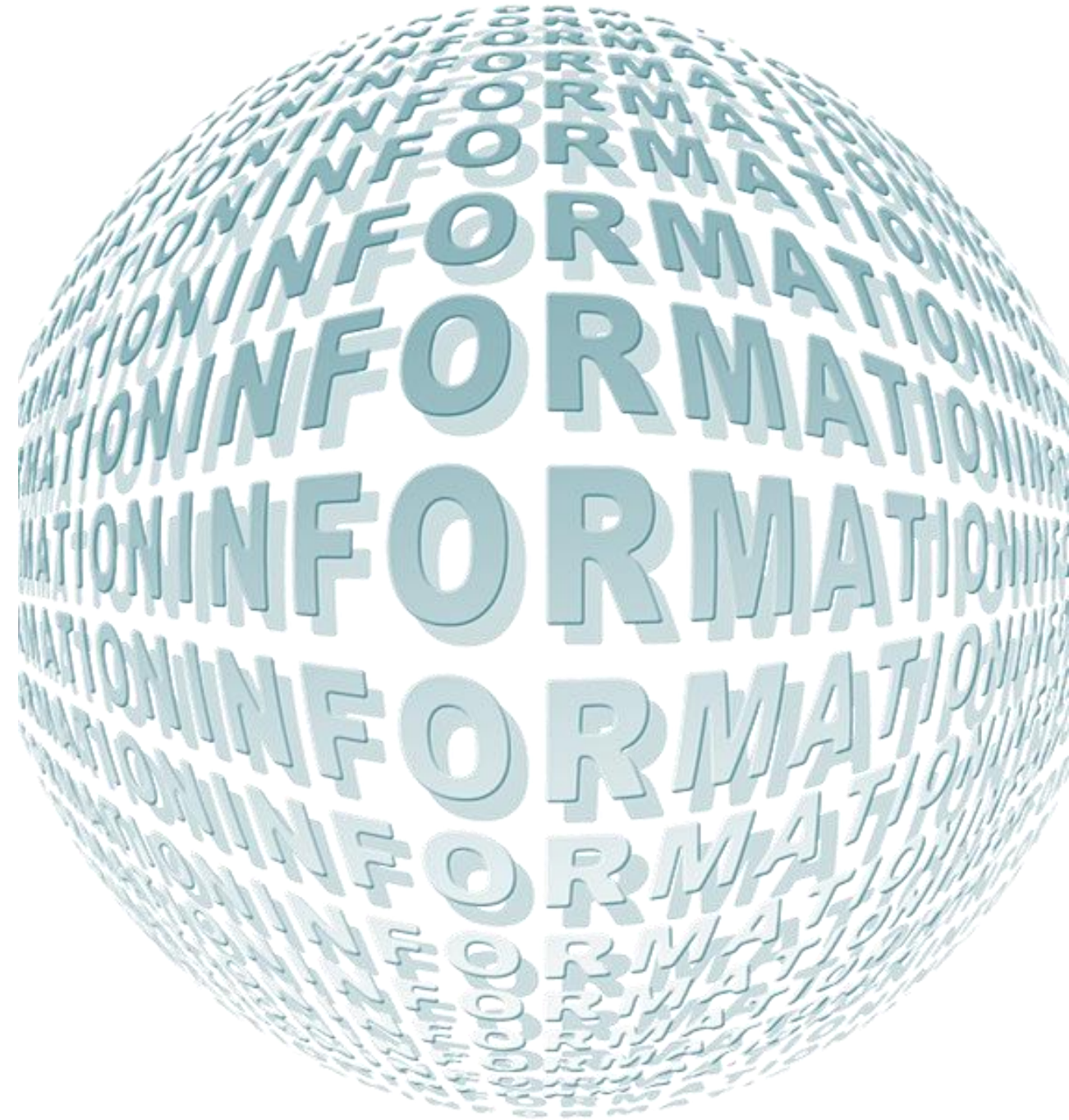


For information purposes only

Information is from my research; despite my best efforts this video may contain errors. Please inform me of any errors so they may be corrected.





