

Procedural Safeguards Referral Service

The Procedural Safeguards Referral Service (PSRS) unit serves as the entry point within the California Department of Education's Special Education Division (SED) for offering referral services, for resolving problems where possible, and for determining whether or not to process complaints related to special education. In particular the unit provides information about the Individuals with Disabilities Education Act (IDEA), especially those sections safeguarding the rights of parents and children to receive mandated educational services and supports, as well as special education rules and regulations.

IDEA mandates that certain procedures be followed for assessing students with disabilities; for determining eligibility; for ensuring appropriate educational placements, benefits, and services for special education; and for handling potential disputes. The law obligates states to ensure—or safeguard—these procedures. PSRS helps in this safeguarding.

Who Contacts PSRS?

The people who most frequently contact PSRS are parents and parent representatives, including attorneys and advocates. Others include teach-

ers, local educational agency (LEA) and school administrators, members of teacher- and student-centered organizations, representatives from family centers and training organizations, and special education students over the age of 18. Essentially, anyone with a question or concern about special education may contact the unit.

How Do People Contact PSRS?

People contact PSRS in several ways: through a toll-free help line, e-mail, fax, and postal mail. While those who call the help line may need to leave a message, they will hear back from PSRS within 24 hours. PSRS

analyst Debra Babyak sees an advantage to this slight delay. “We spend a lot of time with people,” she says, “so it’s nice to have time to think about and prepare for a call when we know about an issue ahead of time. The phone line is basically a customer service function where we do try to help anyone out who calls us,” including individuals whose first language is not English, since PSRS’s translation staff provides bilingual assistance.

“Everything we learn from people who contact us is kept completely confidential,” says Babyak. “We never share information with school districts or anyone without the parent’s consent.”

Why Do People Contact PSRS?

“People contact PSRS when they have questions about special education or they need information, usually about implementing the individualized education program (IEP),” says Jane Canty, PSRS Administrator. People also contact PSRS when they believe their special education rights or the rights of a child have been violated (see below). According to Canty, most of these concerns also revolve around the IEP, so the IEP document “may become the most important item for PSRS to review—along with

Contacting PSRS

Toll-free help line: 800-926-0648

Video-phone (for individuals who are deaf or hard of hearing): 916-374-7182

Hours: Weekdays, 9 AM to 4 PM

E-mail: speceducation@cde.ca.gov

Fax: 916-327-3704

Postal address:

California Department of Education
Special Education Division
PSRS

1430 N Street, Suite 2401
Sacramento, CA 95814-5901

Special Education Rights of Parents and Children

IDEA requires that schools give parents a written explanation in their home language of their rights as parents of a child with a disability and of the rights of their child. Parents or guardians have a right, for example, to have access to their child’s school records. They have a

right to be informed of a change in the child’s placement or services and the right to be involved in developing a plan for providing specialized services to the child and in executing the child’s individualized education program (IEP). These rights also include such things as the child’s right to a fair, timely,

and no-cost assessment for disability; the right to a free appropriate public education (FAPE); and the right to be educated in the least restrictive environment (LRE). A full explanation of the rights of parents and their child with a disability can be found at www.cde.ca.gov/sp/sel/qal/pssummary.asp.

the complaint request—when someone believes there has been a legal violation and asks for direct state intervention.”

What Happens: Information and Referral

The first goal of PSRS is to provide information about special education. According to PSRS consultant Allison Smith, “We help people understand state and federal laws so they know their options. Sometimes we get calls from parents who are concerned about an issue and do not know where to go for help,” says Smith. “We then serve as a clearinghouse for information. Parents may need guidance from the Office of Administrative Hearings; or we may suggest they could benefit from information from a Family Empowerment Center (see sidebar). So we make sure parents know both how to contact those entities and what kinds of information and services they can expect to receive.” In Canty’s experience, providing information and answering questions often “is all that is needed to resolve a problem.”

If a school site or LEA appears to be the source of contention and callers have not yet discussed their issues with their school or district staff, PSRS staff will encourage them to do so. For numerous reasons, resolving issues at the local level is always preferable to resorting to state intervention (see article, page 3 of this issue).

