

1 Department of Human Services

2

3 Adopted Permanent Rules Relating to Licensure of Private
4 Agencies that Provide Child Foster Care Services and Adoption
5 Services

6

7 Rules as Adopted

8 9545.0755 PURPOSE AND APPLICABILITY.

9 Subpart 1. **Purpose.** Minnesota Statutes, section 245A.03,
10 subdivision 1, requires a private agency that receives a child
11 for care, supervision, or placement in foster care or adoption
12 or helps plan the placement of a child in foster care or
13 adoption to be licensed by the commissioner. Additionally,
14 Minnesota Statutes, section 317A.907, subdivision 3, specifies
15 that a corporation formed under Minnesota Statutes, section
16 317A.907, to secure homes for orphaned, homeless, abandoned,
17 neglected, or mistreated children must comply with rules
18 established by the commissioner to govern its operation. Parts
19 9545.0755 to 9545.0845 establish the conditions for licensure of
20 private child-placing agencies specified in Minnesota Statutes,
21 section 317A.907, subdivision 3.

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

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

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

33 C. Places a child for adoption under the written
34 agreement specified in Minnesota Statutes, section 259.25, or as
35 legal guardian under Minnesota Statutes, section 260.242.

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

4 E. Assists birth parents or prospective adoptive
5 parents with fulfilling the requirements of Minnesota Statutes,
6 sections 257.40 to 257.48, the Interstate Compact on the
7 Placement of Children.

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

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

13 H. Assists birth parents to execute consents to
14 adoption.

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

19 9545.0765 DEFINITIONS.

20 Subpart 1. **Scope.** As used in parts 9545.0755 to
21 9545.0845, the following terms have the meanings given them.

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

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

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

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

35 Subp. 6. **Department.** "Department" means the Minnesota

1 Department of Human Services.

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

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

10 Subp. 9. **Variance.** "Variance" means permission given by
11 the commissioner in accordance with Minnesota Statutes, section
12 245A.04, subdivision 9, for a license holder to depart for a
13 specified time from a standard specified in parts 9545.0755 to
14 9545.0845.

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

18 9545.0775 LICENSURE.

19 Subpart 1. **License required.** An agency that provides a
20 service or performs an activity described in subpart 2 must be
21 licensed under parts 9545.0755 to 9545.0845.

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

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

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

35 A. moves from the location specified on the current

1 application or license;

2 B. opens a new office or other setting where records
3 required by parts 9545.0755 to 9545.0845 are kept;

4 C. proposes to increase its scope to include both
5 foster care and adoption; or

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

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

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

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

21 9545.0785 AGENCY GOVERNANCE AND ADMINISTRATION.

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

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

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

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

1 B. the records and documents required by parts
2 9545.0755 to 9545.0845 at the registered office required by
3 Minnesota Statutes, chapters 309 and 317A, or at another agency
4 office in Minnesota listed on a license application.

5 Subp. 4. Conflict of interest. An agency must develop
6 written policies governing situations with potential conflict of
7 interest. It is a potential conflict of interest when a
8 provider supervised by an agency is also a board member of the
9 agency or when a board member is also an applicant to adopt.
10 Agencies that provide foster care services must comply with part
11 9543.0130, subpart 4.

12 9545.0795 AGENCY FINANCES.

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

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

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

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

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

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

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

35 B. explains the conditions under which fees are

1 charged and waived, if applicable;

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

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

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

14 9545.0805 PERSONNEL.

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

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

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

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

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

1 148B.28, applies.

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

6 A. reporting maltreatment as specified in Minnesota
7 Statutes, section 626.556; and

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

10 Subp. 3. **Annual training.** An agency must provide or
11 arrange for the provision of at least 12 hours of training
12 annually for staff members and volunteers who provide services
13 to agency clients. For people in their first year of service to
14 the agency, orientation hours provided under subpart 2 can be
15 applied toward the 12 hours of annual training. Training must
16 reflect the emphasis in Minnesota Statutes, section 257.072,
17 subdivision 7, on cultural diversity and children with special
18 needs.