Writing Process

Petition for Declaratory Order

How to research and gather documents

Research and Gather



01. Introduction

How to use the APA to draft and submit your Petition for Declaratory Order

02. Choose

Choose a statute, rule or order then determine the agency jurisdiction. Follow agency process to petition for a Declaratory Order

03. Research Code

Find code and rules that both support and disprove your argument

04. Gather Documents

Research and gather documents to support your argument and to counter the statute, rule or order

05. Organize and Write Petition

Use Rules for Civil Procedure, samples, and a template as guide to organize and write your Petition

Introduction

In 1946, The Administrative Procedures Act (APA) ensured our constitutional rights to due process regarding government agency regulations.

“Any person may file a request for agency action, requesting that the agency issue a declaratory order determining the applicability of a statute, rule, or order within the primary jurisdiction of the agency to specified circumstances.” [Utah Code Annotated 63G-4-503](#)



A decorative graphic consisting of several overlapping diamond and triangular shapes in teal, yellow, and green colors, positioned in the top right and bottom left corners of the slide.

“

A declaratory order has the same status and binding effect as any other order issued in an adjudicative proceeding.

[Utah Code Annotated 63G-4-503](#)



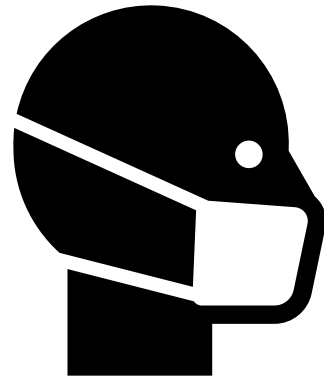
Step 1

Choose a statute, rule, or order

Determine agency jurisdiction

Find agency process

What do you strongly oppose?



Mask Mandate

For students
For higher education
Businesses
Sports & Recreation



Distance Restriction

In restaurants and other
businesses
At events



Vaccine Required

For employees
For 16+ students



Keep it simple

Choose a specific issue do you strongly oppose
Focus on ONE issue to build an argument around
Determine which agency has jurisdiction

Now you have a topic for your petition

Public School Mask Requirement

Is this a school, school board, city, county, county Board of Health, or state order?

State issue





Step 2

Research Code, Rules and orders

Where to find the Administrative Procedures Act

Federal

- [5 U.S.C §551 through §559](#)
- Individual agencies have a process in code

Utah

- [Utah Code Annotated, Title 63G, Part 4](#)
- [Utah Code of Administrative Rules, R13](#)
- Look for agency process in Administrative Rules

Declaratory Order Procedures

Utah Office of
Administrative
Rules



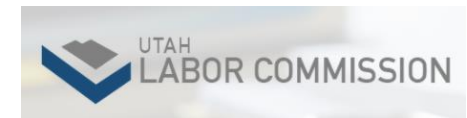
Utah Dept of Health

[R380-1](#)



**Utah Dept of
Commerce**

[R151-112](#)



**Utah Labor
Commission**

[R600-1](#)

**Utah Office of
Administrative Rules**

[R13-1](#)

Declaratory Order Procedures

County

- County Code: [County Records Ordinances \(utah.gov\)](#)
 - Use Rights and Ethic statements
- Board of Health, County Council or Commission, & County Departments

City

- Municipal [Municipal Records Ordinances \(utah.gov\)](#)
 - Use Rights and Ethic Statements
- School Boards [School District Records Policies \(utah.gov\)](#)
 - use the Notice of Parental Rights and any civil rights policies
- City agency or departments

Resources

Federal

- US Constitution [Constitution Annotated | Congress.gov | Library of Congress](#)
- US Code (U.S.C.) [OLRC Home \(house.gov\)](#)
- US Code for Federal Regulations (CFR) [Electronic Code of Federal Regulations \(eCFR\)](#)
- Federal Register [Electronic Code of Federal Regulations \(eCFR\)](#)
- Department websites

State of Utah

- Utah Code [Utah Code Code](#)
- Utah Code of Administrative Rules [Utah Administrative Code | Utah Office of Administrative Rules](#)
- Utah Constitution [Utah Constitution Const Constitution](#)
- Utah Civil Procedures [Utah Rules of Civil Procedure - Utah Courts \(utcourts.gov\)](#)
- Transparent Utah [Transparent Utah](#) and Open Records
- Department websites

