

CHAPTER 9545
DEPARTMENT OF HUMAN SERVICES
PRIVATE CHILD CARING OR PLACING AGENCIES

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9545.0755 PURPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** Minnesota Statutes, section 245A.03, subdivision 1, requires a private agency that receives a child for care, supervision, or placement in foster care or adoption or helps plan the placement of a child in foster care or adoption to be licensed by the commissioner. Additionally, Minnesota Statutes, section 317A.907, subdivision 3, specifies that a corporation formed under Minnesota Statutes, section 317A.907, to secure homes for orphaned, homeless, abandoned, neglected, or mistreated children must comply with rules established by the commissioner to govern its operation. Parts 9545.0755 to 9545.0845 establish the conditions for licensure of private child-placing agencies specified in Minnesota Statutes, section 317A.907, subdivision 3.

Subp. 2. **Applicability.** Parts 9545.0755 to 9545.0845 apply to any private agency as defined in Minnesota Statutes, section 245A.02, subdivision 12, that operates in Minnesota and performs one or more of the activities listed in items A to H.

A. Supervises a licensed foster care provider that cares for a child for whom the commissioner, a county, a private agency, another entity, an Indian tribe, or the child's parent or guardian remains legally responsible.

B. Arranges for or provides short-term licensed foster care while a child is being legally freed for adoption or while an adoptive placement is being arranged.

C. Places a child for adoption under the written agreement specified in Minnesota Statutes, section 259.25, or as legal guardian under Minnesota Statutes, section 260C.325.

D. Compiles a listing from which a birth parent can identify potential adoptive parents for a child for whom adoption is projected.

E. Assists birth parents or prospective adoptive parents with fulfilling the requirements of Minnesota Statutes, sections 260.851 to 260.91, the Interstate Compact on the Placement of Children.

F. Collects health and social history from the birth family of a child for the information of the child's prospective adoptive parents.

G. Studies the suitability of an adoptive applicant's home.

H. Assists birth parents to execute consents to adoption.

Parts 9545.0755 to 9545.0845 also apply to an agency that performs one or more of the activities listed in items A to H in Minnesota but is incorporated under the laws of a state other than Minnesota.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593; L 1999 c 139 art 4 s 2*

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9545.0765 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 9545.0755 to 9545.0845, the following terms have the meanings given them.

Subp. 2. **Agency.** Unless otherwise specified, "agency" means a private agency governed by parts 9545.0755 to 9545.0845.

Subp. 3. **Applicant.** "Applicant" means an individual, corporation, partnership, voluntary association, controlling individual, or other organization that has applied for licensure under Minnesota Statutes, sections 245A.01 to 245A.16, and the rules of the commissioner.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designee.

Subp. 5. **Controlling individual.** "Controlling individual" has the meaning given in Minnesota Statutes, section 245A.02, subdivision 5a.

Subp. 6. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 7. **License.** "License" has the meaning given in Minnesota Statutes, section 245A.02, subdivision 8.

Subp. 8. **Private agency.** "Private agency" as defined in Minnesota Statutes, section 245A.02, subdivision 12, means an individual, corporation, partnership, voluntary association or other organization, other than a county agency, or a court with jurisdiction, that places persons who cannot remain in their own homes in residential programs, foster care, or adoptive homes.

Subp. 9. **Variance.** "Variance" means permission given by the commissioner in accordance with Minnesota Statutes, section 245A.04, subdivision 9, for a license holder to depart for a specified time from a standard specified in parts 9545.0755 to 9545.0845.

Subp. 10. **Volunteer.** "Volunteer" means an individual who provides time or service to an agency without being compensated by the agency.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593*

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9545.0775 LICENSURE.

Subpart 1. **License required.** An agency that provides a service or performs an activity described in subpart 2 must be licensed under parts 9545.0755 to 9545.0845. In addition to other requirements, an individual, corporation, partnership, voluntary association, other organization, or controlling individual applying for a license to place children for adoption must comply with Minnesota Statutes, section 245A.04, subdivision 10.

Subp. 2. **Application for licensure.** Applicants must apply for a license on the forms and in the manner prescribed by the commissioner.

Subp. 3. **License option.** The form in subpart 2 must require an applicant to specify whether the applicant performs or intends to perform activities related both to foster care and adoption, only to foster care, or only to adoption. An applicant to perform adoption-related activities only must indicate how the agency will arrange for the licensed foster care needed while a child is being legally freed for adoption or while an adoptive placement for the child is being arranged.

Subp. 4. **Notice to commissioner.** An agency must send the commissioner written notice at least 30 days before the agency:

- A. moves from the location specified on the current application or license;
- B. opens a new office or other setting where records required by parts 9545.0755 to 9545.0845 are kept;
- C. proposes to increase its scope to include both foster care and adoption; or

D. closes. The agency's notice of closing must specify the arrangements the agency has made for transfer of records and clients as required in part 9545.0845.