19 9545.0815 DESCRIPTION OF AGENCY PROGRAM AND SERVICES.

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

23 A. purpose and philosophy of the agency's program;

24 B. general description of children the agency places
25 for adoption or supervises in foster care, with attention to
26 such points as age or special needs that determine whether the
27 agency is able to serve a child;

28 C. description of services the agency provides to
29 children, birth families, and foster or adoptive families
30 before, during, and after termination of foster care or
31 finalization of an adoption;

32 D. statement of eligibility requirements or
33 qualifications that the agency requires of adoptive or foster
34 families;

35 E. description of the process used to study, approve,

1 and select adoptive and foster families, and the approximate
2 amount of time anticipated to complete the selection process;

3 F. description of orientation and training that will
4 be provided for foster families or prospective adoptive
5 families; and

6 G. statement that the agency complies with:

7 (1) the Indian Child Welfare Act, Public Law
8 Number 95-608;

9 (2) the Minnesota Indian family preservation act,
10 Minnesota Statutes, sections 257.35 to 257.3579;

11 (3) the heritage act, Minnesota Statutes,
12 sections 257.071 to 257.072, 259.255, and 260.181, subdivision
13 3; and

14 (4) the interstate compact on the placement of
15 children, Minnesota Statutes, section 257.40.

16 9545.0825 FOSTER CARE PLACEMENT SERVICES.

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

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

30 Subp. 3. Child's record. For each child the agency
31 supervises in foster care, the agency must have a record that
32 contains the information required in Minnesota Statutes, section
33 257.01, and in items A to L:

34 A. the child's full name, date and place of birth,
35 sex, and race;

- 1 B. all available information about the birth parents'
2 full names, addresses, telephone numbers, and marital status;
- 3 C. all available information about the names and
4 addresses of the child's siblings;
- 5 D. name of person or agency with legal custody of the
6 child;
- 7 E. name and telephone number of persons to contact in
8 an emergency;
- 9 F. copy of written agreement or order authorizing the
10 county or, if applicable, the agency, to supervise the child's
11 placement in foster care;
- 12 G. when applicable, case plan required of county by
13 part 9560.0610;
- 14 H. agency service plans required by subpart 2;
- 15 I. documentation of child's most recent medical and
16 dental examinations;
- 17 J. documentation of child's educational status;
- 18 K. case closing summary and the agency's plan for the
19 continued provision of services to the child, if any; and
- 20 L. for an Indian child, record of determination of
21 the child's tribe and notice to the tribe as required by
22 Minnesota Statutes, section 257.32.

23 9545.0835 ADOPTION PLACEMENTS.

24 Subpart 1. **Record of child's background and history.** When
25 an agency accepts a child for adoptive placement or facilitates
26 an adoption between a birth parent and a prospective adoptive
27 parent, the agency is responsible for establishing and
28 maintaining a record that meets the requirements of Minnesota
29 Statutes, sections 257.01 and 259.46.

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

34 Subp. 3. **Adoption-related foster care.** When an agency
35 temporarily places a child in foster care while the child is

1 being legally freed for adoption or while an alternative to a
2 disrupted adoptive placement is being arranged, the foster care
3 provider must be licensed under parts 9545.0010 to 9545.0260.

4 9545.0845 PLAN FOR TRANSFER OF RECORDS.

5 An applicant for initial or continuing licensure must
6 submit a written plan indicating how the agency will provide for
7 the transfer of records on both open and closed cases if the
8 agency closes. The plan must provide for managing private and
9 confidential information on agency clients, according to
10 Minnesota Statutes, section 259.46. A controlling individual of
11 the agency must sign the plan.

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

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

21
22 RENUMBERING INSTRUCTION. In Minnesota Rules, parts 9543.0150
23 and 9545.2020, the references to "parts 9545.0750 to 9545.0830"
24 shall be changed to "parts 9545.0755 to 9545.0855."

25 REPEALER. Minnesota Rules, parts 9545.0750; 9545.0760;
26 9545.0770; 9545.0780; 9545.0790; 9545.0800; 9545.0810;
27 9545.0820; and 9545.0830, are repealed.