

Sibley County Public Health & Human Services

Family Child Care

Variance Procedures and Policy

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 Sibley 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 made 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.

Personal Responsible: Licensing Social Worker and Children's Unit Supervisor.

Policy:

Sibley County Public Health and 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 persons 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 MN Rules [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 provider's care are ensured if the variance is granted.

When all completed documents are received by Sibley County, an approval or denial will be made within 30 days. The licensing Social Worker will review all submitted documents and confirm decision with licensing Supervisor. 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 if the variance begins in less than a week from the approval date. Otherwise, any variance will be confirmed, whether approved or denied by written confirmation. If it has been approved verbally, the variance may begin on the requested

date whether or not written confirmation has been received by the provider. Providers must notify their food program if they are operating with a variance.

Other Rules and Conditions that apply to capacity variances in Sibley County:

1. Please do not request a variance more than two months in advance. We may ask you to wait if it is submitted too early. Your child count can change quickly.
2. Multiple variances may be granted in a 12 month period. However, they may not exceed a total of more than 90 days in a rolling 12 month period.
3. A variance will not be granted for one person to care for more than two infants at one time.
4. Variance requests for newborns (birth to six weeks old) will be denied.
5. No additional children can be added during the variance period without written authorization from Sibley County. Variances are child specific and limited to only the children listed on the variance form.
6. In some cases, Sibley County may require that a second caregiver or helper be present in order for the variance to be approved.
7. Sibley County will only grant a variance in one age group per request.
8. Sibling groups will be taken into consideration.
9. When a granted variance is not used, or partially used, the provider must notify the licensor to the extent the variance was used, since it may impact future requests.
10. "Emergency" or "Just in Case" variances can be applied for. This would be in the case of snow storms, school closings, etc.

A variance will NOT be granted if any of the following apply:

1. Provider is in their first year of licensure.
2. Capacity would be over 14 children.
3. During a pending negative action recommendation.
4. During an existing negative licensing action.
5. During an investigation.
6. A correction order has been issued for overcapacity in the past 12 months.
7. A correction order has been issued for lack of supervision in the past 12 months.

Variance must be approved (returned to provider and signed by the licensor/licensor's supervisor) for provider to remain in compliance with child care licensing statutes and to avoid a correction order. It is not guaranteed that provider will receive an approved variance.

Asking for a variance is asking the county to go against Statute and say that a situation is okay. Sibley 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.