

CHAPTER 6  
DECLARATORY RULINGS  
[Prior to 3/30/94, see 210—Chapter 3]

**141—6.1(17A) Petition for declaratory rulings.**

**6.1(1) Definition.** As used in this chapter, “agency” means the office of the citizens’ aide/ombudsman.

**6.1(2) Filing.** Any person who has a real and direct interest in a specific factual situation that may affect their legal rights, duties or responsibilities under any statute, rule, other written statement of law, policy, or decision administered by the agency may file a petition with the agency for a declaratory ruling concerning the application or interpretation of any such statute, rule, other written statement of law, policy, or decision. The petition is deemed filed when it is received by the agency. The petition may be delivered in person or mailed to the Office of Citizens’ Aide/Ombudsman, Ola Babcock Miller Building, 1112 E. Grand Avenue, Des Moines, Iowa 50319.

**6.1(3) Form.** The petition must be typewritten or legibly handwritten and substantially conform to the following form:

Office of the Citizens’ Aide/Ombudsman		
Petition by (Name of Petitioner)	)	
for a Declaratory Ruling on	)	PETITION FOR
(Cite provisions of law involved).	)	DECLARATORY RULING

- a. A clear, concise, and complete statement of all relevant facts on which the ruling is requested.
- b. A citation and the relevant text of the specific statute, rule, other written statement of law, policy, or decision whose applicability is questioned, and any other relevant law.
- c. The question or questions petitioner wants answered, stated clearly and concisely.
- d. The answers desired by the petitioner and a summary of the reason urged by the petitioner in support of those answers.
- e. The reasons for requesting the declaratory ruling and disclosure of the petitioner’s interest in the outcome.
- f. A statement indicating whether the questions at issue are being considered or have been considered in an investigative, rule-making, or another proceeding by the agency or any other governmental entity.
- g. Any request by petitioner for a meeting provided for by rule 6.2(17A).
- h. The signature, mailing address, and telephone number of the petitioner or the petitioner’s representative.

**6.1(4) Briefs.** The petitioner may attach a brief to the petition in support of the position urged in the petition.

**141—6.2(17A) Agency consideration.**

**6.2(1) Informal meeting.** If requested in the petition, the agency shall schedule a brief and informal meeting between the petitioner and the citizens’ aide/ombudsman or a member of the staff to discuss the petition.

**6.2(2) Additional information.** The agency may request the petitioner, within 14 days of the filing of the petition, to submit additional information concerning the petition. The agency may also solicit or receive comments from any person regarding the subject of the petition.

**6.2(3) Action on petition.** Within 30 days after the filing of the petition, or within any longer period agreed to by the petitioner, the agency shall, in writing, issue a ruling on the petition or refuse to do so. The agency is deemed to have issued a ruling or to have refused to do so on the date the ruling or refusal is sent, by certified mail, to the petitioner.

**141—6.3(17A) Refusal to issue ruling.**

**6.3(1) Refusal for good cause.** The agency may refuse to issue a declaratory ruling for good cause, which may include, but is not limited to, the following reasons:

- a. The petition does not substantially comply with the required form.
- b. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the agency to issue a ruling.
- c. The agency does not have jurisdiction over the questions presented in the petition.
- d. The questions presented by the petition are also presented in a current investigative, rule-making, 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 ruling.
- g. There is no need to issue a ruling because the questions raised in the petition have been settled due to a change in circumstances, fact, or law.
- h. The petition is not based upon facts calculated to aid in the planning of future conduct but instead describes prior conduct in an effort to establish the effect of that conduct or to challenge a decision already made by the agency.
- i. The petition requests a declaratory ruling that would necessarily determine the legal rights of other persons who have not joined in the petition or filed a similar petition and whose position on the questions may fairly be presumed to be adverse to that of the petitioner.
- j. The petitioner requests the agency to determine whether a statute is unconstitutional on its face.

**6.3(2) Decision.** A decision by the agency to refuse to issue a declaratory ruling shall state the specific grounds for the refusal and constitutes final agency action on the petition.

**6.3(3) Refiling.** A refusal to issue a declaratory ruling does not preclude the filing of a new petition which seeks to eliminate the grounds for the agency's refusal to issue a ruling.

**141—6.4(17A) Declaratory rulings.**

**6.4(1) Contents.** In addition to the ruling itself, a declaratory ruling shall include the date of issuance, the name of the petitioner, the statutes, rules, other written statements of law, policies, or decisions involved, the particular facts upon which it is based, and the reasons for its conclusion.

**6.4(2) Effective date.** A declaratory ruling is effective on the date of issuance.

**6.4(3) Effect of ruling.** A declaratory ruling is binding on the agency and the petitioner in situations in which the facts and applicable law are indistinguishable from those contained in the petition. As to all other parties, a declaratory ruling serves only as precedent and is not binding on the agency.

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

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