

DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION

DECLARATORY RULING, PROMULGATION OF RULES, AND INFORMATION REQUESTS

(By authority conferred on the department of education by sections 33 and 63 of Act No. 306 of the Public Acts of 1969, as amended, being SS24.233 and 24.263 of the Michigan Compiled Laws)

R 340.1351 Definitions.

Rule 1. As used in these rules:

- (a) "Department" means the department of education.
- (b) "Person" means an individual, partnership, association, corporation, governmental subdivision, or public or private organization of any kind other than the agency engaged in the declaratory ruling.
- (c) "Superintendent" means the superintendent of public instruction as set forth in the Michigan Constitution, article 8, S3.

History: 1981 AACCS.

R 340.1352 Requests for declaratory rulings.

Rule 2. (1) An interested person may request that the state board of education issue a declaratory ruling on how a statute which is administered by the department or a rule or order of the department applies to an actual state of facts.

(2) A request for a declaratory ruling shall be submitted to the Office of the Superintendent, Department of Education, P.O. Box 30008, Lansing, Michigan 48909. A form for such a request is available from the department. A request shall contain all of the following information:

- (a) A clear and concise statement of the actual state of facts upon which a ruling will be based.
 - (b) A precise statement of the legal question or issue involved.
 - (c) The legal authority given to the department for administering the statute, rule, or order.
 - (d) The signature of the interested person making the request.
- (3) In addition to the request, an interested person may submit a brief of, or other reference to, the legal authority upon which the person believes the declaratory ruling should be based.
- (4) Within 5 days after receiving a submitted request, the department shall notify the person making the request that the request was received.
- (5) Within 60 days after receiving a submitted request, the department shall notify the person as to whether a declaratory ruling will be issued or denied.
- (6) If the request is denied, the state board of education shall issue a concise written statement of the reasons for denial. The denial shall be sent by certified mail to the person who made the request.
- (7) If a declaratory ruling is issued, the ruling shall be attached to the notification and shall include all of the following:
- (a) The actual state of facts upon which the ruling is based.
 - (b) The conclusions of law based on the legal authority which the department relied on for its ruling.
 - (c) The ruling or determination made.
- (8) The issuance or denial of a declaratory ruling shall be made available upon request.
- (9) A ruling, once issued, is binding on the department and shall not retroactively be changed. However, nothing in this rule prohibits the department from prospectively changing a ruling.
- (10) The department shall maintain a compilation of the declaratory rulings. Upon an oral or written request to the department, a person may inspect, copy, or receive a copy of a declaratory ruling.

History: 1981 AACCS.

R 340.1353 Requests for promulgation of rules.

Rule 3. (1) Any person may request the state board of education to promulgate a rule. A request shall contain all of the following information:

- (a) The signature, address, and telephone number of the person making the request.
- (b) A citation to the statute under which the department has the authority to promulgate the rule.
- (c) The reason for the request.

(2) A request for the promulgation of rules shall be submitted to the Office of the Superintendent, Department of Education, P.O. Box 30008, Lansing, Michigan 48909. Within 90 days after receiving a request which is in compliance with subrule (1) of this rule, the state board of education shall initiate the processing of a rule or shall issue a written statement stating the reasons for denial of the request. The statement shall be sent by certified mail to the person who made the request.

History: 1981 AACCS.

R 340.1354 Availability of writings, documents, and other informational materials.

Rule 4. The department shall make information concerning its activities and services available to the public. All writings, documents, and informational materials of the department shall be made available to any person during normal working hours, except if the writings, documents, or informational materials are, or may be, exempted from disclosure by law. The information available for public inspection, copying, and purchase shall be the materials required under section 11 of Act No. 442 of 1976, as amended, being S15.241 of the Michigan Compiled Laws.

History: 1981 AACCS.

R 340.1355 Requests for writings, documents, and other informational materials.

Rule 5. (1) A person shall request writings, documents, and other informational materials from the department by contacting: Office of the Superintendent, Michigan Department of Education, P.O. Box 30008, Lansing, Michigan 48909. The department shall answer the request or shall produce the materials for examination and copying or shall do both. If the requested materials cannot be provided, the reason, in writing, shall be forwarded to the person who made the request. If original materials are inspected, the department may require the person who inspects the materials to sign for them.

(2) All denials of requests for writings, documents, and other informational materials shall be made in accordance with section 5 of Act No. 442 of the Public Acts of 1976, as amended, being S15.235 of the Michigan Compiled Laws.

(3) The department shall take reasonable precautions to protect its public records and to prevent excessive and unreasonable interference in the discharge of its functions.

(4) The department may charge a fee for the duplication of materials as provided by section 4 of Act No. 442 of the Public Acts of 1976, as amended, being S15.234 of the Michigan Compiled Laws.

History: 1981 AACCS; 1995 AACCS.