Commonly Asked Questions
Child Foster Care – Maximum Capacity and Ratio

Q: We have two applicants, but one applicant works outside of the home during the week. Can they have a maximum capacity of eight if the 1:5 ratio will not always be met?

A: Yes. This is something your county/agency will need to assess during the home study process. The times in which the ratio will not be met must be addressed on the statement of intended use and also possibly through a variance approved by the licensing agency.

Q: We received an application from a family that has eight of their own children. Can we recommend a license?

A: No. They are already at maximum capacity for their license – we do not issue licenses with a capacity of zero.

Q: The applicant reports that their own children go their dad’s house every other weekend. Can we place respite kids there on the weekend?

A: No. Having the license holder’s own children leave the home to allow for them to provide respite is not allowed – the capacity for the program cannot be changed for this purpose and the children that live in the home count for capacity. Also, this is not best practice – for the foster children in respite or the children of the license holder. It is possible that the license holder’s children would have to return home and/or the respite kids would need to stay longer than the weekend. This could put the family over capacity and possibly out of ratio. In addition, this type of situation could cause issues for sleep space and space for personal belongings for the foster children.

Q: When a foster child in care is adopted or there is a transfer of legal and permanent custody (TPLPC), how does that impact capacity and ratio?

A: All children count towards the total capacity in the home. It is important that total capacity is re-assessed each time a child or children are adopted or there is a TPLPC. The total allowed foster children (capacity) must be reduced for each child that is adopted or has a TPLPC. If the total of children of the license holder in the home reaches eight, the license must be closed.

Q: We received a request from child protection to place relative children in a home where the single applicant already has five children of their own. Adult to child ratio (1:5) could not be maintained as required. Can this individual be licensed?
A: Possibly. The licensing agency would need to consider the ages and care and supervision needs of both the license holder’s own children and of the foster children who would be placed in their care to determine whether it would be appropriate to grant a variance to this requirement.

Consideration for a variance could include if there is a second adult living in the home that assists with caregiving, what is the plan for busy times of each day, what are the needs of each individual child in the home, as well as all of the requirements in Minnesota Statutes, section 245A.04, subdivision 9a.

In addition, the variance should specify the structural characteristics of the home, the license holder’s training, skills, and experience, and the license holder’s ability to assist children in the home during an emergency. Finally, the licensing agency shall consider the characteristics of the foster children, including age, disability, and emotional problems. The statement of intended use must specify how the license holder will maintain a ratio of adults to children in the home that ensures the safety and appropriate supervision of all the children in the home.

Q: We received an application and there are three adults in the home. Does this mean they can have more than a capacity of eight children?

A: No. The maximum capacity is regarding the child foster care home and the total number of children allowed is eight, including the license holder’s own children. Having three adults living in the home does not impact the overall allowed capacity.

Q: Two license holders currently have seven of their own children, and one foster child. The capacity of the home is for one foster child. The family wants to accept placement of a second foster child. Can a variance be granted to allow the placement?

A: If the new foster child meets at least one of the criteria in the first bullet point below, and all of the remaining criteria (Minnesota Statutes, section 245A.04, subdivision 9a), a variance may be granted.

- The variance is needed to allow (must meet at least one of these criteria):
  - A parenting youth in foster care to remain with the child of the parenting youth.
  - Siblings to remain together.
  - A child with an established meaningful relationship with the family to remain with the family.
  - A family with special training or skills to provide care to a child who has a severe disability.
- There is no risk of harm to a child currently in the home.
- The structural characteristics of the home, including sleeping space, accommodates additional foster children.
- The home remains in compliance with applicable zoning, health, fire, and building codes and
- The statement of intended use specifies conditions for an exception to capacity limits and specifies how the license holder will maintain a ratio of adults to children that ensures the safety and appropriate supervision of all the children in the home.

If they do not meet this criteria, a variance may not be granted.