

HAWAII ADMINISTRATIVE RULES

TITLE 3

DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

SUBTITLE 9

STATE FOUNDATION ON CULTURE AND THE ARTS

CHAPTER 95

DECLARATORY RULINGS

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§3-95-1 Petition. Any interested person may petition the foundation for a declaratory order as to the applicability of any statutory provision administered by the foundation or of any rule or order of the foundation. The petition shall be submitted in duplicate and filed with the foundation. [Eff: Feb 12, 1987] (Auth: HRS §§9-5, 91-8) (Imp: HRS §91-8)

§3-95-2 Form and content of petition. (a) The petition shall include:

- (1) A statement of the nature of the petitioner's interest including reasons for the submission of the petition;
- (2) The designation of the specific statutory provision, rule, or order in question;
- (3) A complete statement of the relevant facts and precise nature of the controversy;

- (4) A statement of the interpretation by the petitioners of the statutory provision, rule, or order;
- (5) A description of the reasons, including any legal authority of reference, in support of the interpretation by the petitioner;

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- (6) Any other information or facts relevant to the petition;
- (7) The name, address, and telephone number of the petitioner; and
- (8) The signature of the petitioner.

(b) Any petition which does not include all of the foregoing requirements may be rejected by the foundation. The date of receipt of the petition shall be noted on the petition. The petitioners shall be notified in writing of the rejection. [Eff: Feb 12, 1987] (Auth: HRS §§9-5, 9-8) (Imp: HRS §§9-5, 91-8)

§3-95-3 Nonissuance of declaratory order. The foundation, for good cause, may refuse to issue a declaratory order. Without limiting the generality of the foregoing, the foundation may so refuse where:

- (1) The request is speculative or purely hypothetical and is not based on an existing situation or one which may be reasonably expected to occur in the near future; or
- (2) The petitioner's interest is not of the kind which confers sufficient standing to maintain an action in a court of law; or
- (3) The issuance of the declaratory order may adversely affect the interest of the State, the foundation, or any officer or employee of the State or foundation in any litigation which is pending or may which may be reasonably expected to arise; or
- (4) The petition requests a ruling on a statutory provision not administered by the foundation or the matter is not otherwise within the foundation's jurisdiction. [Eff: Feb 12, 1987] (Auth: HRS §§9-5, 91-8) (Imp: HRS §§9-5, 91-8)

§3-95-4 Hearing. No hearing need be granted to the petitioner or to any interested person in the usual course of disposition of a petition for a declaratory ruling. However, the foundation may order a hearing on the disposition of the petition if the petitioner submits a written request therefore, stating in detail why a hearing is necessary for a fair consideration of the need for a declaratory ruling on the matter stated in the petition. [Eff: Feb 12, 1987] (Auth: HRS §§9-5, 91-8) (Imp: HRS §§9-5, 91-8)

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§3-95-5 Disposition of petition. The foundation, with reasonable promptness, shall either deny the petition, stating the reasons therefore in writing, or issue a declaratory ruling. The director shall promptly notify the petitioner of the foundation's action. [Eff: Feb 12, 1987] (Auth: HRS §§9-5, 91-8) (Imp: HRS §§9-5, 91-8)

§3-95-6 Applicability of ruling. A ruling on a petition shall apply only to the fact situation contained in the petition or as set forth in the ruling. A ruling shall not apply to different fact situations or to situations where additional facts, not contained in the petition, exist. [Eff: Feb 12, 1987] (Auth: HRS §§9-5, 91-8) (Imp: HRS §§9-5, 91-8)