Utah County & Municipalities

- County Code [County Records Ordinances \(utah.gov\)](#)
- City Code <https://archives.utah.gov/open-government/ordinances/school.html>
- School Districts [School District Records Policies \(utah.gov\)](#)
- County and City websites
- Department webpages



State of Utah

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

**Utah Department of Health
Executive Director's Office**

Richard G. Saunders
Executive Director

Heather R. Borski, M.P.H., M.C.H.E.S.
Deputy Director

Michelle G. Hofmann M.D., M.P.H., M.H.C.D.S., F.A.A.P.
Deputy Director

State Public Health Order

2021-10

Updated Statewide COVID-19 Restrictions

WHEREAS, Novel Coronavirus Disease 2019 (COVID-19) has been characterized by the World Health Organization as a worldwide pandemic caused by Severe Acute Respiratory Syndrome Coronavirus 2 (SARS-CoV-2), a virus that spreads easily from person to person and can cause serious illness or death;

WHEREAS, COVID-19 has and continues to spread and cause serious illness and death to Utah residents, threatening public health and wellness throughout the state;

[UPHO_2021-10_Updated_Statewide_COVID-19_Restrictions.pdf \(utah.gov\)](#)



Step 3

Gather Documents

Gather Documents for Exhibits



For and against your argument

Strengthen your petition by addressing the possible argument against your view. What evidence gives a counterview or discredits statute, rule or order?

Use what is publicly available

Public evidence can be easily cited and accepted
Make sure it is from a credible source.

Quality over Quantity

Accurate, Reliable, Relevant

Choose your best documents for exhibits.

Save other research for presentation or counter arguments

Avoid hearsay

Find the original source if you can
Avoid third-party

Includes Code and Rules

Include a copy of the code in exhibits

Cite and Archive

Cite and archive all research carefully.



Step 4

Organize & Writing

Administrative Law

While this is a hearing, not a court room, you still need to follow many of the drafting guidelines in the Rules for Civil Procedure.

[Utah Courts - Rule 10 Form of pleadings and other papers. \(utcourts.gov\)](#)

[prose_guide.pdf \(uscourts.gov\)](#)

[civilrt_guide.pdf \(uscourts.gov\)](#)

Additional help:

Self-Help Resources [Self-Help Resources / Self-Represented Parties - Utah Courts \(utcourts.gov\)](#)

Law student or lawyer



What to include

Jurisdiction

Why the agency has jurisdiction on issue?

What gives you personal jurisdiction to ask for adjudication?

Facts

Supporting facts and legal claims

Parties

Petitioner and Respondent

Clear, Concise Language

Brief, thorough statement of the **factual allegations**

Relief

What is the outcome you are asking for?



Organize



Facts

- Describe in detail the situation or circumstances in which applicability is to be reviewed
- Identify all parts of the statute and how they are violated

Argument

- Number and describe the reason or need for applicability review,
- Why the review should not be considered frivolous



Parts of Complaint

Parties

This is a petition not a complaint

Petitioner: person filing

Respondent: Agency petitioning

Jurisdiction

Inform why agency should issue declaratory order

Nature of the Case

Brief statement of why statute, rule or law is not applicable and how it violates rights

Cause of Action

Detail the situation or circumstance in which applicability is to be reviewed; identify all parts of the statute and how the respondent violated

Argument

Specific position on issue, the arguments, reasons, and provisions of law supporting position



Parts of Complaint

Injury

As specific as possible the actual injury suffered that resulted in violation of right or law

Conclusion

Declaration under penalty of perjury and signature

Request for Relief

Result you are seeking

Why should they accept petition for review

What statutes or laws apply

Certificate of Service

Form with signature to prove it was mailed or delivered





Writing Tips

Rules of Civil Procedure

[Utah Courts - Rule 10 Form of pleadings and other papers. \(utcourts.gov\)](http://utcourts.gov)

Use Template or Examples

Template is a start.

Look for examples to read.

Concise, straightforward, logical format

Use the simplest word available

Remove all emotion and opinion

Never attack

Use Relevant Facts

Quality not quantity

Format is Utah Specific

[civilrt_guide.pdf \(uscourts.gov\)](http://uscourts.gov)

[prose_guide.pdf \(uscourts.gov\)](http://uscourts.gov)

Look for other online help as needed

Do you want change?

It is up to you

Act now.

Will you act now?

