the extent that a Division's own regulation do not address an issue that is addressed in this Regulation then this Regulation shall apply.

1.4 Declaratory Rulings

- A. General. Pursuant to R.I. Gen. Laws § 42-35-8, any interested person may petition the Department for a declaratory ruling as to the applicability of any statutory provision or of any rule or order of the Department. The Department shall consider the petition and within a reasonable time the Department shall:
1. Issue a declaratory ruling; or
 2. Set a reasonable time and place for hearing argument upon the matter and give reasonable notification to the person of the time and place for such hearing and of the issues involved.

If a hearing as provided in subsection (2) is conducted, the Department shall within a reasonable time thereafter issue a binding declaratory ruling.

- B. Form of Petition. Any interested person petitioning the Department for a declaratory ruling shall generally adhere to the following requirements for such purpose:
1. At the top of the page shall appear the wording "Before the Department of Administration." On the left side of the page below the foregoing, the following caption shall be set out: "In the Matter of the Petition of (name of the petitioning party) for a Declaratory Ruling." Opposite the foregoing caption shall appear the word "Petition."
 2. The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and the address of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall state the facts relied upon in form similar to complaints in civil actions before the superior courts of this state. The concluding paragraphs shall contain the relief or order sought. The petition shall be signed by the petitioner and/or his or her attorney and shall state that the facts contained in such petition are true and accurate to the best of the petitioner's knowledge and belief.
 3. The original and two (2) copies shall be filed with the Department.
 4. Petitions shall be on 8 and ½ x 11" white paper.

1.5 Petitions for Promulgation, Amendment or Repeal of any Rule or Regulation

- A. General. Pursuant to R.I. Gen. Laws § 42-35-6, any interested person may petition the Department requesting the promulgation, amendment or repeal of any Department rule or regulation. Where the petition requests the promulgation of a rule or regulation, the requested or proposed rule or regulation must be set out in full. The petition must also include the basis for the requested rule or regulation together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule or regulation, the current rule or regulation must be set out as well as a suggested amended form, if any. The petition must include the basis for the requested amendment or repeal of the rule or regulation. All petitions shall be considered by the Department and the Director, who in his/her discretion, may order a hearing be held for further consideration and discussion on the requested promulgation, amendment or repeal of any rule or regulation.
- B. Form of Petition. Any interested person petitioning the Department requesting the promulgation, amendment or repeal of any rule or regulation shall generally adhere to the following form for such purpose:

1. At the top of the page shall appear the wording "Before the Department of Administration." On the left side of the page below the foregoing, the following caption shall be set out: "In the Matter of the Petition of (name of petitioning party) for (state whether promulgation, amendment or repeal) of (identity rule or regulation)." Opposite the foregoing caption shall appear the word "Petition."
2. The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party. The second paragraph shall state whether the petitioner is requesting promulgation, amendment or repeal of a rule or regulation. In the case of a request for promulgation of a rule or regulation, the petitioner shall state such rule or regulation in its entirety. In the case of a request for an amendment to a rule or regulation, the petitioner shall state the rule or regulation or section thereof, with the proposed language to be added underscored and the proposed language to be deleted by crossing out. In the case of a request for repeal of a rule or regulation, the petitioner shall state either the rule or the regulation in its entirety or refer to it by Department number. The third paragraph shall contain a statement as to the interest of the petitioner in the subject matter of the rule or regulation. Subsequent numbered paragraph(s) shall be used to give full explanation of petitioner's reasons including legal arguments for the action sought.
3. Petitions shall be signed and dated by the person named in the first paragraph or his or her authorized representative.
4. The original and two (2) copies shall be filed with the Department.
5. Petitions shall be submitted on 8 and ½ x 11"inch white paper.

1.6 Effective Date

This Regulation shall become effective twenty (20) days from the date of filing with the Secretary of State's Office.