

Response to Grand Jury Report 2001

From: Ackerman Elementary School District Superintendent
Alta-Dutch Flat School District Superintendent
Board of Directors for the Mid-Placer Public Schools Transportation Agency
Colfax Elementary School District Superintendent
Loomis Union School District Superintendent
Mid-Placer Public Schools Transportation Agency (the "Agency")
Placer County Office of Education
Placer Union High School District Superintendent

The Honorable James D. Garbolino
Presiding Judge of the Superior Court
County of Placer
Historic Court House
101 Maple Street
Auburn, CA 95603

INTRODUCTION

Respondents share the Grand Jury's desire to provide the highest quality of transportation services to the children whom we serve. We believe that we are fully complying with legal requirements but recognize that improvements can be made and appreciate the Grand Jury's interest in our services. We are very proud of the transportation services we have provided to the community.

Respondents are firmly committed to ensuring that all children transported by the Agency are provided safe and timely transportation by qualified drivers. Respondents intend to provide a high level of service to parents and students and intend to fully comply with all applicable state or federal requirements for students, including special needs students. If any harassment or other unlawful behavior directed at any student or other protected individual is reported, the Agency will promptly investigate and remedy the behavior. Respondents share the Grand Jury's interest in minimizing the use of outside transportation services for students. The Agency will require outside contract transportation providers to meet legal standards and meet service expectations necessary to provide safe and efficient transportation to our students.

The Agency will monitor and aggressively enforce employees' compliance with procedure, policies and regulations. Safe and timely transportation services are a top priority at the Agency, as are prompt and effective responses to concerns and complaints from parents or district employees. The Agency strives to obtain the full confidence of parents, school representatives, and the community in the transportation provided.

We have hired an experienced individual to serve as CEO beginning in January of 2001. The new CEO, Charles Ernst, is committed to improving services to all

children served by the Agency. Many of the Grand Jury recommendations were implemented by the Agency before receiving the Grand Jury report.

While we respectfully disagree with many of the Grand Jury's findings, we agree that improvements can be made and have implemented or will implement many of the Grand Jury's recommendation.

FINDING 1

Prior to the Grand Jury's investigation, there were no contracts for private contract services (i.e., taxicabs) between Mid-Placer and the service providers hired, contrary to State law and liability concerns.

Mid-Placer management and their Board of Directors failed to determine the qualification of the outside private contract service companies prior to entrusting them with special needs children.

FINDING 1 RESPONSE

Respondents disagree partially with this finding. Respondents agree that there were no contracts for transportation services by private providers, but no law requires contracts. Ed Code 39800 merely authorizes contracts. Respondents did review the qualifications of private providers before using their services. Respondents selected transportation providers that are commonly used by many school districts to assist with student transportation.

RECOMMENDATION 1

The Grand Jury recommends that there be a Board policy requiring formal, written contracts with service providers prior to any use of subtletted services in transporting special needs children.

RECOMMENDATION 1 RESPONSE

The recommendation has been implemented. The Agency has used such contracts since about July 2000 – several months before the Grand Jury report was issued on March 19, 2001. The Agency initially drafted a contract for transportation providers in or around June of 2000 – three months before the Agency first learned in late September of 2000 of the Grand Jury investigation. A Board Policy was implemented on May 24, 2001.

FINDING 2

The opinion of the legal advisor to the Grand Jury states that all outside contract drivers fall under the requirements of the California Education Code § 45125.1 (which was amended by the Montoya law) and all other requirements for bus drivers in regard to transporting special needs children.

Mid-Placer was not consistently ensuring that outside service providers were in compliance with the California Education Code regarding qualifications of individuals who interact with school children.

FINDING 2 RESPONSE

Respondents disagree partially with this finding. Specified contract drivers employed by a district are covered by 45125.1, but 45125.1(b) exempts emergency or exceptional situations. 45125.1 specifies that it applies only to employees of an entity that has a contract with a school district. The Agency complied with applicable law.

RECOMMENDATION 2

The Grand Jury recommends that background checks be completed before children are transported in the sole custody of any individual, internal or external to Mid-Placer. Furthermore, Mid-Placer should ensure that each of its drivers – whether contracted or not – complies with the provisions of the California Education Code which was amended by the Montoya Law.

RECOMMENDATION 2 RESPONSE

The recommendation has been implemented for internal drivers since the Michelle Montoya Law was effective on September 30, 1997, and has been implemented for external contract drivers since contracts were entered into around July 2000. The recommendation will not be implemented for external non-contract drivers such as parents or guardians of the children (who are authorized to be transportation providers under Education Code 39800) because such intrusions on their privacy would not be reasonable or warranted.

