



# Licensed Child Care Providers and the Positive Supports Rule

The Positive Supports Rule (PSR – Minnesota Rules, chapter 9544), which took effect on August 31, 2015, requires all DHS license holders to use person-centered principles and positive support strategies when they are providing services for individuals, including children, with developmental disabilities or related conditions. The changes from the PSR impact staff training, documentation requirements, interactions with the person or child, and requirements for compliance and reporting. The full text of the PSR can be found [here](#).

The implementation of the PSR may impact child care providers differently than other types of licensed providers. In contrast to other licensed areas, children may not necessarily have diagnoses of developmental disabilities or related conditions early on in their development. Children also experience a great deal of change in their development; what is true for their abilities at one time, may not necessarily be true at a later time. These changes in ability may require more frequent review of whether the PSR applies to a child.

This document is meant to be a resource for child care providers as they gain and maintain compliance with the PSR. It is important for providers to remember that DHS is committed to partnering with providers on the PSR to best ensure that providers use positive support strategies with children with developmental disabilities or related conditions.

## What does a licensed child care center need to do before enrolling a child with a developmental disability or related condition?

Before enrolling a child with a developmental disability or related condition, providers should prepare by doing the following:

1. Programs should receive all required PSR training as soon as possible. This training is important to ensure that the staff is prepared to work with future enrollees for whom the PSR applies, but also for children already in care who may receive a diagnosis of a developmental disability or related condition.
  - [Information about training requirements for the PSR](#)
  - [Sample training requirements form](#)

2. Develop an Emergency Use of Manual Restraint (EUMR) Policy (9544.0070) in the event that it is necessary to use manual restraint on a child posing an imminent risk of physical harm to his or herself or others. Sample EUMR policy forms for centers will be provided for your reference.

## Does the PSR apply to a child in my care?

When determining whether the PSR applies to a child in care, **the first point of action for a provider should be to have an honest conversation with the parent/guardian about the child's development.** In having that conversation, one initial question to ask the parent/guardian that will provide helpful context is:

“Is your child receiving or eligible for Developmental Disability (DD)-related case management services (sometimes this is referred to as Rule 185 case management)?” **If the answer is yes, the PSR applies to the child care services provided to that child.**

While the receipt of DD-related case management is a straightforward benchmark of whether the PSR applies, it is important to remember that the PSR can also apply to children with a developmental disability or related condition who are not receiving DD case management services. For the PSR to apply to these children, they must meet the definition of developmental disability or related condition found in [Minnesota Rules, part 9525.0016, subpart 2](#).

A child with a **developmental disability** will likely have been assessed to have substantial limitations in present functioning, showing significantly subaverage intellectual functioning, existing at the same time as the child shows deficits in adaptive behavior. The two areas must both be present and assessed for a child to have a developmental disability:

- **Significantly subaverage intellectual functioning** is based on an assessment with one or more standardized intellectual tests. For a child to have a developmental disability, the assessment must determine that the child's IQ score is 70 or less.
- **Deficits in adaptive behavior** is determined by clinical assessment and, generally, standardized scales. For a child with a developmental disability, the assessment determines that there is a significant limitation on the child's effectiveness in meeting standards of maturation, learning, personal independence, and social responsibility expected for their age level and cultural group.

A child with a **related condition** includes the following:

- A diagnosis of cerebral palsy, epilepsy, autism, Prader-Willi syndrome, or any other condition found to be closely related to developmental disability because **the conditions impair general intellectual functioning or adaptive behavior similar to that of persons with developmental disabilities.**
  - For these children, a diagnosis alone does not determine that they have a related condition because the issues presented may be relatively minor or not impair the child. For example, autism is a condition that is on a spectrum. There is a wide range for how that diagnosis can present itself. Just because a child has a diagnosis of

autism does not mean that the PSR applies. The other factors listed below must also be present for the child to have a related condition.

- The condition manifests before the child reaches 22 years of age.
- The condition is likely to continue indefinitely.
- The condition results in substantial functional limitations in three or more of the following six areas – taking the child’s age level into consideration:
  - Self-care;
  - Understanding and use of language;
  - Learning;
  - Mobility;
  - Self-direction; or
  - Capacity for independent living.

## **What if the child has not been diagnosed but there are concerns about his or her development?**

If the child has not received an official assessment, but there are concerns about the child’s development, **providers should have a conversation with the parents or guardians.** The health information form received within 30 days of the child’s admission to the center will also provide some information about the diagnoses and care needs of the child. Together, with the information from the child’s health provider and the parents, the provider can make an informed determination of whether the child meets the definition of a child with a developmental disability or related condition and whether the PSR applies to the services provided to that child.

## **Creating an Individual Child Care Program Plan (ICCPP) with PSR strategies**

If a provider enrolls or receives a diagnosis of a child with a developmental disability or related condition, it is important for the provider to make sure that they are following child care licensing regulations found in [Rule 3 \(Child Care for Children with Special Needs: 9503.0065\)](#). Requirements from the PSR should be incorporated into existing practices for working with children with special needs, including developing an Individual Child Care Program Plan (ICCPP). An ICCPP can be developed based on the information about the child provided in an IEP/CSSP with parents, teachers, and professionals, incorporating PSR strategies. A separate positive support plan is not required. A sample ICCPP form with the PSR information is provided for your reference.

- For more details about the PSR documentation requirements in a licensing review, see the answer to [Question #8 in this Frequently Asked Questions document](#) for Licensed Child Care Providers on the DHS website;
- [Minnesota Rules 9544.0030](#) details positive support strategies and person-centered principles. In addition, this section explains the requirement stating that PSR strategies must be reviewed every 6 months. A sample form for the 6-month review is provided for your reference.

## Potential action steps after a child is enrolled

1. Ensure your center has an Emergency Use of Manual Restraint (EUMR) policy and that staff providing care to that child have been trained. Sample EUMR policy forms will be provided for your reference.
2. The PSR outlines specific instances when license holders must complete and submit a Behavior Intervention Report Form (BIRF) to DHS ([found in 9544.0010 – Reporting Use of Restrictive Interventions and Incidents](#)). Some of those types of instances are unlikely to apply to child care center providers, but others, such as a behavioral incident that results in a call to 911, or an emergency use of manual restraint, may apply. It is important for providers to review the PSR to understand when submitting the BIRF is necessary.
  - [Instructions and Definitions for Behavior Intervention Report Form](#)
  - [Emergency Use of Manual Restraint Form \(Behavior Intervention Report Form –BIRF\)](#).
3. Prior to developing a Positive Support Transition Plan, a Functional Behavioral Assessment (FBA) must be developed. FBAs are detailed in [9544.0040](#) of the PSR. A provider must develop a Positive Supports Transition Plan ([9544.0070, Subp. 3](#)) if the child has been subjected to three incidents of emergency use of manual restraint within the last 90 days, or four incidents of emergency use of manual restraint within the last 180 days.

## What if I have further questions?

For further information about whether the PSR applies to a child in your care, or other questions about the rule, you can reach out to your licensor, or to the dedicated PSR staff person with the Disability Services Division at DHS at [positivesupports@state.mn.us](mailto:positivesupports@state.mn.us). In addition, more information can be found on the DHS website [here](#).