

# LE SUEUR COUNTY HUMAN SERVICES

## FAMILY CHILD CARE

### VARIANCE PROCEDURES

**Purpose:** Licensed family child care providers have the right to request a variance of capacity or age distribution under MN Rules 9502.0367. The goal of Le Sueur County's variance policy is to meet the needs of parents and providers while keeping the safety and well-being of children the very first priority.

**Effective January 1 2021:** Counties must use a uniform application form developed by the commissioner for variance requests by family child care license holders. Counties must publish their policies and criteria for issuing variances on their public websites and also distribute those policies to all family child care license holders annually.

**Personnel Responsible:** Licensing Social Worker and Child Services Team/Supervisor

#### **Policy:**

Le Sueur County Human Services is delegated authority, by the Commissioner of Human Services, to issue variances for licensed family child care that do not affect the health and safety of person in the licensed program. The license holder must request the variance prior to the situation where it is necessary. The license holder must complete the following approved Department of Human Services variance forms:

- ❖ **Variance Request: Family Child Care** form (DHS-7297-ENG)
- ❖ **Family Child Care Weekly Attendance Schedule**, (DHS 7297A-ENG)
- ❖ **Variance Request Notice for Parents**, (DHS-7297B-ENG)

The request must include the following information:

- (1) the sections of parts [9502.0315](#) to [9502.0445](#) with which the applicant or provider cannot comply;
- (2) the reasons why the applicant or provider needs to depart from the specified sections;
- (3) the period of time for which the applicant or provider requests a variance; and
- (4) the specific equivalent alternative measures which the applicant or provider will provide so the health, safety, and protection of children in care are ensured if the variance is granted.

When all completed documents are received by Le Sueur County, an approval or denial will be made within 30 days. The licensing Social worker will review all submitted documents. A thorough review of the Licensing Statutes and Rules will be completed in reference to the variance request. A review of possible options available to the license holder will be considered, i.e. change in license class.

The provider will be informed by phone that the Variance has been approved or denied. Written confirmation will follow. If it has been approved verbally, it may start on the requested date whether or not written confirmation has been received by the provider. Providers must notify the food program that they are operating with a variance.

Length of approved variances will depend on the specific need being addressed by the request but limited to 3 months or less. Back to back variances will not be considered. The reason for the variance must correct itself within the variance time period. The provider must wait 6 months from the end of one variance to be able to request a second variance. Some extenuating circumstances will be considered.

Consideration will be made for variances that assist families that are already enrolled with the provider that accommodate siblings. However, this does not guarantee the variance.

Providers will only be granted variances in one age distribution category. Some extenuating circumstances will be considered.

Variance requests for newborns (birth to six (6) weeks) will be denied.

No additional children or drop-ins may be enrolled into care while the variance is in effect. An approved variance is only valid for the particular children listed on the application paperwork at the time the variance is requested and approved.

All variance requests must be approved before accepting a child into care. Backdated variance requests will be denied.

#### **Factors that will be considered when determining the approval or denial of a variance:**

- ❖ Rule section is missing
- ❖ The reason for the variance is not clearly stated
- ❖ Did the license holder provide specific starting and ending dates, including days of the week and times the license holder will be over capacity.
- ❖ Has the license holder provided **specific alternative** measures that will be taken to ensure the health, safety and protection of children in care
- ❖ Does the enrollment form include each child's name, birth date, category and the days and hours in care
- ❖ Parent signatures of ALL children enrolled during the period the variance is being requested for

#### **A variance will not be granted if any of the following apply:**

1. During the first year of licensure
2. During a pending negative action recommendation.
3. During an existing negative licensing action.
4. During an investigation.
5. A correction order has been issued for overcapacity in the past twelve (12) months.
6. A correction order has been issued for lack of supervision in the past twelve (12) months.

Asking for a variance is asking the county to go against Statute and say that a situation is okay. Le Sueur County does not take this decision lightly. Variances affect the health, safety, and well-being of multiple children. The County is under no obligation to grant any variances and all variance decisions are up to the discretion of the County.