

# Carver County Variance Policy and Procedures

Minnesota county agencies are delegated responsibility to process variance requests to allow licensed family childcare programs to deviate from a specific rule, under certain conditions, unless excluded from the delegation authority under Minnesota Statutes, section 245A.16, subdivision 1. (MN Rules, parts 9543.0030; 9543.0050).

## Variance Guidelines

It is the practice of Carver County Child Care Licensing to ensure that children are cared for in a quality, safe, and nurturing environment.

If the variance request is granted, the provider must Take appropriate measures to ensure the health and safety of the children in their care. These measures must be documented on the variance request form and meet the approval of the licensing unit.

## All Variances

- Carver County Licensing reserves the right to consult on variance requests on a case by case basis and can deviate from the variance procedures if deemed appropriate.
- If a variance is no longer needed, the provider or applicant must notify the licensor
- Approved variances must be posted with the license in a prominent place.
- Variances will not be granted unless the parents of the children enrolled are notified on the DHS Variance Request Notice for Parents.
- Pets: Variances will not be granted for reptiles or amphibian pets in the home.
- Pet Variance: May require consultation with Public Health Nursing.

## Common Variance Types

### **Capacity**

- A variance will not be granted for children enrolled prior to a variance request (pre-existing condition).
- All variances must be submitted on the DHS Variance Request: Family Child Care form (see attached).
- Capacity variances must also complete and submit the DHS Family Child Care Weekly Attendance Schedule (see attached). The children specifically listed on this form will be the only children allowed during the variance.
- Variances will not be allowed unless the parents of the children enrolled are notified on the DHS Variance Request Notice for Parents (see attached).
- A variance will not be granted for the infant/toddler category unless the provider is within their licensed capacity in the under school-age category.
- A variance will not be granted for an infant or toddler as a new family wishing to enroll.
- A variance will not be granted for a 3<sup>rd</sup> infant to be cared for by 1 adult caregiver.
- Variances will be limited to one child in any age category at any one time.

- Variances for capacity or age distribution will not be approved for more than 30 days in a 12-month period of licensure. A variance for any part of the day shall constitute a variance for the entire day.
- If a provider would fit under another license category, and it is reasonable to have them change their license, then this option should occur.
- A provider must have been licensed for at least one year if requesting a capacity variance. The exception to this is as follows:
  - An applicant has been licensed under Minnesota Rule 9502 in the past 3 years; or
  - The provider has been licensed with Carver County for 6 months; and
  - The provider meets one of the qualifications stated in MN Rules 9502.0355, Subp. 3, A, B, & C; and
  - Verification that one of the requirements in MN Rules 9502.0355, Subp. 3, A, B, or C has been met; and
  - Carver County Licensing feels that the safety and well-being of the children in care will not be jeopardized.
  - Capacity variances granted cannot be transferred to another child, etc.
  - No variances will be granted to exceed license capacity.
  - Capacity variances during non-traditional hours will not be granted.
- A variance request to exceed the age distribution of a license will be denied or a variance revoked when one or more of the following conditions apply:
  - A variance will not be granted during the investigation of or for 12 months after founded rule violations of the following categories: supervision, capacity, infant sleep space, corporal punishment, maltreatment or other relevant health or safety factors.
  - Variances will not be granted to providers during a pending recommendation of or existing negative licensing action.
  - The provider or any household member is under investigation for any situation that may be a potential license violation.
  - There is a variance for age distribution already in place.
  - Variances will not be granted retroactively.

## **Fencing**

- Fencing variances must also complete a yard hazard plan.
- Fencing variances must also document and submit their outdoor supervision plan for the different ages while outside.
- Fencing variances must define the outdoor play area for the children.
- If fencing is required a variance may be granted for up to three months to delay fencing. However, if the ground is frozen when the provider becomes licensed the variance would be granted until June 1st.

## Variance Procedures

- The provider notifies the licensor that they would like a variance.
- The licensor sends the variance forms which the provider must complete and return to the licensor.
- The licensor brings the request to the weekly unit meeting for review, recommendations, and approval or denial.
- The licensor will email/mail the approved or denied variance form to the provider.
- If a variance is denied, every effort should be made to offer other suggestions or options to the provider.
- In general, the unit will review variances with the following guidelines in mind:
  - How does the provider plan to provide for the health and safety of the children in care?
  - Parent evaluations.
  - History of licensing violations, correction orders, and fix it tickets.
  - How reasonable and thorough is the provider's plan?
  - Provider's current status -- whether license is under a negative licensing action.
  - Provider's previous licensing violations.
  - Length of time provider has been licensed.
  - Qualifications of the provider.
  - Length of time of the request.
  - Is the provider's training up to date.
  - Provider's recent/past variance requests.