**189—23.2(17A,ExecOrd11) 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.

**23.2(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.

**23.2(2)** *Special waiver rules not precluded.* These uniform waiver rules shall not preclude the superintendent from granting waivers in other contexts including, without limitation, those described in Iowa Code sections 533.303 and 533.401 or on the basis of other standards if a statute or other rule authorizes the superintendent to do so and the superintendent deems it appropriate to do so.
[**ARC 5784C**, IAB 7/28/21, effective 9/1/21]