

111—12.1(17A) Applicability. This chapter outlines a uniform process for the granting of waivers from rules implemented by the department. The intent of this chapter is to allow persons to seek exceptions to the application of rules implemented by the department.

12.1(1) Definitions.

“*Commission*” means the three-member statutory commission for the blind.

“*Department*” means the department for the blind.

“*Director*” means the director of the department for the blind.

“*Person*” means an individual, corporation, government or governmental subdivision or agency, partnership or association, or any legal entity.

“*Waiver*” means action by the director that suspends in whole or in part the requirements or provisions of a rule as applied to a person on the basis of the particular circumstances of that person. For simplicity, the term “waiver” shall include both a “waiver” and a “variance.”

12.1(2) Authority.

a. A waiver from rules adopted by the commission may be granted in accordance with this chapter if (1) the commission has exclusive rule-making authority to promulgate the rule from which a waiver is requested or has final decision-making authority over a contested case in which a waiver is requested; and (2) no federal or state statute or rule otherwise controls the granting of a waiver from the rule for which a waiver is requested.

b. No waiver may be granted for a requirement that is imposed by statute. Any waiver must be consistent with statute.