

Variances to the Minnesota Rule for Child Foster Care providers that may be approved by county or private agencies*

Rule Part	Requirement	How it can be varied
Minnesota Rules 2960.3040, subpart 2	Sleeping Space – foster child must be provided with a separate bed suitably sized for the child, except that two siblings of the same sex may share a double bed. A foster child must not be assigned sleeping space in a building, apartment, trailer, or other structure that is separate from the foster family home or in an unfinished attic, an unfinished basement, or a hall or any other room normally used for purposes other than sleeping. Bedrooms that are used by foster children must have two exits.	May allow a foster child over the age of one year to sleep on another suitably sized piece of furniture, i.e. a futon, couch, sleeper sofa. May allow a child to sleep in a room that is not normally used for sleeping, such as a living room or family room provided the room has two exits.
Minnesota Rules 2960.3040, subpart 3	Space for belongings - A foster child must have an identified space for clothing and personal possessions with cabinets, closets, shelves, or hanging space sufficient to accommodate clothing and personal possessions.	Space may be creatively designed, shared with others.
Minnesota Rules 2960.3040, subpart 4	Dining area – The dining area must be able to accommodate, at one time, all persons residing in the home.	May allow home to be licensed if it lacks a dining area or if the dining area is not large enough to accommodate all persons residing in the home at one time.
Minnesota Rules 2960.3050, subpart 4	Pets – A foster home serving children less than six years of age must not keep reptiles, chickens, or ducks as pets. . . .Pets in family residences must be immunized and maintained as required by local ordinances and state law.	May choose to not limit the types of pets as long as what they allow doesn't violate a city/zoning law or ordinance.
Minnesota Rules 2960.3060, subpart 3A	Personal Characteristics of applicants – The applicant must be at least 21 years old at the time of application.	May allow individual who is 18 years old at the time of application to apply.
Minnesota Rules 2960.3060, subpart 3D	Personal Characteristics of applicants – The applicant must help the licensing agency obtain at least three letters of reference that provide information about the license holder's support system, the observed license holder's interactions with children, and the ability of the license holder and foster family to accept different points of view.	May allow less than 3 references.
Minnesota Rules 2960.3070, subpart 2	In-service training. Each foster parent must complete a minimum of 12 hours of training per year in one or more of the areas in this subpart or in other areas as agreed upon by the licensing agency and the foster parent.	May grant a variance to the total number of annual training hours. <u>May not grant a variance to topics required in statute, i.e. child passenger restraint training, sudden unexpected infant death (SUID), abusive head trauma (AHT), children's mental health training.</u>

*County and private child placing agencies are delegated the authority to approve variances that do not affect the health or safety of persons in a licensed program. Reference Minnesota Statutes, section 245A.04, subdivision 9 & section 245A.16, subdivision 1(a). (A written and approved variance must be maintained in the agency file)

Variances to Minnesota Statutes for Child Foster Care providers that may ONLY be approved by the Department of Human Services (DHS)*

Rule/Statute	Requirement	How it can be varied
Minnesota Rules 2960.3020, subpart 10	Other licenses. A license holder cannot concurrently hold a license for family child care or adult family foster care without a variance.	A variance may be granted to allow the license holder to also have a family child care license <u>or</u> an adult foster care (AFC) or community residential setting (CRS) license.
Minnesota Rules 2960.3000, subpart 20 Minnesota Statutes 245A.04, subdivision 11(b) (c)	Foster child. “Foster child” means a person under 18 years of age, a person in special education, or a juvenile under the jurisdiction of a juvenile court who is under 22 years of age and is placed in a foster home. Education program; permitted ages, additional requirement. A program licensed by the commissioner under Minnesota Rules, chapter 2960, may serve persons who are over the age of 18 but under the age of 21 when the person is...	If an individual over age 18 is in, or being considered for, placement in child foster care, and does not meet any of the allowable circumstances as found in the referenced rule or statute, a variance may be granted to allow the individual to be placed or remain in child foster care.
Minnesota Rules 2960.3060, subpart 3C	Personal Characteristics of applicants – The applicant and adult household members must sign a statement that they have been free of chemical use problems for the past two years.	May allow less than 2 years with a variance that has specific terms reducing potential risk of harm to children in care.
Minnesota Statutes 245C.24, subdivision 1 (a) (5)	Disqualification. The commissioner shall disqualify an individual who is the subject of a background study from any position allowing direct contact with persons receiving services from the license holder or entity identified in section 245C.03...	An individual who is the subject of a disqualification may request a reconsideration of the disqualification unless the disqualification is a permanent disqualification. A time-limited variance may be granted by DHS allowing a disqualified individual to provide direct contact services or have access to people receiving services with variance terms that minimize the risk of harm to people receiving services.