What Happens: Compliance Complaints

Typically, callers to PSRS want more than information or a referral. “Our unit primarily handles requests

for formal compliance complaints,” says Smith. “We work with parents and attorneys who are alleging that a district is not complying with laws pertaining to special education.” As Babyak explains, “This is done with great care. We listen to the story of what’s going on and ask a lot of questions. Then we help people understand how to file a complaint correctly, if that’s what they want to do.”

Completing Complaint Forms

How the unit responds to complaints depends upon how each complaint request has been filed. Complaint forms are available online and sometimes, according to Smith, “people simply fill out the form and mail it to us. If all the information is there, we might not need to get in touch with the person directly. Sometimes we’ll get a letter with a complaint, but the writer does not specifically ask for a complaint investigation. We respond to the letter to make sure people know their options.

“We also sometimes receive a partially completed complaint request form, or the issue [related to the complaint] isn’t specific enough. Or sometimes the complaint request document doesn’t have a signature on

it, or it is e-mailed. We can’t begin working directly on this kind of documentation because we need original signatures [although the unit can work with appropriately completed complaint forms sent by fax]. A PSRS consultant is assigned to each of these cases to gather whatever is needed so we can open an investigation.”

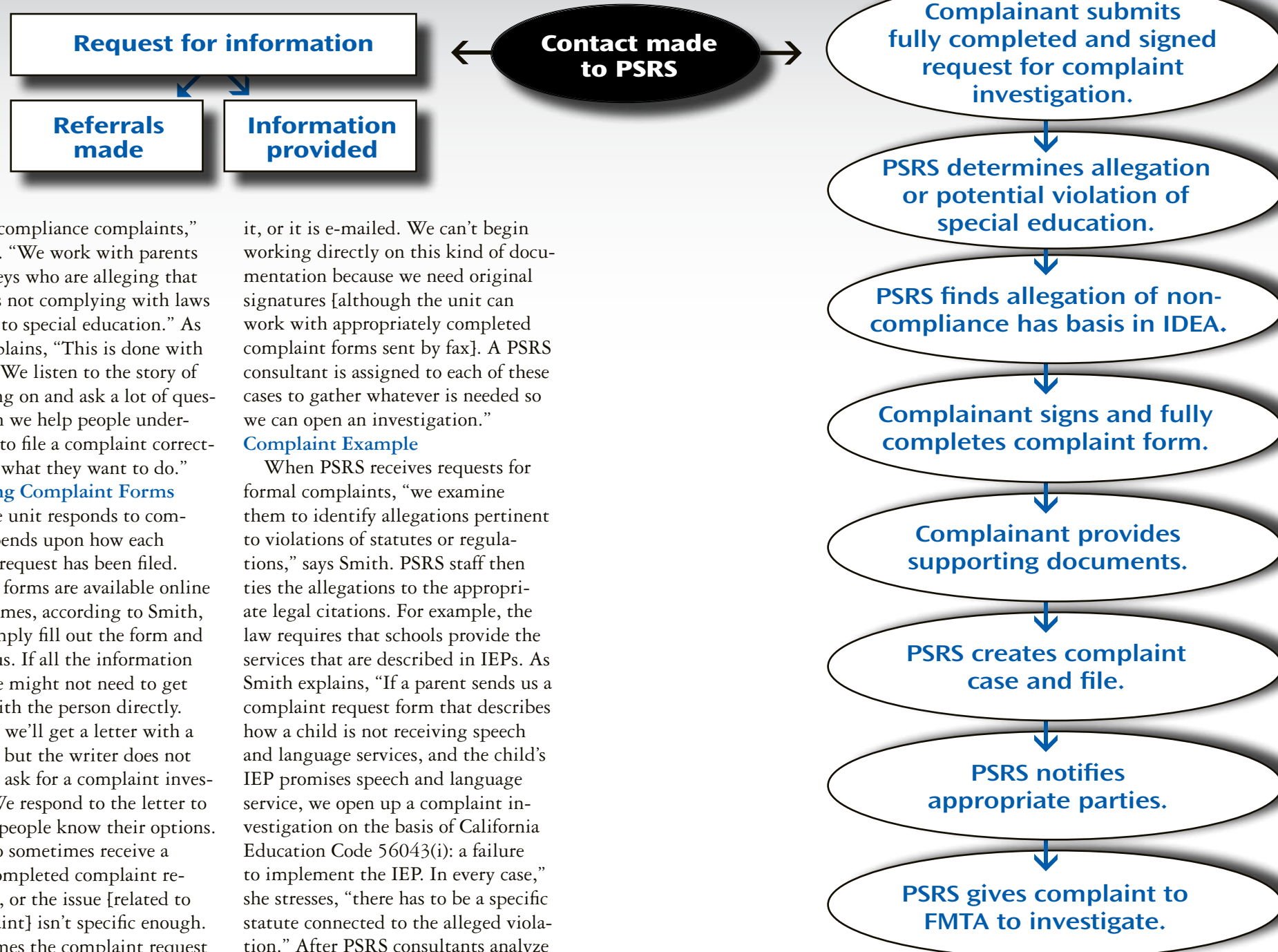
Complaint Example

When PSRS receives requests for formal complaints, “we examine them to identify allegations pertinent to violations of statutes or regulations,” says Smith. PSRS staff then ties the allegations to the appropriate legal citations. For example, the law requires that schools provide the services that are described in IEPs. As Smith explains, “If a parent sends us a complaint request form that describes how a child is not receiving speech and language services, and the child’s IEP promises speech and language service, we open up a complaint investigation on the basis of California Education Code 56043(i): a failure to implement the IEP. In every case,” she stresses, “there has to be a specific statute connected to the alleged violation.” After PSRS consultants analyze these complaint requests, they turn them, when appropriate, into cases for investigation.

Complaint Notification

Once PSRS identifies the appropriate allegations, the unit generates letters of notification, which are sent to the parent (or other filing party), the proper LEAs, other public agencies that may be involved, and the appropriate Special Education Local Planning Area (SELPA). “This

