

PETITION FOR A WAIVER CHECKLIST

Please initial all items and include with the petition for a waiver.

_____ Section A has been completed.

_____ Section B has been read and understood.

_____ I have provided the date when the application was denied on which this petition for a waiver is based.

_____ Section C has been read and understood.

_____ Section D has been read and understood.

_____ Section E has been completed.

_____ I have cited the rule that I am requesting the Board to waive.

_____ I have provided a description of the rule.

_____ I have provided clear and convincing evidence of my request for a waiver of the rules.

_____ I have provided clear and convincing evidence of the hardship that the Board's rule imposes on me.

_____ I have provided clear and convincing evidence of the positive consequences if the waiver is granted.

_____ I have provided clear and convincing evidence of equal protection of public health, safety and welfare if the waiver is granted.

_____ I have indicated the time period requested for the waiver of the rule.

_____ I have indicated information on others who possess knowledge relevant to this waiver request.

_____ I have cited the similar petitions and included the rationale how those petitions support my request for a petition for a waiver of the rules.

_____ I have signed the form authorizing the release of information to the Board and certifying the accuracy of the information submitted.

IOWA BOARD OF EDUCATIONAL EXAMINERS

PETITION FOR WAIVER

Chapter 6 – Waivers or Variances from Administrative Rules

General Directions:

- Please print clearly or type on the form. The information is provided in this format to the Board of Educational Examiners for review. If the information is not legible, the petition will not be submitted to the Board.
- The petition must be complete. If any criterion is left blank, the petition for a waiver will not be submitted to the Board.
- Provide clear and convincing evidence for all sections of the petition for a waiver.

Section A. PETITIONER’S INFORMATION.

Name: _____

Case No. _____
(to be completed by Board)

Address: _____

Date: _____

Folder Number (if known): _____

Home Phone with Area Code: (_____) - _____ - _____

Work Phone with Area Code: (_____) - _____ - _____

Section B. 282—6.4(17A) CRITERIA FOR WAIVER OR VARIANCE.

- Denial of application. In order for a petition for a waiver to be reviewed, the petitioner must have submitted an application to the Board of Educational Examiners and the determination has been provided to the petitioner that the petitioner is not eligible for the action to be completed based on a Board of Educational Examiners’ rule. Please indicate when you submitted the application:

- Waiver rule. In response to a petition completed pursuant to rule 6.6(17A), the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:
 1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
 2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
 3. The provisions of the rule subject to the petition for a waiver 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 prescribed in the particular rule for which the waiver is requested.

Section C. BOARD DISCRETION. 282—6.10(1)

- Board’s decision. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board, upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the board based on the unique, individual circumstances set out in the petition.
- Appeal of Board’s decision. Once a decision is rendered by the Board, the decision is final. If you wish to contest the decision, you must do so in district court.

Section D. BURDEN OF PERSUASION. 282—6.10(2)

- Be thorough. Please complete the petition for a waiver in detail. This is the document that the Board will utilize in determining the outcome of your petition for a waiver. Do not assume that the Board will have any information that is not included on this waiver. If the information is not provided on the petition for a waiver, the information is not shared with the Board for its review.
- Support. You may attach additional pages to provide more documentation than what could be included in the spaces provided.
- Burden of proof. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.
- Board meeting agenda. Please be aware that if you wish to attend the Board meeting at which your petition for a waiver is included on the agenda, you are welcome to speak at the public comment time on the agenda. You do not present the information to the Board regarding your petition during the agenda time set aside for your petition. That is the time that the Board will review the written information you have provided. If the Board asks you a question, you may respond.
- New information. If new information is provided at the Board meeting that was not included in the petition for a waiver, please be aware that the Board may table the discussion on your petition while reviewing the new information provided.

Section E. RULE INFORMATION

- Cite the specific rule or rules that you are requesting the Board to waive. You may find the rules on the Board of Educational Examiners' website: www.boee.iowa.gov
Click on the link for "Rules and Code" and scroll to the rule that you wish to waive.

Citation:

2. Provide a description of the rule or rules that you are requesting the Board to waive:

Description:

Section F. WAIVER INFORMATION

1. In your own words, provide a brief narrative of your specific request. Provide clear and convincing evidence.

2. In your own words, provide a brief narrative of the hardship that the Board's rule(s) would impose upon you (not the school district, not the area education agency, nor the local board of directors):

3. To your knowledge, would any substantial legal rights be affected for other individuals by waiving this rule(s)? If the rule is waived, what would be the consequences? If this decision would become a precedent for others, what would be the ramifications?

4. How would the equal protection of public health, safety and welfare be afforded if this waiver were granted? What are the benefits for your students if your waiver is granted? What are the benefits for other students? What are the benefits for the school district? How will you ensure that the welfare of your students will not be compromised if the waiver is granted? How will this decision protect the profession and the integrity of the licensure standards? How will this decision ensure the delivery of highly qualified content for enhanced student learning?

5. What time period are you requesting for this waiver?

6. Does anyone else possess knowledge relevant to this waiver request? (If yes, list name, address and telephone number.) Your administrator/colleague/ other professional may submit a letter of support for your petition. Include the letter with the petition for a waiver.

7. Please review the board waivers on the Board of Educational Examiners' website: www.boee.iowa.gov to determine if the board has reviewed a similar petition for a waiver and the outcome. Cite the similar petition(s) to support your request for a petition of a waiver of the rules.

Section G. RELEASE OF INFORMATION: I authorize any persons with knowledge of the relevant or important facts relating to the requested waiver to release any information to the Iowa Board of Educational Examiners.

Section H. ACCURACY AND TRUTH: I certify that the information on this Petition for Waiver is true and complete to the best of my knowledge. I understand that any misrepresentation of facts may result in the denial of this Petition.

Petitioner's Signature

Date

This Petition is to be submitted to: Board of Educational Examiners, Grimes State Office Building, 400 East 14th Street, Des Moines, IA 50319-0147.