

**HAWAII ADMINISTRATIVE RULES**

TITLE 8 DEPARTMENT OF EDUCATION

SUBTITLE 1 RULES OF PRACTICE AND PROCEDURE

CHAPTER 4

SPECIAL PROCEEDINGS

Historical Note: This chapter is based substantially upon Department of Education "Part I, Rules of Practice and Procedure, Sub-Part D, Special Proceedings." [Eff. 3/30/62; R AUG 22, 1983]

**§8-4-1 Petition for declaratory rulings.** (a) On petition of an interested person, the board may issue a declaratory order as to the applicability of any statutory provision or of any rule or order of the board. Petitions for the issuance thereof shall state clearly and concisely the controversy or uncertainty, shall cite the statutory authority involved, shall include a complete statement of the facts and the reasons or grounds prompting the petition, together with full disclosure of petitioner's interest and shall conform to the requirements of section 8-2-2.

(b) The board, upon receipt of the petition, may require the petitioner to file additional data or a memorandum of legal authorities in support of the position taken by the petitioner.

(c) The board, without notice or hearing, may dismiss a petition for declaratory ruling which fails in any material respect to comply with the requirements of this chapter or allow the petitioner a reasonable amount of time to correct defects in the petition.

(d) Although in the usual course of disposition of a petition for a declaratory ruling no formal hearing shall be granted to the petitioner or to a party in interest, the board may order the proceeding set down for hearing. Any petitioner or party in interest, who desires a hearing on a petition for declaratory ruling, shall set forth in detail in the request, the reasons why the matters alleged in the petition, together with supporting affidavits or other written evidence, shall not permit the fair and expeditious disposition of the petition; and to the extent that a request for hearing is

dependent upon factual assertion, shall accompany the request by affidavit establishing those facts. In the event a hearing is ordered by the board, chapter 2, Title 8, Administrative Rules, shall govern the proceedings.

(e) Notwithstanding the other provisions of this section, the board, on its own motion or upon request but without notice or hearing, may issue a declaratory order to terminate a controversy or to remove uncertainty. [Eff. AUG 22, 1983] (Auth: HRS §302A-1112) (Imp: HRS §§91-8, 302A-1112)