

CHAPTER 11
DECLARATORY RULINGS
[Prior to 3/20/91, Corrections Department[291]]

201—11.1(17A) General. Any interested person may solicit oral or written advice from the director concerning the application or interpretation of any statute or administrative rule dealing with the department of corrections. However, unless the request is made pursuant to Iowa Code section 17A.9, petition for declaratory ruling, any such advice is not binding upon the department. Petitioners for a declaratory ruling must have a real and direct interest in a specific fact situation which may affect their legal rights, duties or responsibilities under statutes or regulations administered by the department.

201—11.2(17A) Petition for declaratory rulings. A petition for a declaratory ruling shall be filed in the director's office, Department of Corrections, 420 Watson Powell Jr. Way, Des Moines, Iowa 50309. The petition shall either be mailed certified, return receipt requested, or delivered in person. An additional copy may be provided if the petitioner wishes to retain a filed stamped copy of the petition. The petition shall be typewritten and must substantially conform to the following:

DEPARTMENT OF CORRECTIONS
420 WATSON POWELL JR. WAY
DES MOINES, IOWA 50309

Petition by _____ (Name) _____ For a Declaratory Ruling on (state statute, rule citation to be ruled on)	}	PETITION FOR DECLARATORY RULING
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(Petition must state in separately numbered paragraphs)

1. Petitioner's name, address and telephone number.
2. A clear, concise and complete statement of all relevant facts on which the ruling is requested.
3. A clear and concise statement of the controversy or uncertainty.
4. Reference to the statutory authority or rules in question, along with attached copies.
5. The reasons for prompting the petition and a full disclosure of petitioner's interest.
6. Whether petitioner is currently a party to a contested case, rule making or judicial proceeding involving the controversy or uncertainty.
7. The names and addresses, when known, of other persons who may be affected by the declaratory ruling.

(Petitioner's Signature)

201—11.3(17A) Procedure after petition is filed.

11.3(1) Initial review. Upon filing of the petition, the director shall inspect the petition for substantial compliance with the recommended form, and may, in the director's discretion, reject a petition which fails to contain one or more of the required statements. The director may request that the petitioner provide additional facts or provide greater specificity and detail in the questions posed. A request shall be made within 5 days of the filing of the petition. If the requested information is not provided within 30 days of the receipt of the request, the petitioner will be deemed to have withdrawn the petition.

11.3(2) Declaratory ruling. Within 30 days of the receipt of the petition or additional information, whichever is later, the director shall issue a declaratory ruling or decline to rule. Declination to rule may be based upon one or more of the following grounds:

- a. The issue in question is currently involved in a rule making, contested case or judicial proceeding.
- b. The petition does not contain sufficient facts to demonstrate that the petitioner will be aggrieved or adversely affected by failure to issue a declaratory ruling.

c. The petitioner presents issues or facts which are unclear, overbroad or otherwise inappropriate as a basis upon which to issue a declaratory ruling.

d. The petition indicates the petitioner seeks to obtain approval to engage in activities so borderline as to be of dubious legality, although perhaps marginally proper.

e. The issue in question has been rendered moot by a change in circumstances, fact or law.

f. The issue in question depends upon peculiar facts which cannot be predicted or accurately described in advance.

g. Other good and sufficient reasons, which shall be detailed in writing.

11.3(3) *Effect of declaratory ruling.* A declaratory ruling is binding upon both the department and the petitioner on the questions of law dealt with in the ruling.

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

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