

CHAPTER 10
DECLARATORY ORDERS

621—10.1(17A,20) Who may petition. Any person, public employer or employee organization may file a petition with the board for a declaratory order as to the applicability to specified circumstances of a statute, rule or order within the primary jurisdiction of the agency.

621—10.2(20) Contents of petition. A petition for a declaratory order must include:

10.2(1) The name, address and telephone number of the petitioner.

10.2(2) A clear and concise statement of the specific facts upon which the board is to base the declaratory order.

10.2(3) A citation to and the relevant language of the specific statute, rule or order whose applicability is questioned, and any other relevant law.

10.2(4) The specific questions which the petitioner wants answered, stated clearly and concisely.

10.2(5) The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.

10.2(6) The reasons for requesting the declaratory order and disclosure of the petitioner’s interest in the outcome.

10.2(7) A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner’s knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.

10.2(8) The names and addresses of other persons or entities, or a description of any class of persons or entities known by petitioner to be affected by or interested in the questions presented in the petition.

10.2(9) A certificate of service of the petition upon any persons or entities required to be served with a copy by rule 621—10.7(17A,20). Service of the petition and proof thereof shall be in accordance with 621—subrules 2.15(3) and 16.10(1).

[ARC 1583C, IAB 8/20/14, effective 9/24/14]

621—10.3(17A,20) Caption. The following caption is suggested for petitions for declaratory orders:

BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD	
IN THE MATTER OF:	CASE NO.
(NAME OF THE PARTY REQUESTING THE RULING), PETITIONER.	} PETITION FOR DECLARATORY ORDER

621—10.4(17A,20) Notice of petition. Within ten days after receipt of a petition for a declaratory order, the board shall give notice of the petition to all persons not served by the petitioner pursuant to rule 621—10.7(17A,20) to whom notice is required by any provision of law. The board may also give notice to any other persons or entities.

621—10.5(17A,20) Intervention.

10.5(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention which complies with subrule 10.5(3) within 20 days of the filing of a petition for declaratory order shall be allowed to intervene in the proceeding.

10.5(2) Any person who files a petition for intervention which complies with subrule 10.5(3) at any time prior to the issuance of the agency’s final order in the matter may be allowed to intervene in the proceeding at the discretion of the board.

10.5(3) A petition for intervention in a declaratory order proceeding must include:

a. The name, address and telephone number of the person seeking intervention.

b. A clear and concise statement of the facts supporting the intervenor’s standing and qualifications for intervention.

c. A citation to and the relevant language of any additional statutes, rules or orders and any other additional, relevant law not specified in the petition for declaratory order.

d. The answers to the questions presented in the petition for declaratory order desired by the intervenor and a summary of the reasons urged by the intervenor in support of those answers.

e. The reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.

f. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by any governmental entity.

g. The names and addresses of other persons or entities, or a description of any class of persons or entities known by intervenor to be affected by or interested in the questions presented.

621—10.6(17A,20) Briefs. The petitioner or any intervenor may file a brief in support of the position urged by that party. The board may request a brief from the petitioner, any intervenor or any other person or entity concerning the questions raised.

621—10.7(17A,20) Service of petitions and other papers. Every petition for declaratory order, petition for intervention, brief or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding and on all other persons or entities identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing with the board. The party filing a document is responsible for service on all parties and other affected or interested persons.

621—10.8(17A,20) Action on petition. Within the time allowed by 1998 Iowa Acts, chapter 1202, section 13(5), after receipt of a petition for a declaratory order, the board or its designee shall take action on the petition as required by that section.

621—10.9(17A,20) Refusal to issue order.

10.9(1) The board shall not issue a declaratory order where prohibited by 1998 Iowa Acts, chapter 1202, section 13(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

- a.* The petition does not substantially comply with rule 621—10.2(20).
- b.* The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the board's failure to issue a declaratory order.
- c.* The board does not have jurisdiction over the questions presented in the petition.
- d.* The questions presented by the petition are also presented in a current rule-making, contested case or other agency or judicial proceeding that may definitively resolve them.
- e.* The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
- f.* The facts or questions presented in the petition are unclear, overbroad, insufficient or otherwise inappropriate as a basis upon which to issue a declaratory order.
- g.* There is no need to issue a declaratory order because the questions raised in the petition have been settled due to a change in circumstances.
- h.* The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
- i.* The petition requests a declaratory order that would necessarily determine the legal rights, duties or responsibilities of persons or entities who have not joined in the petition, intervened separately or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of the petitioner.
- j.* The petitioner requests the board to determine whether a statute is unconstitutional on its face.

10.9(2) A refusal to issue a declaratory order shall indicate the ground or grounds for the refusal and constitutes final agency action on the petition.

10.9(3) Refusal to issue a declaratory order pursuant to this rule does not preclude the filing of a new petition that seeks to eliminate the grounds for the prior refusal.

621—10.10(17A,20) Copies of orders. A copy of all orders issued in response to a petition for declaratory order or petition for intervention shall be promptly mailed to the petitioner and all intervenors.

These rules are intended to implement Iowa Code section 17A.9 and chapter 20.

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