FINDING 3

The Mid-Placer Board has been lacking in direction and oversight regarding the agency's compliance with established policies and State laws concerning the transportation of special needs children.

FINDING 3 RESPONSE

Respondents disagree wholly with this finding. We believe that we have fully complied with established policies and State Law and that the Board has provided effective direction and oversight.

RECOMMENDATION 3

School districts, Mid-Placer, and the Placer County Office of Education share responsibility in the matter discussed in this report. The Grand Jury recommends that the Placer County Office of Education be the lead agency to ensure that the requirements of special needs children are met.

The Board should hold management accountable for transportation [sic] special needs children in accordance with State and Federal laws and agency policies.

RECOMMENDATION 3 RESPONSE

The Recommendation has been implemented in that the member districts, Placer County Office of Education and the Agency have shared responsibility for providing transportation services and in that the Board has held management accountable for transportation services that comply with law and policies.

The recommendation will not be implemented as to making Placer County Office of Education the lead agency to ensure compliance since such a recommendation is inconsistent with Respondents' belief that all Board members and participating entities participate fully in overseeing the services provided.

Special education students are ultimately the responsibility of their school district. The Placer County Office of Education assumes responsibility for providing the educational program if the district does not have an appropriate program available. "Responsibilities" are defined in California Education Code and federal law.

"[T]he local educational agency ultimately responsible for the provision of special education services to an identified special needs child is generally the school district in which the child's parents reside. Education Code §§ 48200. A county office of education's authority to service a child arises solely out of the delegation of that authority by the child's school district of residence through a local plan agreement or other contract, but does not relieve the district of residence of the responsibility to serve the child. 5 C.C.R. §§ 3000 (c)." San Mateo-Foster City School District, 4 ECLPR paragraph 122.

Therefore, it would be inappropriate for PCOE to assume the leadership role recommended by the Grand Jury.

FINDING 4

Mid-Placer has not adequately and consistently met the transportation requirements of special needs children, which has compromised and/or limited the integrity of educational benefits for these children.

The integrity of special needs students' educational day benefits continually has been compromised or limited by last minute changes in driver, routes, and/or vehicles.

FINDINGS 4 RESPONSE

Respondents disagree partially with this finding. Occasional difficulties have arisen when transportation services have been interrupted. Respondents disagree with

the finding that children's educational benefits continually have been compromised or limited.

RECOMMENDATION 4

The Grand Jury recommends that Mid-Placer, the Placer County Office of Education, and the Mid-Placer Board of Directors prioritize transportation of special needs students in accordance with statutes.

The Grand Jury recommends that Mid-Placer review its service policy for special needs children to ensure that these children receive the maximum benefit of transportation in relationship to education. The policy should ensure, among other things, that the transportation of every student with special needs by the same driver and on the same vehicle is given top priority as often as possible.

RECOMMENDATION 4 RESPONSE

This recommendation has been implemented in that Respondents have reviewed services for all children to ensure that all children receive the best transportation possible while minimizing any interruptions or changes. The Placer County Office of Education and the member districts have established the transportation of special needs students as a top priority. This has been conveyed to the Mid Placer Public Schools Transportation Agency and will continue to be a focus. While the same driver and vehicle cannot be guaranteed every day, priority is given to ensuring that special needs children receive transportation services from the same driver and on the same vehicle as often as is practicable. We are committed to continuing to receive input from parents and the community as to how we can better serve the children. Special needs children are a priority with us.

FINDING 5

Mid-Placer 's management has been ineffectual in prioritizing the use of available resources, particularly in the transportation of special needs children.

FINDING 5 RESPONSE

Respondents disagree partially with this finding. While occasional difficulties have arisen with special education children's transportation, we believe that management has effectively responded in recent months to the concerns. In particular, management has been closely monitoring transportation services for special education children and has been receiving positive feedback from all of the parents who had previously expressed concerns and who we believe are the parents who may have provided information to the Grand Jury.

RECOMMENDATION 5

The Grand Jury recommends that Mid-Placer recognize that the term "special needs" implies that those children who meet the criteria must be given priority

consideration. The Mid-Placer Board, Placer County of Education, and Mid-Placer management should work together to prioritize resources appropriately, bearing in mind their legal and ethical responsibilities for special needs children.

RECOMMENDATION 5 RESPONSE

This recommendation has been implemented. Respondents are working together to prioritize resources to transport special needs and all children and to comply with legal responsibilities for special needs and all children. The Agency continues to seek input from parents and continues to receive positive feedback in recent months.

