

245C.14 DISQUALIFICATION.

Subdivision 1. **Disqualification from direct contact.** (a) 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, upon receipt of information showing, or when a background study completed under this chapter shows any of the following:

(1) a conviction of, admission to, or Alford plea to one or more crimes listed in section 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor, or misdemeanor level crime;

(2) a preponderance of the evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, regardless of whether the preponderance of the evidence is for a felony, gross misdemeanor, or misdemeanor level crime; or

(3) an investigation results in an administrative determination listed under section 245C.15, subdivision 4, paragraph (b).

(b) No individual who is disqualified following a background study under section 245C.03, subdivisions 1 and 2, may be retained in a position involving direct contact with persons served by a program or entity identified in section 245C.03, unless the commissioner has provided written notice under section 245C.17 stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that program or entity identified in section 245C.03, as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

(c) Notwithstanding paragraph (a), for the purposes of a background study affiliated with a licensed family foster setting, 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, upon receipt of information showing or when a background study completed under this chapter shows reason for disqualification under section 245C.15, subdivision 4a.

[See Note.]

Subd. 2. **Disqualification from access.** (a) If an individual who is studied under section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6), is disqualified from direct contact under subdivision 1, the commissioner shall also disqualify the individual from access to a person receiving services from the license holder.

(b) No individual who is disqualified following a background study under section 245C.03, subdivision 1, paragraph (a), clauses (2), (5), and (6), or as provided elsewhere in statute who is disqualified as a result of this section, may be allowed access to persons served by the program unless the commissioner has provided written notice under section 245C.17 stating that:

(1) the individual may remain in direct contact during the period in which the individual may request reconsideration as provided in section 245C.21, subdivision 2;

(2) the commissioner has set aside the individual's disqualification for that licensed program or entity identified in section 245C.03 as provided in section 245C.22, subdivision 4; or

(3) the license holder has been granted a variance for the disqualified individual under section 245C.30.

Subd. 3. Disqualification from working in children's residential facilities and foster residence settings. (a) For a background study affiliated with a children's residential facility or foster residence setting, if an individual is disqualified from direct contact under subdivision 1, the commissioner must also disqualify the individual from working in the children's residential facility or foster residence setting and from having access to a person receiving services from the facility or setting.

(b) Notwithstanding any other requirement of this chapter, for a background study affiliated with a Title IV-E eligible children's residential facility or foster residence setting, if an individual is disqualified, the individual may not work in the facility or setting until the commissioner has issued a notice stating that:

- (1) the individual is not disqualified;
- (2) a disqualification has been set aside under section 245C.23; or
- (3) a variance has been granted related to the individual under section 245C.30.

Subd. 4. Disqualification from working in licensed child care centers or certified license-exempt child care centers. (a) For a background study affiliated with a licensed child care center or certified license-exempt child care center, if an individual is disqualified from direct contact under subdivision 1, the commissioner must also disqualify the individual from working in any position regardless of whether the individual would have direct contact with or access to children served in the licensed child care center or certified license-exempt child care center and from having access to a person receiving services from the center.

(b) Notwithstanding any other requirement of this chapter, for a background study affiliated with a licensed child care center or a certified license-exempt child care center, if an individual is disqualified, the individual may not work in the child care center until the commissioner has issued a notice stating that:

- (1) the individual is not disqualified;
- (2) a disqualification has been set aside under section 245C.23; or
- (3) a variance has been granted related to the individual under section 245C.30.

History: 2003 c 15 art 1 s 14; 2004 c 288 art 1 s 50; 2007 c 112 s 33; 2009 c 142 art 3 s 5; 1Sp2020 c 2 art 5 s 17; 1Sp2021 c 7 art 2 s 53,54

NOTE: The amendment to subdivision 1 by Laws 2021, First Special Session chapter 7, article 2, section 53, is effective July 1, 2022. Laws 2021, First Special Session chapter 7, article 2, section 53, the effective date.