

681—18.9(17A) Refusal to issue order.

18.9(1) The board of regents 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:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the board of regents to issue an order.
3. The board of regents does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other board of regents or judicial proceeding that may definitively resolve them.
5. 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.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. 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 a decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons 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 petitioner.
10. The petitioner requests the board of regents to determine whether a statute is unconstitutional on its face.
11. The petitioner requests the board of regents to issue a preliminary determination in any academic matter, such as sufficiency of academic performance or whether or how a particular grade or degree may or will be awarded to an individual.
12. The petitioner requests a determination of a matter being considered in an internal grievance, disciplinary hearing or investigatory process underway at the board of regents or a regent institution.
13. The petitioner requests a determination regarding a purchasing transaction, a grant or a contract of the board of regents or regent institution.
14. The petitioner requests a determination regarding a personnel matter, including but not limited to layoff, program reorganization and benefits matters.
15. The petitioner requests a determination regarding the provision of medical care to a patient or animal at medical or veterinary facilities operated by a regent institution.
16. The petitioner requests a determination of a matter subject to collective bargaining or a matter required to be addressed under the terms of any collective bargaining agreement.

18.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

18.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.