Subp. 5. **Commissioner's right of access.** Each site where an agency maintains offices or records is subject to the commissioner's inspection and right of access specified in Minnesota Statutes, section 245A.04, subdivision 5.

Subp. 6. **Single license for multiple locations.** When an applicant for licensure under parts 9545.0755 to 9545.0845 maintains offices or records at more than one site and there is at least one controlling individual responsible for all the sites, the commissioner shall issue one license.

Subp. 7. **Variations.** An applicant or license holder may request a variance to parts 9545.0755 to 9545.0845 as specified in Minnesota Statutes, section 245A.04, subdivision 9.

Statutory Authority: *MS s 14.386; 14.388; 245A.03; 317A.907*

History: *18 SR 1593; 30 SR 585*

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9545.0785 AGENCY GOVERNANCE AND ADMINISTRATION.

Subpart 1. **Office in Minnesota.** An agency must maintain an office in Minnesota from which the activities carried out under the license issued by the commissioner are conducted.

Subp. 2. **Space requirements.** An agency must allocate office space in such a way as to ensure confidentiality and safekeeping of records and provide privacy for interviews and conferences with clients and prospective clients.

Subp. 3. **Legal organization.** A license holder or applicant must be organized according to a legal form of association or incorporation under Minnesota Statutes or the laws of another state. An agency incorporated under the laws of another state must have:

A. the certificate of authority to transact business in Minnesota required by Minnesota Statutes, chapter 303; and

B. the records and documents required by parts 9545.0755 to 9545.0845 at the registered office required by Minnesota Statutes, chapters 309 and 317A, or at another agency office in Minnesota listed on a license application.

Subp. 4. **Conflict of interest.** An agency must develop written policies governing situations with potential conflict of interest. It is a potential conflict of interest when a provider supervised by an agency is also a board member of the agency or when a board member is also an applicant to adopt. Agencies that provide foster care services must comply with part 9543.0130, subpart 4.

Statutory Authority: *MS s 245A.03; 317A.907*

History: 18 SR 1593

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9545.0795 AGENCY FINANCES.

Subpart 1. **Funding plan.** When an agency applies for initial or continuing licensure, it must submit a funding plan that projects income and other financial resources needed to operate in compliance with parts 9545.0755 to 9545.0845 for a period of at least one year beyond the date of application. The funding plan must include:

A. a projected program budget for foster care, adoption-related activities and services, or both, when applicable, that details by source the income and expenses anticipated for the 12-month period covered by the plan;

B. a balance sheet showing the agency's current assets and current liabilities; and

C. with applications for continuing licensure, the program operating budget for foster care, adoption services, or both, when applicable, for the current fiscal year. The budget must show actual income and expenditures.

The information required by items A to C must be presented in the manner prescribed by the commissioner.

Subp. 2. **Explanation of fees.** An agency that charges fees must make available to prospective clients written material that:

A. describes services for which a fee is typically charged;

B. explains the conditions under which fees are charged and waived, if applicable;

C. includes a fee schedule or explanation of how a fee amount is determined; and

D. includes a statement for individuals, as opposed to counties or other agencies, who become clients to sign indicating that they have read or had explained to them and understand the information on fees and services. The signed statement must be added to a client's file.

Subp. 3. **Accounting of adoption expenses and fees.** An agency must annually submit the accounting of adoption-related expense required by Minnesota Statutes, section 317A.907, subdivision 6, on a form provided and designed by the commissioner to generate the required information.

Statutory Authority: *MS s 245A.03; 317A.907*

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9545.0805 PERSONNEL.

Subpart 1. **Supervision by a licensed independent social worker or independent clinical social worker.** An independent social worker or independent clinical social worker as defined in Minnesota Statutes, section 148B.21, must supervise an agency's case work. Supervising an agency's case work includes reviewing and approving each written home study the agency completes on prospective foster parents or applicants to adopt. An agency can meet the supervision requirement by complying with item A, B, C, or D.

A. The agency's chief executive officer is a licensed independent social worker or independent clinical social worker and supervises staff members providing case work.

B. The person who does the case work is licensed as an independent social worker or independent clinical social worker.

C. The agency contracts with a licensed independent social worker or independent clinical social worker to supervise staff members' case work.

D. The agency may retain a supervisor with education or experience comparable to the requirements stated in item A, B, or C if one of the exceptions in Minnesota Statutes, section 148B.28, applies.

Subp. 2. **Orientation.** Within the first five working days of an employee's or volunteer's starting date, an agency must provide orientation that addresses agency staff and volunteer responsibilities for:

A. reporting maltreatment as specified in Minnesota Statutes, chapter 260E; and

B. protecting information on clients as required by Minnesota Statutes, chapter 13.

Subp. 3. **Annual training.** An agency must provide or arrange for the provision of at least 12 hours of training annually for staff members and volunteers who provide services to agency clients. For people in their first year of service to the agency, orientation hours provided under subpart 2 can be applied toward the 12 hours of annual training. Training must reflect the emphasis in Minnesota Statutes, section 260C.215, subdivision 6, on cultural diversity and children with special needs.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593; L 1999 c 139 art 4 s 2*

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9545.0815 DESCRIPTION OF AGENCY PROGRAM AND SERVICES.

