

ARKANSAS DEPARTMENT OF EDUCATION
RULES AND REGULATIONS GOVERNING THE PROCESS FOR SUBMITTING A
PETITION FOR A DECLARATORY ORDER ISSUED
BY THE ARKANSAS STATE BOARD OF EDUCATION
August 2002

1.00 REGULATORY AUTHORITY

- 1.01 These rules and regulations shall be known as the Arkansas Department of Education (ADE) Rules and Regulations Governing the Process for Submitting a Petition and Obtaining a Declaratory Order issued by the Arkansas State Board of Education.
- 1.02 These rules and regulations are enacted pursuant to the authority of the Arkansas State Board of Education under Ark. Code Ann. §6-11-105, Ark. Code Ann. §25-15-204 and Ark. Code Ann. §25-15-206.

2.00 PURPOSE

- 2.01 The purpose of these rules and regulations is to provide for the filing and prompt disposition of petitions for declaratory orders as to the applicability of any rule, statute or order enforced by the ADE.
- 2.02 These declaratory orders shall have the same status as agency orders in cases of adjudication.
- 2.03 A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from the ADE. The petition for declaratory order must describe the potential impact of statutes, rules or orders upon the petitioner's interests in the matter of controversy or question.

3.00 PETITION FOR DECLARATORY ORDER

- 3.01 The process to obtain a declaratory order is begun by filing with the ADE's Director's Office a petition that provides the following information:
 - 3.01.1 The caption of the petition shall read: Petition for Declaratory Order Before the Arkansas State Board of Education (Board).
 - 3.01.2 The petition shall set forth the name, address, telephone number and facsimile number of the petitioner.

- 3.01.3 The petition shall set forth the name, address, telephone number and facsimile number for the attorney of the petitioner.
- 3.01.4 The petition shall set forth the statutory provision(s), ADE rule(s) or ADE order(s) on which the declaratory order is sought.
- 3.01.5 The petition shall set forth a description of how the statutes, rules or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue on which the petitioner seeks a declaratory order from the Board.
- 3.01.6 The petition shall set forth the signature of the petitioner or the petitioner's attorney.
- 3.01.7 The petition shall set forth the date of the petition to the Board.
- 3.01.8 The petition shall set forth any request for a hearing before the Board.

4.00 THE ARKANSAS DEPARTMENT OF EDUCATION'S RESPONSE TO PETITION

- 4.01 The ADE may advise the Board in writing of the ADE's response to the Petition for Declaratory Order and the ADE's involvement in the subject matter of the petition. The ADE may file with the Director said statement of response in writing as a responsive pleading within thirty (30) days after receipt of the petition by the Director's Office.
- 4.02 The Board shall take no action on a petition prior to the end of the 30-day time period allowed for receipt of the ADE's written response.

5.00 BOARD DISPOSITION PROCESS

- 5.01 Upon written request by the petitioner or the ADE, the Board shall hold a brief hearing to consider the Petition for Declaratory Order, the response filed by the ADE and any other papers filed by the parties.
- 5.02 The Board shall issue a final order within ninety (90) days of the filing of the Petition for Declaratory Order. The order shall grant or deny the prayer of the Petition.