

 <p style="text-align: center;"> <b>Administrative Policies And Procedures Tennessee Supreme Court Administrative Office of the Courts</b> </p>	Index #: 02-001-2024	Page 1 of 1
	Effective Date: 12/11/24	
Approved by: Chief Justice Holly Kirby and Director Michelle Long		
Subject: <b>Waiver of 2,000 Hour Cap Policy and Procedure, Rule 13, § 2(g)</b>		

## POLICY STATEMENT:

**PURPOSE:** The 2,000-hour annual cap established in Tenn. Sup. Ct. R. 13, Sec. 2(g) is premised upon the ability of the attorney being able to provide quality representation for clients given the limited number of hours possible each year. Studies indicate that the average range of annual billable hours required for associates at law firms in the United States is 1,800 to 2,200 hours. The 2,000-hour cap in Rule 13 is the average of that range.

Requests for waivers are exceptions to the rule and will be granted in only documented exceptional circumstances.

**WAIVER PROCEDURE:** When an attorney is nearing or has exceeded the 2,000-hour annual cap for a calendar year and desires the Director to consider waiving the cap, the attorney must submit the request via email to: [indigentteam@tncourts.gov](mailto:indigentteam@tncourts.gov) with the subject line: “Request for Waiver of Annual Cap.”

The requesting attorney should attach all documents (e.g., written request, supporting documentation and affidavits) to the email. The request for waiver will be reviewed and if there are questions, those questions will be sent to the requesting attorney via email to the originating email address. When the Director makes a determination, a notice will be sent via email to the originating email address. The Director’s determination will be final.

Waivers will only be considered for hours claimed in calendar years after January 1, 2023.

**MINIMUM STANDARDS:** Because each request will arise from its own circumstances, each request will be determined on a case-by-case basis. However, the following standards will provide general guidance for the attorney requesting the waiver and for the Director in considering the request:

1. The request for waiver will not be approved where it is caused by the attorney merely accepting enough appointments to cause the non-compliance or because of poor record keeping. The request must be based on articulated facts that demonstrate non-compliance was beyond the attorney’s control or was necessary for judicial efficiency or public policy. For example, the attorney is one of the few attorneys in a rural area who is qualified and available to take appointments and failure to take the appointments would cause a crisis in the courts of that region. Another example would be that specific cases became very time consuming because of lengthy

litigation and trial and for the attorney to withdraw would only exacerbate the already protracted litigation or cause the client's protected rights to be irrevocably impaired.

2. The explanation for the request must be clearly explained in a sworn statement attached to the email request. The explanation must provide detail (e.g., case names, dates, claim numbers) and should be supported by documentation (e.g., written statements from judges; affidavits of others with relevant knowledge; contemporaneous time records of extremely lengthy cases).

3. The request for waiver should provide a detailed description of the efforts made by the attorney to comply with the 2,000-hour cap (e.g., keeping track of hours for each calendar year either through a time management software or manually; refusing additional appointments after becoming aware that he/she was getting near the 2,000-hour cap; writing off hours as pro bono work).