



Policy 5013 FCCL Child Care Age Distribution Variance Request

Version: 1.1

Effective Date: 3/1/2024

Board or Administrative: Administrative

Policy Statement

Under MS section 245A.04, subdivision 9, (c) Beginning January 1, 2021, counties shall use a uniform application form developed by the commissioner for variance requests by family child care license holders.

Per MS 245A.16 DHS grants individual counties the right to adopt and implement their own variance policies and procedures, "delegation of authority". Subdivision 1 provides the list of variances that are excluded from the delegation of variance authority and may be issued only by the commissioner. Outcomes of Dakota County variance decisions delegated to (our) authority are not eligible for reconsideration or appeal.

Minnesota county agencies are delegated responsibility to process variance requests 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, section 245A.16, subdivision

(MN Rules, part 9543.0300; 9543.0050) **PURPOSE** When a family child care license holder provider identifies a need to request an exception to a regulation in MN statute or rule, Dakota County Child Care Licensing has developed guidance and procedures by which a variance will be considered.

Procedures

1. The license holder completes the DHS 7297-ENG Variance Request: Family Child Care form.
2. For standard variance requests, the form must be submitted to the license holder's county assigned worker no later than 10 working days prior to the requested start date for the variance. For variances pertaining to age distribution, the form must be submitted to the license holder's assigned worker no later than 45 days prior to the requested start date of the variance.
3. A new Variance Request form must be completed and submitted for each exception to

Rule/Statute.

4. In the request, the license holder must:
 - a. Indicate from which rule they are requesting a variance.
 - b. Provide an explanation for why the variance is needed.
 - c. Describe adjustments the license holder will make to maintain the intent of the rule.
 - d. Identify the start date and duration for which the variance is being requested.

CONSIDERATION OF VARIANCE REQUESTS

1. The license holders assigned worker will consult with the license holder to clarify any issues presented in the variance request form.
2. The licensing worker will present the variance request to the FCCL unit for consideration.
3. Factors considered in considering variance requests include but are not limited to:
 - a. Assessment of license holder's submitted variance request and rationale for the request.
 - b. Length of time the license holder has operated.
 - c. Review of license holder's operational history
 - d. Potential impacts of granting variance; ensuring children's safety and needs are not compromised by the exception to Rule 4.
 - e. If variance request relates to age distribution, the Age Distribution Variance procedure and checklist must be utilized and followed.

OR

- e. Follow the procedural guidelines specific to the type of variance requested.
4. FCCL unit, including FCCL supervisor, will discuss whether the variance can/should be granted.
 - a. If the variance is not supported, the unit will attempt to recommend alternatives to address the issue in the request.
 - b. The FCCL unit, including FCCL supervisor, may also recommend additional actions be taken by the license holder before final variance request consideration.
5. The FCCL supervisor will review all input and recommendation and make a final

determination on if a variance request can/should be approved. The supervisor will sign the Variance Request form DHS-7297-ENG and provide a narrative that explains to the license holder provider the rationale for the decision.

6. The license holder's assigned worker will return the Variance Request form to the license holder with decision and narrative providers by FCCL supervisor and scan/document variance request outcome to case file.
7. Outcomes of Dakota County variance decisions **are not** eligible for reconsideration or appeal.

FCCL Child Care Age Distribution Variance Narrative

The health and safety of children is essential and fundamental to the operations of Dakota County Social Services and Dakota County Family Child Care Licensing.

Between 2010 and 2013, collectively, Dakota County Family Child Care and related Dakota County child welfare programs experienced increase of safe sleep violations, child injuries, and child fatalities. As a result, Dakota County Administration elected to discontinue child care age distribution variances.

Based upon Dakota County family demographics, need assessments, surveys conducted, and feedback from families and licensed family child care providers, demonstrated is the need for flexibility to accommodate changing child care needs. Most significantly, the need for families to utilize a single family child care provider for their children, thus keeping siblings together in care. Therefore, effective 4/1/2024, Dakota County Social Services/Family Child Care Licensing, with accompanying policy and procedure, will adopt reconsideration of child care age range distribution variances.

The 2020 Legislature made changes to variance requests by licensed family child care programs that went into effect January 1, 2021. The Commissioner of the Minnesota Department of Human Services has delegated the responsibility of processing certain variance requests to Minnesota county agencies. MN Rules 9543.0300; 9543.0050. Under that authority, Dakota County Social Services/Family Child Care Licensing may allow licensed family child care programs to deviate from certain rules with supported policy and procedure, and in accordance with Minn. Stat. § 245A.16; MN Rules 9502.0315–9502.0445.

Dakota County reserves the right to update Family Child Care Age Distribution Variance guidelines at any time. Dakota County Social Services/Family Child Care Licensing believes that with this the Family Child Care Age Distribution Policy and Procedure, the standard of family child care and children(s) health and safety will be maintained.

Complete Family Child Care Age Distribution policy, procedure, and forms can be found on the Dakota county Family Child Care Licensing website. Providing Child Care | Dakota County

Applicable Statutes/rules

- MN Statutes section 245A.16 subdivision 1 (Standards for County Agencies and Private Agencies)
- MN Rule Part 9502.0335 subpart 8 (Variance Standard)
- MN Rule Part 9502.0335 subpart 8a (Variance Procedure)
- MN Rule Part 9543.0030 (Licensing Functions)
- MN Rule Part 9543.0050 (Variance Requests)

History

Version	Revision Date
1.1	3/1/2024
1.0	1/28/2021

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Approval

/s/ Evan Henspeter, Director 03/1/2024