What Happens in PSRS?



Since children are cared for through many kinds of relationships, PSRS staff must also be particularly careful about whom to contact when parents do not actually hold a child’s educational rights, or when a party that is not a child’s parent or guardian asks to file a complaint. In all cases, PSRS staff ensures that the proper parties know about the complaint request and the forthcoming investigation.

Complaint Investigation

PSRS staff members then forward all documentation—letters, allegations, and evidence—to the Focused Monitoring and Technical Assistance (FMTA) unit,* where a FMTA investigator takes over to conduct the actual investigation. FMTA at that point contacts schools and LEAs, researches the situation, and ultimately determines if an allegation is an actual violation. If it does find a violation, FMTA assigns corrective actions.

In the process, FMTA staff may add or change allegations if they uncover additional or conflicting information. Where needed and if appropriate, PSRS may make changes and “re-notice” the complaint. If FMTA finds no grounds for a complaint, the complainants may request that FMTA reconsider the investigation. While these requests are sent through PSRS, the PSRS unit does not then revisit the process of an allegation determination.

* For a profile of Focused Monitoring and Technical Assistance, see the insert to the fall 2010 issue of *The Special EDge* at www.calstat.org/specialEDge.html.

[notification] becomes especially complex in complaints against entities such as charter schools,” Canty says, because not all charter schools are connected administratively to their geographic school districts or SELPA regions. “We research the appropriate parties to notify in complaints, as complainants themselves are often not aware of the district or SELPA actually involved in the complaint.”

Materials for Formal Compliance Complaints

The formal complaint form is available online:

www.cde.ca.gov/sp/se/qa/documents/cmplntinvsrqst.doc

Guidance on how to complete complaint forms is available:

www.cde.ca.gov/sp/se/qa/documents/complntbints.asp

A brochure explaining the complaint process is available:

www.cde.ca.gov/sp/se/qa/documents/cmplntproc.doc

Family Empowerment Centers

Family Empowerment Centers provide family education, support, advocacy, and parent-professional collaborative activities to families of children with disabilities, ages 3–22. More information about FECs and other kinds of parent centers in California—Parent Training and Information Centers, Family Resource Centers, Community Parent Resource Centers, and Family Voices of California—is available in a directory of California’s parent agencies, found in the Winter-Spring 2009 insert to *The Special EDge* newsletter at www.calstat.org/specialEdgeOld.html (updated March 2011).

