

187—12.2(17A,524) Superintendent discretion. The decision on whether the circumstances justify the granting of a waiver shall be made at the discretion of the superintendent upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the superintendent based on the unique, individual circumstances set out in the petition.

12.2(1) *Criteria for waiver.* The superintendent may, in response to a completed petition, grant a waiver from a rule, in whole or in part, as applied to the circumstances of a specified situation if the superintendent finds all of the following:

a. The application of the rule would result in an undue hardship on the person for whom the waiver is requested;

b. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;

c. The provisions of the rule subject to the petition for waiver are not specifically mandated by statute or another provision of law; and

d. Substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

In determining whether a waiver should be granted, the superintendent shall consider the public interest, policies and legislative intent of the statute on which the rule is based. When the rule from which a waiver is sought establishes administrative deadlines, the superintendent shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

12.2(2) *Special waiver rules not precluded.* These uniform waiver rules shall not preclude the superintendent from granting waivers in other contexts if a statute or other rule authorizes the superintendent to do so and the superintendent deems it appropriate to do so.

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