

481—6.5(10A,17A,ExecOrd11) Criteria for waiver or variance. At the sole discretion of the director/board, the director/board may issue an order, in response to a completed petition or on the department's own motion, granting a waiver or variance from a rule adopted by the department, in whole or in part, as applied to the circumstances of a specified person or a specific and narrowly drawn class of persons if the director/board finds based on clear and convincing evidence that:

1. The application of the rule to the petitioner would pose an undue hardship on the person or class of persons for whom the waiver or variance is requested;
2. The waiver or variance from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of a rule subject to a petition for a waiver or variance are not specifically mandated by statute or another provision of law; and
4. 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 or variance is requested.