

493—6.4(13B,17A) Criteria for waiver. At the sole discretion of the state public defender, the state public defender may issue an order, in response to a completed petition, granting a waiver from a rule adopted by the state public defender, 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 state public defender finds based on clear and convincing evidence that:

6.4(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 is requested;

6.4(2) The waiver from the requirements of a rule in the specific case would not prejudice the substantial legal rights of any person;

6.4(3) The provisions of a rule subject to a petition for a waiver are not specifically mandated by statute or another provision of law; and

6.4(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 is requested.

[ARC 9505C, IAB 8/20/25, effective 9/24/25]