

**9525.0995 COUNTY VARIANCES.**

Subpart 1. **Generally.** A county board may apply to the commissioner for a variance from parts 9525.0920, 9525.0930, 9525.0935, 9525.0940, 9525.0950, and 9525.0970 according to subparts 2 to 6.

Subp. 2. **County request for variance.** A county board may apply for a variance by submitting a written application to the commissioner documenting the reason the county is unable to comply with the identified requirement. The application for the variance must show the county's proposal for an alternative to full compliance:

- A. meets the individual needs of participants; and
- B. ensures services are provided in the least restrictive environment.

Subp. 3. **Granting a variance.** The commissioner's grant of a county board's variance request must be based on the following:

- A. the request was submitted according to subpart 2;
  - B. the county board has provided reasonable evidence of the need for a variance;
- and

C. the request is in compliance with state and federal laws governing services for persons with developmental disabilities.

Subp. 4. **Notice to county boards.** The commissioner shall review the county board's request for a variance and notify the county board, in writing, within 30 calendar days whether the request for a variance has been granted or denied. If the variance request is approved, the notice must state the specific conditions of approval. If the variance request is denied, the notice must state the reasons why the variance request was denied and inform the county board of the right to request a review of the commissioner's decision. A request for a review of the commissioner's denial of a variance request is governed by part 9525.1010.

Subp. 5. **Continuation of variance.** The procedures for requesting, granting, or denying a continuation of variance must be the same as the procedures in subparts 2, 3, and 4. The procedure for notifying the county board whether the continuation has been granted or denied must be the same as the procedure in subpart 4. Failure of a county board to comply with any condition of approval of a variance granted under subpart 3 may result in revocation of the variance.

Subp. 6. **Notice to affected participants and providers.** A county board applying for or granted a variance under this part must give written notice to each provider and participant whose services will be modified by the variance. Such notice must also be given to the participant's legal representative. The notice must state the terms of the requested or granted variance and, if the variance has not yet been approved, inform the participants that the request has been submitted to the commissioner. The notice provided to each participant

and the participant's legal representative must inform them of any known alternative SILS services or providers which may be available in the same community. If the variance has already been approved, the notice must be given to the provider, each participant, and the participant's legal representative before services are provided under the variance.

**Statutory Authority:** *MS s 252.275*

**History:** *18 SR 506; L 2005 c 56 s 2*

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