FINDING 6

Mid-Placer and the Placer County Office of Education failed to respond in a timely manner to complaints by teachers and parents regarding transportation services for special needs children.

FINDING 6 RESPONSE

Respondents disagree partially with this finding. Respondents took prompt corrective action to remedy problems when resources were available, but not all complaints could be immediately resolved.

The Placer County Office of Education (separate from the other Respondents) wants to emphasize that the Placer County Office of Education, in particular, disagrees with the finding statement that indicates that the PCOE failed to respond in a timely fashion. The Assistant Superintendent of Special Education and his staff, the Executive Director of Business Services, and the Superintendent of Schools did report the concerns of the teachers and parents to the Mid Placer Transportation Agency.

RECOMMENDATION 6

The Grand Jury recommends that the Mid-Placer Board of Directors, the Placer County Office of Education, and Mid-Placer management develop a policy regarding complaints.

The Grand Jury recommends that the policy include but not be limited to the following:

- (a) A method to ensure that complainants promptly receive responsive information regarding the handling and resolution of complaints.
- (b) A tracking mechanism for each complaint from receipt to resolution.
- (c) A method for complainants to escalate their concerns to a higher level if satisfactory resolution is not forthcoming.
- (d) Reports of the nature and resolution of complaints at each Board meeting.

- (e) A formal mechanism for the Placer County Office of Education to forward complaints to Mid-Placer management.

RECOMMENDATION 6 RESPONSE

This recommendation has been implemented in that Respondents have developed an updated procedure/policy for handling and resolving complaints. While each complaint is unique and must be addressed on its individual issues and merits, Respondents are committed to addressing and resolving complaints and concerns. Respondents have developed an updated procedure, which addresses the Grand Jury's recommendations. In particular, the procedure provides for an employee who receives a complaint to offer to provide the complainant with a copy of the procedure. Employees have been directed to respond to concerns or complaints as soon as possible – preferably within 1 business day – with at least preliminary information. The Operations Manager is in charge of tracking complaints and overseeing resolution. The Operations Manager is to provide a written log of complaint intake and resolution to the CEO once a month. The policy provides that complainants can escalate their concerns to the CEO if the complaints are not satisfactorily resolved by the Operations Manager. The CEO will report periodically to the Board on the resolution of complaints. Placer County Office of Education will forward transportation complaints to the Operations Manager within 1 business day. The Placer County Office of Education management staff is in the process of developing a method to ensure that complaints receive prompt action and resolution.

FINDING 7

Mid-Placer does not have sufficient driver staff and qualified aides to ensure adequate coverage of all special needs routes.

FINDING 7 RESPONSE

Respondents agree with this finding.

RESOMMENDATION 7

The Grand Jury recommends that the Mid-Placer Board of Directors and Mid-Placer develop a detailed strategy and timetable to remedy the shortage and turnover rate of drivers. The recruitment, training, and retention of drivers must become a priority.

The Grand Jury also recommends that the Placer County Office of Education accept responsibility for both training and providing qualified aides.

RECOMMENDATION 7 RESPONSE

This recommendation has been implemented in part in that Respondents recognize as a priority and regularly discuss recruitment, training and retention strategies. California and national school bus employers are facing tremendous

challenges in attracting and retaining adequate numbers of qualified employees. Over the next six months, the Agency will be advertising and recruiting in different forums, including newspaper and internet recruiting. Additionally, the Agency is working with EDD on posting vacancies on the EDD website and will be participating in job fairs. The Agency also will discuss with the employees' labor union (CSEA) representative ideas for retention, training and programs to reduce the cost of licensing for new applicants. These types of changes must go through the collective bargaining process with the union before they can be implemented.

As to providing and training aides, the recommendation that Placer County Office of Education be responsible will not be implemented because it is not reasonable for one member entity to be required to be responsible. The Agency will maintain responsibility over the transportation aides as they are employees of the Agency. Placer County Office of Education is willing to assist the Agency in training the aides.

FINDING 8

Communication is a vital key for success in the transportation of special needs children. The Grand Jury found the following inadequacies:

- (a) Communication between some mobile vehicles used to transport special needs children and base stations was nonexistent or inadequate.
- (b) Communication from Mid-Placer to parents, teachers, drivers, and aides of special needs children is inadequate, i.e., route changes, driver changes, non-availability of service, etc.
- (c) Mid-Placer has no system in place to monitor the whereabouts of special needs children while entrusted to them.

FINDING 8 RESPONSE

Respondents agree with this finding as to communication sometimes being inadequate. Respondents disagree with there being no system in place to monitor the location of children.