Reporting requirements make the issue of time critical for PSRS staff. By law, the PSRS and FMTA units together have 60 days to investigate complaints and report findings. PSRS works hard to get all complaints and accompanying materials to FMTA within two to four days of receipt when possible. Internal SED policy allows PSRS up to 14 days, but PSRS rarely uses this much time.

What PSRS Does Not Do

According to Smith, “It *is* our job to help people understand what is required of teachers, schools, parents, and the state,” in relation to special education. However, she also says that “it is not CDE’s job to fix everything.” PSRS is not able to do the following:

- Answer questions or concerns that are outside the scope of special education. PSRS staff will however, make appropriate referrals.
- Give opinions or advice. “We are very careful not to advise or take positions,” says Smith, “because none of us knows enough about the facts to tell a parent what he should be doing or what a school should be doing. But we can say ‘you have a right do this or that,’ and we can ask ‘has the school done this or that?’” Adds Babyak: “PSRS staff members are not advocates; we do not take a position; we provide information.”

- Mediate differences of opinion between districts and parents about appropriate services or the actual content of an IEP, since disagreements are not violations of the law. If parents and school districts are not able to work through their disagreements, the PSRS unit will direct the parents to the Office of Administrative Hearings (OAH), where disagreements are settled through due process proceedings (see below).
- Provide a personal “guide” through a complaint process. All PSRS staff members are qualified, and several have had direct experience with special education, either at the district level as staff or as parents of children who have received special education services.
- Address issues related to a teacher or other school personnel. While special education is considered a “categorical program,” and the law allows complaints in all categorical programs to come directly to the state,* issues or complaints about teachers, even if they are special education teachers, do not belong in this category and must be addressed at the level of the school district. When someone has a complaint

*For more about categorical programs, go to www.cde.ca.gov/fg/aa/cal and www.cde.ca.gov/ta/cr/cc/.

about any school personnel, PSRS staff members direct the individual to the appropriate venue for addressing personnel issues. As well, if teachers or other school staff have employment-related concerns, PSRS will generally refer them to their local district’s human resources offices or to their union representatives.

- Provide translation services to school staff. LEAs are required to provide these kinds of services for their own schools.

Quality Control

Careful oversight and strict regulations guide the operations of the PSRS unit. Specifically, state complaint procedures [Sec 300.151–153 of title 34, *Code of Federal Regulations*] govern what the unit is able—and not able—to do. In addition, all of the work of the unit is subject to peer review. “Any complaint I open,” says Smith, “is reviewed by my colleagues, who look at original documents and notes on the case to make sure I have picked up on all allegations and pinpointed the correct ones, according to the law. This internal quality control is not required. It’s a system we have in place to make sure that we’re doing our best work.”

A thorough understanding of the law is central to being an effective member of the PSRS unit. Both PSRS and FMTA staff members meet with CDE legal counsel when needed. “The law is complex,” says Babyak, “and unexpected issues may emerge. This connection [with experts in the law] is yet another critical factor in the division’s capacity to do its best work.”

In any given year, the PSRS team handles upwards of seven thousand contacts, and the unit processes more than one thousand complaints. While strictly adhering to its policies of objectivity and confidentiality, the PSRS unit is magnanimous in its approach. “We are the intake unit for everything,” says Smith. “Whether it’s concerns, questions, disagreements—you name it. You call us and we’ll get you to the place you need to be.”

Due Process

According to the Individuals with Disabilities Education Act (IDEA), **due process** represents the mechanisms or proceedings that are *due* to parents, children with disabilities, or anyone else who believes that a student’s special education rights have been violated. The law has put *processes* in place to address possible violations of these special education rights. Due process includes complaint procedures or other complaint resolution strategies that IDEA

has established to help parents and schools in particular find agreement when parents, teachers, school administrators, services providers, or other members of a student’s individualized education program (IEP) team disagree over the contents or implementation of the IEP. In short, due process involves the protections that are in place to make sure students with disabilities receive the free and appropriate education and services they are due.