An applicant must submit with its application and provide to prospective clients of agency services a written statement that contains the information in items A to G:

- A. purpose and philosophy of the agency's program;
- B. general description of children the agency places for adoption or supervises in foster care, with attention to such points as age or special needs that determine whether the agency is able to serve a child;
- C. description of services the agency provides to children, birth families, and foster or adoptive families before, during, and after termination of foster care or finalization of an adoption;
- D. statement of eligibility requirements or qualifications that the agency requires of adoptive or foster families;
- E. description of the process used to study, approve, and select adoptive and foster families, and the approximate amount of time anticipated to complete the selection process;
- F. description of orientation and training that will be provided for foster families or prospective adoptive families; and
- G. statement that the agency complies with:
 - (1) the Indian Child Welfare Act, Public Law 95-608;
 - (2) the Minnesota Indian Family Preservation Act, Minnesota Statutes, sections 260.751 to 260.835;
 - (3) the Heritage Act, Minnesota Statutes, sections 259.29, 260C.193, subdivision 3, and 260C.212, 260C.221, and 260C.215; and
 - (4) the Interstate Compact on the Placement of Children, Minnesota Statutes, section 260.851.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593; L 1994 c 631 s 31; L 1999 c 139 art 4 s 2; L 2012 c 216 art 6 s 13*

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9545.0825 FOSTER CARE PLACEMENT SERVICES.

Subpart 1. **If an agency has authority to place child in foster care.** If an agency has written consent from a child's parents or legal guardian, or a contract with the county, or a court order to place a child in foster care, the agency's responsibilities are the same as those listed for local agencies in part 9560.0540, subparts 2 and 3. The agency must meet the requirements of parts 9545.0010 to 9545.0260 when licensing child foster care homes.

Subp. 2. **Providing foster care services under contract with a county.** When an agency provides child foster care services under contract with a county, the agency must develop and implement a service plan compatible with the case placement plan required of the county by part 9560.0610.

Subp. 3. **Child's record.** For each child the agency supervises in foster care, the agency must have a record that contains the information required in Minnesota Statutes, section 257.01, and in items A to L:

- A. the child's full name, date and place of birth, sex, and race;
- B. all available information about the birth parents' full names, addresses, telephone numbers, and marital status;
- C. all available information about the names and addresses of the child's siblings;
- D. name of person or agency with legal custody of the child;
- E. name and telephone number of persons to contact in an emergency;
- F. copy of written agreement or order authorizing the county or, if applicable, the agency, to supervise the child's placement in foster care;
- G. when applicable, case plan required of county by part 9560.0610;
- H. agency service plans required by subpart 2;
- I. documentation of child's most recent medical and dental examinations;
- J. documentation of child's educational status;
- K. case closing summary and the agency's plan for the continued provision of services to the child, if any; and
- L. for an Indian child, record of determination of the child's tribe and notice to the tribe as required by Minnesota Statutes, section 257.32.

Statutory Authority: *MS s 245A.03; 317A.907*

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9545.0835 ADOPTION PLACEMENTS.

Subpart 1. **Record of child's background and history.** When an agency accepts a child for adoptive placement or facilitates an adoption between a birth parent and a prospective adoptive parent, the agency is responsible for establishing and maintaining a record that meets the requirements of Minnesota Statutes, sections 257.01 and 259.79.

Subp. 2. **Study of applicants to adopt.** An agency must study applicants to adopt a child in accordance with the procedures and criteria specified in part 9560.0140 for determining suitability of adoptive parent.

Subp. 3. **Adoption-related foster care.** When an agency temporarily places a child in foster care while the child is being legally freed for adoption or while an alternative to a disrupted adoptive placement is being arranged, the foster care provider must be licensed under parts 9545.0010 to 9545.0260.

Statutory Authority: *MS s 245A.03; 317A.907*

History: *18 SR 1593; L 1994 c 631 s 31*

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9545.0845 PLAN FOR TRANSFER OF RECORDS.

An applicant for initial or continuing licensure must submit a written plan indicating how the agency will provide for the transfer of records on both open and closed cases if the agency closes. The plan must provide for managing private and confidential information on agency clients, according to Minnesota Statutes, section 259.79. A controlling individual of the agency must sign the plan.

A. Plans for the transfer of open cases and case records must specify arrangements the agency will make to transfer clients to another agency or county for continuation of services and to transfer the case record with the client.

B. Plans for the transfer of closed adoption records must be accompanied by a signed agreement or other documentation indicating that a county or licensed child placing agency has agreed to accept and maintain the agency's closed case records and to provide follow-up services to affected clients.

Statutory Authority: *MS s 245A.03; 317A.907*

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