

**877—2.4(17A,ExecOrd11) Requests for waiver of rules.** Requests for waiver of a rule in the Workforce Development Board/Services Division[877] of the Iowa Administrative Code shall be made to the Division Administrator, Division of Workforce Development Center Administration, 150 Des Moines Street, Des Moines, Iowa 50309.

**2.4(1)** Waivers from division rules shall not be granted unless the following circumstances are met:

a. The department has exclusive rule-making authority to promulgate the rule from which waiver is requested; and

b. No statute or rule otherwise controls the grant of a waiver from the rule from which waiver is requested.

**2.4(2)** The person that requests waiver of the rule must provide clear and convincing evidence that:

a. Compliance with the rule will create an undue hardship on the person requesting the waiver.

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

c. The waiver will not harm other persons and will not adversely affect the public interest.

**2.4(3)** The director shall grant or deny the waiver within 60 days of the date the request is filed with the department after review and recommendation of the division administrator. A denial of a request for a waiver is absolutely final and is not appealable. The director shall deny the request for waiver of a state or federal statute. If the request for waiver relates to a time requirement of a rule, the request must be received before the time specified in the rule has expired. The director may deny the request if the request does not comply with the provisions of this rule.

**2.4(4)** Waivers are granted at the complete discretion of the director after consideration of all relevant factors including, but not limited to, the following:

a. The need of the person or entity directly affected by the exception. Exceptions will be granted only in cases of extreme need.

b. Whether there are exceptional circumstances justifying an exception to the general rule applicable in otherwise similar circumstances.

c. Whether granting the exception would result in a net savings to the state or promote efficiency in the administration of programs or service delivery. Net savings or efficiency will make an exception more likely.

d. In the case of services, assistance, or grants, whether other possible sources have been exhausted. Exceptions will not generally be granted if other sources are available.

e. The cost of the exception to the state and availability of funds in the department’s budget.

**2.4(5)** All requests for waiver must substantially conform to the following form:

(NAME OF PERSON REQUESTING WAIVER).	}	REQUEST FOR WAIVER OF (SPECIFY RULE FOR WHICH WAIVER IS REQUESTED).
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Reasons for requesting waiver:

Name, address, telephone number and signature of person submitting waiver request.

The specific rule to which an exception is requested or the substance thereof.

The specific waiver requested.

The nature of the waiver requested, including any alternative means or other proposed condition or modification proposed to achieve the purpose of the rule.

**2.4(6)** The director may condition the grant of a waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question through alternative means.

**2.4(7)** A waiver is void if the material facts upon which the request is based are not true or if material facts have been withheld. The director may, at any time, cancel a waiver upon appropriate notice if the director finds the facts as stated in the request appear not true, material facts have been withheld, the

alternative means of compliance provided in the waiver has failed to achieve the objectives of the statute, or the person requesting the waiver has failed to comply with conditions set forth in the waiver approval.

**2.4(8)** All grants of waivers shall be indexed and available to members of the public in the Division of Workforce Development Center Administration, 150 Des Moines Street, Des Moines, Iowa 50309. In addition, the director shall notify the workforce development board of any ruling to grant a waiver at its next regularly scheduled meeting following the ruling.

This rule is intended to implement Iowa Code chapter 17A and Executive Order Number Eleven.

<sup>1</sup> Effective date of March 15, 2000, delayed 70 days by the Administrative Rules Review Committee at its meeting held March 10, 2000.