

## Family Child Care Capacity Variance Policy

Minnesota Statute 245A.16, Subdivision 1 authorizes the commissioner to delegate licensing functions to counties and private agencies. The 1992 Minnesota Legislature amended this subdivision to include delegation of the authority to issue variances.

The goal of the policy is to balance the needs of parents and providers, while keeping the safety of the children as the priority. This procedure becomes effective on the date in the footer or after any existing variance expires. Otter Tail County will accept capacity variance requests on the form developed by the Department of Human Services Licensing Division.

The following conditions apply to variances granted for family and group family childcare age distribution and capacity (9502.0367):

- We take into consideration the health, safety, and welfare of all children in care by having you explain alternative measures you will provide to ensure the safety, health and care of children within your care.
- If a variance can be avoided by changing your class of license, a variance will not be considered.
- Granting a capacity variance is at the discretion of Otter Tail County Human Services. The length of time and frequency of variance requests by a provider will be considered when reviewing a request and will be limited to no more than 6 months in a 12-month period.
- A provider will not be granted a variance until he/she has been licensed for one year in Otter Tail County. Previous licensed experience in another County will be taken into consideration.
- A variance will not be granted:
  - during a pending negative licensing recommendation.
  - during an existing negative licensing action.
  - during an investigation.
  - following rule violations of supervision; corporal punishment; maltreatment or other relevant health or safety factors.
- Variances will not be granted for more than 10 children under school-age (Class C only).
- Providers must remain within State capacity limits in the infant category.
- For a C3 license, a variance will not be granted to go over total capacity of 14.
- When a granted variance is not used or partly used, the provider must notify the Otter Tail County Licensing Social Worker in writing, to the extent the variance was used as it may impact future requests.

January 1, 2021  
Updated: March 4, 2024

- Variance requests will be reviewed by the Licensing Social Worker. Providers may not begin using a variance until approval is provided by the Licensing Social Worker or Supervisor. The variance request must be received by the Licensing Social Worker no later than 5 days prior to the beginning of the variance need. If the request form is not complete, it will be returned to the license holder to complete and resubmit.
- Otter Tail County reserves the right to request additional information or documentation prior to approval of the variance request.

Otter Tail County Human Services has up to 30 days to act on a request unless there are extenuating circumstances.

All decisions are up to the discretion of Otter Tail County and are final.

Otter Tail County has the discretion to make exceptions/additions to this policy.

To request a variance, complete the appropriate variance request form and submit to the Otter Tail County Licensing Social Worker:

Otter Tail County Human Services  
Attn: Child Care Licensors  
530 W. Fir Ave  
Fergus Falls, MN 56537