RECOMMENDATION 8

- (a) The Grand Jury recommends that all vehicles used to transport special needs children are outfitted with working radio equipment and some other type of backup communication equipment such as cellular telephones.

For those vehicles that currently do not have adequate equipment, the Grand Jury recommends that the Board of Directors and Mid-Placer budget and obtain required equipment as soon as possible.

- (b) The Grand Jury recommends that Mid-Placer needs to comply with already established parental notification requirements stated in the

Mid-Placer Public Schools Transportation Agency, Special Education Parent Handbook.

Furthermore, the Grand Jury recommends that management implement procedures to ensure timely notification of any changes affecting special needs children to all other affected parties, i.e., teachers, aides, drivers, etc.

- (c) The Grand Jury recommends that Mid-Placer and the Board of Directors develop, implement, and follow procedures to ensure timely and responsive communication during the transportation of special needs children.

RECOMMENDATION 8 RESPONSE

- (a) This recommendation has been implemented in part in that: (1) the Agency is in the process of upgrading vehicles with new radio systems with better reception capability; and (2) vehicles without radios or which travel over routes which make radio communication difficult have been provided a cellular phone to ensure adequate communication capability. The Agency will investigate the economic feasibility of providing cellular phones for all vehicles over the next six months, which the Agency will then share with the Board for analysis and a decision. The Agency also has notified employees that if they have a personal cellular phone and need to use it for work emergency reasons, the Agency will reimburse the employee for work emergency calls if the employee submits the cellular phone bill and identifies the calls that were for work emergencies.
- (b) This recommendation has been implemented in that employees have been directed to comply with established parental notification requirements. As to notification to other affected parties, the Agency has directed employees to notify affected teachers, aides and drivers as soon as possible after notifying the parents.
- (c) The Agency developed procedures for communication between drivers and the Agency. The Agency has directed drivers to inform the Agency of any emergencies or of any delays of more than 15 minutes. The Agency has also developed procedures for contracted commercial drivers employed by other entities to communicate with the Agency.

FINDING 9

Despite existing internal policies, drivers do not always have sufficient route information, IEP protocols, and emergency contact information to ensure the safe transportation and delivery of special needs children.

FINDING 9 RESPONSE

Respondents disagree partially with this finding in that internal drivers have had this type of information long before the Grand Jury investigation.

RECOMMENDATION 9

The Grand Jury recommends that Mid-Placer ensure that all relevant information, including IEP protocols, is current and available for internal or external drivers. Such information should not breach confidentiality, but should be adequate to ensure the safety of the special needs children.

RECOMMENDATION 9 RESPONSE

This recommendation had been implemented for internal drivers long before the Grand Jury investigation. Each vehicle has a clipboard with student information on it, including relevant information from each child's IEP. The Agency is in the process of auditing the clipboards to ensure relevant information from the child's IEP is included. The Agency is also developing a special education transportation form to be completed by the IEP team and/or parents and then be provided to the Agency. Parents are welcome to provide input on improving the student information forms. This recommendation has also been implemented for external drivers in that the Agency faxes the student information to the external transportation entity and directs the entity to provide the information to the driver.

FINDING 10

The Placer County Grand Jury found that additional follow-up and monitoring is required by the 2001-2002 Grand Jury.

FINDING 10 RESPONSE

Respondents disagree wholly with this finding.

RECOMMENDATION 10

The Grand Jury recommends that the 2001-2002 Placer County Grand Jury follow-up and monitor Mid-Placer Transportation Agency.

RECOMMENDATION 10 RESPONSE

This recommendation is not a recommendation that the Agency can implement since it is a recommendation for the Grand Jury, not the Agency. While the Agency believes such continued monitoring is not necessary as steps have been taken to alleviate concerns and improve services, the Agency welcomes the opportunity to demonstrate to the Grand Jury the improvements that have been and/or will be implemented.

CONCLUSION

Respondents are united in their commitment to provide quality transportation services to all children served by the Agency.

The Agency encourages parents to provide feedback, both positive and negative, to the Agency so that continued improvement can be made. Our goal is not only to meet expectations, but to exceed expectations. Our new CEO is committed to monitoring closely the service provided and to ensuring satisfied parents and children.

Dated: June __, 2001

Frank Mullholland, Superintendent
Ackerman Elementary School District

Pete Keesler, Superintendent
Alta-Dutch Flat School District

Alan G. Shuttleworth, Superintendent
Colfax Elementary School District

Chuck Ernst, CEO
Mid-Placer Public Schools Transp. Agency

Gigg. M. Powers, Superintendent
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Bart O'Brien, Superintendent
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