

**DEPARTMENT OF EDUCATION**

**STATE BOARD OF EDUCATION**

**DECLARATORY RULINGS, PROMULGATION OF RULES, AND**

**INFORMATIONAL MATERIALS**

(By authority conferred on the superintendent of public instruction by sections 33 and 63 of 1969 PA 306, MCL 24.233 and MCL 24.263, and Executive Reorganization Order No. 1996-6, MCL 388.993)

**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, limited liability company, limited liability partnership, governmental subdivision, or public or private organization of any kind other than the department.
- (c) "Superintendent" means the superintendent of public instruction as set forth in section 3 of article VIII of the state constitution of 1963.

History: 1981 AACCS; 2016 AACCS.

**R 340.1352 Request for declaratory ruling.**

Rule 2. (1) An interested person may request that the superintendent issue a declaratory ruling on how a statute that 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 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 or the superintendent 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) The superintendent may require that notice of the request be provided to any person known by the person making the request to have an interest in the matter.

(5) Not more than 60 days after receiving a request, the superintendent shall notify the person who made the request if it will be granted or denied.

(6) If the request is denied, the superintendent shall issue a concise written statement of the reasons for denial. The statement shall be sent by certified mail to the person who made the request.

(7) If a declaratory ruling is issued, the ruling shall include all of the following:

(a) The actual state of facts upon which the ruling is based.

(b) The conclusions of law and the legal authority upon which the superintendent relied for the ruling.

(c) The ruling made.

(8) The department shall maintain a compilation of 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; 2016 AACCS.

### **R 340.1353 Request for promulgation of rule.**

Rule 3. (1) Any person may request the department 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 a rule shall be submitted to the Office of the Superintendent, Department of Education, P.O. Box 30008, Lansing, Michigan 48909. Not more than 90 days after receiving a request that is in compliance with subrule (1) of this rule, the department shall initiate the processing of a rule or shall issue a written statement of 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; 2016 AACCS.

### **R 340.1354 Writings, documents, and other informational materials.**

Rule 4. (1) The department shall make information concerning its activities and services available to the public.

(2) A person shall request writings, documents, and other informational materials from the department pursuant to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and the department's procedures and guidelines published under that act.

History: 1981 AACCS; 2016 AACCS.

### **R 340.1355 Rescinded.**

History: 1981 AACCS; 1995 AACCS; 2016 AACCS.