Background Study Worksheet: Is a background study required?

State law determines who is required to have a background study (see Minnesota Statutes, section 245C.03). License holders are responsible for ensuring background studies are completed as required. Use this worksheet to determine whether a person is required to have a background study because of her/his involvement with your licensed family child care program. Read through all of the questions. If you answer “yes” to any of the questions listed below, the person is required to have a background study.

Question 1:
Is the person a license holder/provider, adult caregiver, substitute, emergency substitute, or helper providing care or supervision to children in care?

Answer 1:
□ Yes. This person needs a background study.
□ No. Proceed to Question 2.

Question 2:
Is the person considered a “household member” because she/he is age 13 or older and lives in the licensed home?

Answer 2:
□ Yes. This person needs a background study.
□ No. Proceed to Question 3.

Question 3:
Has the licensed provider arranged for this person to provide care, supervision or instruction to children in care?

□ Yes. This person needs a background study.
□ No. If you answered “No” to all the questions, this person does not need a background study. Remember, if the circumstances change you should review each of these questions again.

Note: The Department has authority to require an individual (ages 10 and older), who does not provide services but may have unsupervised access to children in care, to obtain a background study when there is reasonable cause. Reasonable cause means that information exists that indicates the person may have a history that would disqualify the individual from having contact with children in care or that the person may pose a risk to health or safety to children in care.

Unsupervised access

According to Rule 2, children in care must be supervised at all times. Supervision means the licensed provider or a designated caregiver is within sight or hearing of an infant, toddler, or preschooler at all times such that they are capable of intervening to protect the health and safety of the child. For school age children, supervision means the licensed provider or a designated caregiver is available for assistance and care so that the child’s health and safety is protected. This means that a provider would be in violation of the supervision requirement, if, for example, a person (not a designated caregiver) was alone with a preschooler in care, such that that provider or a designated caregiver was not within sight or sound of the preschooler.
Commonly asked questions

Q1. What should I do if someone is planning on moving into the licensed home?
A1. You must notify your licensor within 30 days of any change in who is living in the licensed home. Household members must obtain a background study.

Q2. Can a household member also be a designated caregiver?
A2. Yes.

Q3. Is a college student who lives in the licensed home during winter, summer, and holiday breaks a “household member”?
A3. It depends. If the student lived in the household before college and has no other permanent home, the student is considered a household member. Please note, if the college student is not a household member for the purposes of chapter 245C, the Department has authority to require this individual to obtain a background study if there is “reasonable cause.” Further, it is a supervision violation if the college student has unsupervised access to children in care if the college student is not designated as a caregiver. To avoid a supervision violation, the licensed provider or a designated caregiver must be supervising the children at all times.

Q4. The neighbor mows the lawn at the licensed home. Does the neighbor need a background study?
A4. No, the neighbor does not need a background study because the neighbor is not a caregiver (Question 1), is not a household member (Question 2), and does not provide care, supervision, or instruction to children on behalf of the licensed provider (Question 3). Please note, the Department has authority to require this individual to obtain a background study if there is “reasonable cause.” Further, it is a supervision violation if the neighbor has unsupervised access to children in care if the neighbor is not designated as a caregiver. To avoid a supervision violation, the licensed provider or a designated caregiver must be supervising the children at all times.

Q5. If I am paying someone to come to the licensed home and provide instructions or lessons to children in care (who may or may not be alone with children in care), does that person need a background study?
A5. Yes, these specialty service providers need a background study. This includes individuals that provide children lessons on crafts, music, art, gymnastics, etc.

Q6. A parent and school district have arranged for a school district employee to come provide services to a child (i.e., reading, speech, occupational therapy, special education, etc.). Does the school district employee need a background study?
A6. No, the school district employee does not need a background study because the school district employee is not a caregiver (Question 1), is not a household member (Question 2), and does not provide care, supervision, or instructions on behalf of the licensed provider (Question 3) as the services are being provided to this particular child on behalf of the parents and school district. Please note, the Department has authority to require this individual to obtain a background study if there is reasonable cause.

Q7: A family friend has volunteered to come and play music for the children (i.e., in-house field trip). Does this person need a background study?
A7: No, the family friend does not need a background study because the family friend is not a caregiver (Question 1), is not a household member (Question 2), and does not provide care, supervision, or instruction to children on behalf of the licensed provider (Question 3). Please note, the Department has authority to require this individual to obtain a background study if there is “reasonable cause.” Further, it is a supervision violation if the family friend has unsupervised access to children in care if the family friend is not designated as a caregiver. To avoid a supervision violation, the licensed provider or a designated caregiver must be supervising the children at all times.

Why are background studies important?
Background studies are used as a screening mechanism to protect the health and safety of children. They ensure that those providing licensed child care and those with access to children in care do not have a history that may adversely affect the children in care. The background study determines whether a person committed an act that would disqualify him/her from providing child care services or having direct contact with children in care. Background studies are required for licensed child care providers in all 50 states.
Relevant laws

Minnesota Statutes, section 245C.03 Background Study; Individuals to be studied.
Subd. 1. Licensed programs.
(a) The commissioner shall conduct a background study on:
   (1) the person or persons applying for a license;
   (2) an individual age 13 and over living in the household where the licensed program will be provided who is not receiving licensed services from the program;
   (3) current or prospective employees or contractors of the applicant who will have direct contact with persons served by the facility, agency, or program;
   (4) volunteers or student volunteers who will have direct contact with persons served by the program to provide program services if the contact is not under the continuous, direct supervision by an individual listed in clause (1) or (3);
   (5) an individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause as defined in section 245C.02, subdivision 15;
   (6) an individual who, without providing direct contact services at a licensed program, may have unsupervised access to children or vulnerable adults receiving services from a program, when the commissioner has reasonable cause as defined in section 245C.02, subdivision 15;
   (7) all controlling individuals as defined in section 245A.02, subdivision 5a; and
   (8) child care background study subjects as defined in section 245C.02, subdivision 6a.
(b) Paragraph (a), clauses (2), (5), and (6), apply to legal nonlicensed child care and certified license-exempt child care programs.
(c) For family child foster care settings, a short-term substitute caregiver providing direct contact services for a child for less than 72 hours of continuous care is not required to receive a background study under this chapter.

Minnesota Statutes, section 245C.02 Definitions.
Subd. 6a. Child care staff person. "Child care background study subject" means an individual who is affiliated with a licensed child care center, certified license-exempt child care center, licensed family child care program, or legal nonlicensed child care provider authorized under chapter 119B, and:
   (1) who is employed by a child care provider for compensation;
   (2) whose activities involve the supervision of a child for a child care provider; or
   (3) who is required to have a background study under section 245C.03, subdivision 1.

Please see Minnesota Statutes, chapters 245C and 245A, and Minnesota Rules, chapter 9502, for more information.

Feedback requested & more information available
This guidance document is a draft, which reflects changes made to state law in 2017 and 2018, as well as feedback from providers. If you would like to offer feedback about ways this guidance document can be improved, please send an email to DHS.CCDFReform@state.mn.us by September 1, 2018.

For more information about background studies, please visit https://mn.gov/dhs/general-public/background-studies/faqs/ccdbg/