* Reference Minnesota Statutes, section 245A.16, subdivision 1 (a) (1) (4) & (5); Minnesota Statutes, section 245C.30

Minnesota Statutes, section 245C.22, subd.4:

- The commissioner (DHS) may set aside an individual's disqualification if the commissioner finds that a disqualified individual has submitted sufficient information to demonstrate that they do not pose a risk of harm to any person served by a licensed program.

Minnesota Statutes, section 245C.25:

- When a county agency determines maltreatment that results in a disqualification, and the individual is licensed by, or affiliated with, a home licensed by the county agency, the individual may request reconsideration of the maltreatment and disqualification (consolidated reconsideration) or only the disqualification. The county agency conducts the reconsideration process. A time-limited variance may be granted by the county.
- When a county agency determines maltreatment and the individual is licensed by, or affiliated with, a home licensed by a private agency, DHS reviews the information to determine if it will result in a disqualification. If there is a disqualification, the individual may request reconsideration. DHS conducts the reconsideration process. A time-limited variance may be granted by DHS.

Variances to Fire and Safety Codes for Child Foster Care providers that may ONLY be approved by the State Fire Marshal or a local fire code inspector approved by the State Fire Marshal

Requirement	Authority
Minnesota Rules, part 2960.3050, subpart 2 Fire code inspections required. If one of the conditions below exist, the foster home must document inspection and approval of the foster home...by the state fire marshal or a local fire code inspector who is approved by the state fire marshal: • The foster home contains a freestanding solid fuel heating appliance • The foster home is a manufactured home as defined in Minnesota Statutes, section 327B.01, subdivision 13, and was manufactured before June 15, 1976. • The licensing agency identifies a potential hazard in a single-family detached home, or a mixed or multiple-occupancy building. • The home is to be licensed for four or more foster children. • The foster home has a foster child sleeping in a room that is 50 percent of more below ground level The triggers identified above are the only requirements in determining the need for requesting a fire marshal inspection of a child foster care home.	Minnesota Statutes, section 245A.151 Fire Marshal Inspection. When licensure under this chapter requires an inspection by a fire marshal to determine compliance with the State Fire Code under section 299F.011, a local fire code inspector approved by the state fire marshal may conduct the inspection. If a community does not have local fire code inspector or if the local fire code inspector does not perform the inspection, the state fire marshal must conduct the inspection.*
	Compliance Minnesota Statutes, section 245A.04, subd. 2a Meeting fire and safety codes. An applicant or license holder must document compliance with applicable building codes and fire and safety codes...or document that an <u>appropriate waiver (variance) has been granted</u>. Minnesota Rules, part 2960.3040, subpart 1 Fire, health, building, and zoning codes. The foster home must comply with applicable fire and building codes.

* For variance information and requests regarding variances from fire code requirements, please refer to the Minnesota Department of Public Safety website, State Fire Marshal Division.

Per the state fire marshal website - the procedures for fire code variance requests are established under Minnesota Statutes, section 299F.011, subdivision 5. When considering a variance the following must be met. The requesting party should show that:

- A. There is substantial compliance with the provisions of the fire code.
- B. The safety of the public and building occupants will not be jeopardized.
- C. Undue hardship will result to the requesting party unless the variance is granted.