

**Policy/Procedure:**

Policy and Procedure for Licensed Family Child Care Variance Requests and Approval

**Legal References:** MN Statute 245A.04, Subd. 9, MN Statute 245A.16, Subd. 1, MN Rules 9502.0335, Subparts 8 and 8a.

**Date Effective:** 11/17/2020

**Scope:** This policy governs the requirements and outlines procedures for the request and approval or denial of variances to licensing standards for providers of family child care within Freeborn County.

**Personnel Responsible:** Freeborn County Department of Human Services Family Child Care Licensor, Supervisor and Director.

**DEFINITIONS:**

Annual or annually - Prior to or within the same month of the subsequent calendar year.

County agency - the agency designated by the county board of commissioners, human service boards, local social services agencies or multicounty local social services agencies, or departments where those have been established under the law.

Family day care and group family day care child age classifications - For the purposes of family day care and group family day care licensing under this chapter, the following terms have the meanings given them in this subdivision.

- 1) Newborn - a child between birth and six weeks old.
- 2) Infant - a child who is at least six weeks old but less than 12 months old.
- 3) Toddler – a child who is at least 12 months old but less than 24 months old, except that for purposes of specialized infant and toddler family and group family day care, “toddler” means a child who is at least 12 months old, but less than 30 months old.
- 4) Preschooler – a child who is at least 24 months old up to school age.
- 5) School age – a child who is at least 5 years of age, but is younger than 11 years of age.

License holder – for the purposes of this policy, an individual or organization that is legally responsible for the operation of the program or service, and has been granted a license by the commissioner under MN Statute 245A and the rules of the Commissioner of the MN Department of Human Services.

## **RATIONALE:**

Minnesota county agencies are delegated responsibility by the Minnesota Department of Human Services to process variance request to allow licensed family child care programs to deviate from a specific rule, under certain conditions unless excluded from the delegation authority under Minnesota Statutes. This policy and procedure provides uniform guidance and conditions under which a variance will be granted by Freeborn County. Variances may only be granted to rules that do not affect the health or safety of persons in the licensed program.

## **PROCEDURE:**

- 1) Requests for a variance will be made by the provider to the Child Care Licensor.  
*\*Variance request procedure must be followed in order. NO variances will be approved for past situations or dates.*
- 2) Licensor will provide necessary application forms as outlined in this policy.
- 3) Provider will complete variance request application forms and return to the Licensor.
- 4) Licensor will review application forms and necessary supporting documentation, and make a recommendation of approval or denial to Supervisor.
- 5) Supervisor will review and approve or deny Variance Request.
- 6) Director will be available for consultation, if needed.
- 7) Licensor will issue written variance approval or denial to Provider. *\*The variance becomes effective on the date the variance is approved in writing by the Licensor.*
- 8) Variance decisions by the Freeborn County Department of Human Services are final and are not appealable to the Minnesota Department of Human Services.

## **PROVIDER EXPECTATIONS:**

Variance Requests - Requests for a variance must be made by completing, in their entirety, the attached documents:

- 1) MN DHS *Variance Request: Family Child Care* (DHS-7297),
- 2) MN DHS *Family Child Care Weekly Attendance Schedule* (DHS-7297A), and
- 3) MN DHS *Variance Request Notice for Parents* (DHS – 7297B).

Any variance to safety provisions related to State Fire Code, sanitation and health, or building code must be accompanied by written approval from a fire marshal, or appropriate and authorized agent or official with expertise in the respective issue of the variance request and the alternative measures identified to ensure the safety of children in care.

### Following Approval –

- 1) Provider will post approved variance in a prominent and visible location within the Family Child Care home.
- 2) Provider will notify Licensor when/if variance becomes unnecessary during the approved period of time.
- 3) Additional children will not be enrolled in the licensed family child care program during a time period for which a variance for age or capacity has been approved.

### **AGENCY/LICENSOR EXPECTATIONS:**

- 1) When appropriate, Licensor will recommend a change in License Class rather than recommend approval of a variance.
- 2) Written approval or denial of variance requests will be made within 30 days of receipt of all required application and documentation materials.
- 3) Variance Policy/Procedure will be available on the Freeborn County Department of Human Services website and distributed to Family Child Care license holders annually.

### **CRITERIA:**

- 1) Family Child Care Providers must have been licensed for a minimum of 1 year prior to requesting a variance.
- 2) Variances will only be approved for a maximum of 3 calendar months from the date of written approval by the Family Child Care Licensor unless otherwise specified for unusual and explicit situations.
- 3) Variance requests for infant care related to age or capacity will receive careful analysis and consideration. All other criteria and expectations must be met and an additional approved adult caregiver shall be required during hours of operation under a variance for age or capacity of infants.
- 4) No new variance will be approved within 6 months of the expiration of a previous variance.
- 5) No more than 1 variance will be approved annually.
- 6) Per MN Statute 245A.16, NO variance will be approved for more than 14 children at any given time in a Family Child Care home.
- 7) Variances will only be approved for specific situations, and may only be used for the children identified in the variance request application forms.

Decisions regarding all variance requests will be considered on a case by case basis. Factors taken into consideration include but are not limited to: licensing actions, correction orders, training and experience, license status, supervision history, unique or special needs of a child receiving care, and other conditions requiring additional attention.