

MID-PLACER PUBLIC SCHOOLS TRANSPORTATION AGENCY TRANSPORTATION OF SPECIAL NEEDS CHILDREN COMPLAINT NUMBER 2000A-11

Summary/Background

Shortly after being impaneled, the 2000-2001 Placer County Grand Jury received a series of complaints from employees of Mid-Placer Public Schools Transportation Agency¹ as well as numerous complaints from parents of “developmentally disabled” or special needs² children whose transportation to and from school is provided by Mid-Placer.

Those complaints ranged from a severe lack of staffing of bus drivers, to poor management practices, to failure to provide legally mandated transportation of “special needs” children, to disregard of the Montoya Law requiring criminal background clearances of personnel who come in contact with school children.

The Grand Jury interviewed employees, administrators, Mid-Placer Board members, Placer County Office of Education, parents of special needs children, taxicab owners, and a CHP officer during this investigation. Early in the investigation, it became increasingly clear to the Grand Jury that Mid-Placer was an agency with severe internal as well as external problems that were worsening by the day. As presently structured and operated, the Grand Jury found that the current system is failing the special needs children of Placer County.

Mid-Placer Transportation Agency is a Joint Powers Authority (JPA) made up of the following school districts: Ackerman Elementary, Colfax Elementary, Loomis Union, Alta-Dutch Flat, and Placer Union High. Each school district has two representatives serving on the Governing Board of Mid-Placer Transportation Agency. A representative from the Placer County Office of Education (PCOE) and a CSEA Union³ representative also attend Mid-Placer Schools Transportation Agency Board meetings, which are usually held once a month. Mid-Placer provides transportation services to seven school districts within Placer County.

¹ Mid-Placer Public Schools Transportation Agency is also referred to in this report simply as Mid-Placer.

² The California Welfare and Institutions Code (WIC) 4512 (a) states that “developmental disability” is a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual.” This term “shall include mental retardation, cerebral palsy, epilepsy, and autism.” It shall “also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.” In this report, the terms special needs, special education, and children with developmental disabilities are all used interchangeably and should be considered as having the same meaning.

³ CSEA represents the union employees at Mid-Placer Transportation Agency.

Because the membership of the Board governing Mid-Placer is appointed rather than elected, responsibility for action or inaction by the agency is fragmented. This fragmentation of responsibility results in ineffective control and oversight by the Board.

California Education Code §14550, Joint Powers Authority, states in pertinent part:

“(a) Notwithstanding any other provision of law, a local education agency’s obligations pursuant to law may not be avoided through participation in a joint powers authority...”

Discussion

To sort out the problems of this troubled agency, and to understand why it seemingly could not deliver the transportation services for which it was created, the Grand Jury selected key problem areas for analysis. They are:

1. Lack of bus drivers to staff established routes
2. Agency Administration
3. Failure to provide mandated services to special needs children
4. Out of Agency Transportation
 - Use of taxicab companies to transport special needs children
 - (a) Use of cabs without written contracts
 - (b) Use of cabs without criminal background checks of cab drivers

1. LACK OF BUS DRIVERS

At the September 28, 2000 Board meeting, CEO Rita Finen reported that Mid-Placer Public Schools Transportation Agency had 40 bus routes, including approximately 22 special needs routes. According to Ms. Finen, there were 47 drivers (including 5 substitutes) employed at the time to cover these assigned routes and any special events (such as transporting sports teams) for which the agency contracted. Witnesses representing management of Mid-Placer testified that the shortage of drivers was a result of the burgeoning economy. Persons who in the past had found school bus driving an attractive occupation were being employed at higher salaries in other fields.

Mid-Placer’s efforts to recruit drivers were not successful. One of the incentives normally used to entice applicants by offering higher salaries, was not tried. Responding to these personnel shortages, management testified that they utilized virtually every available option to attempt to cover bus routes, including special needs routes. **One of the alternatives employed was the expanded use of private taxi transportation.**

According to testimony for the period of November 1995 through March 2000, the attrition rate of personnel at Mid-Placer is as follows: at least 60 drivers, three aides, four operational personnel, seven clerical, and one mechanic have resigned or were terminated from Mid-Placer employment. These figures do not include retirees,

employees terminated due to disability, death, or drivers who did not pass probation. The complaints addressed in this section of the report were largely generated by the failure of Mid-Placer to employ sufficient personnel to perform their mission.

Some of the problems⁴ and issues associated with transporting special needs children were:

- Children not picked up from home
- Children not picked up from school
- Children consistently picked up late for school
- Children consistently picked up late from school
- Children riding the bus for more than 1½ hours at a time
- Special needs children intermixed with high school students without parental knowledge or approval
- Parents called at the last minute to transport children to and/or from school
- Cancellation of routes
- Last minute driver changes
- Children dropped off at the wrong school
- Children dropped off without an adult present – both at school and at home
- Driver with an alleged equilibrium problem being allowed to transport special needs children on Mid-Placer buses

Despite the lack of drivers, school districts “remain responsible for delivering appropriate special education instruction and related services, such as transportation. Related services must assist the child in benefiting from special education.”⁵ Transportation is such an essential service that when it is not used on a regular and routine basis it may actually be a detriment to educational benefit for special needs children, assuming they get to school at all. Obviously, where the transportation services do not show up and children do not get to school at all, no educational benefit is received. Many parents and teachers have complained that special needs students are arriving late to classes or not at all because of problems with transportation provided by Mid-Placer.

In addition, many parents have been told that they (the parents) must transport their special needs child when routes are canceled. Parents have not consistently been reimbursed for their mileage in these instances. According to statutes requiring transportation of special needs children, a school district or agency cannot compel parents to supply such transportation. A school district or agency is not discharged of its obligation to transport students with disabilities who are eligible for the service. The district or agency can ask the parents to transport their own child and reimburse them for it; however, **the district or agency cannot require a parent to provide transportation.**

⁴ Some problems and issues will show up in multiple categories.

⁵ Protection and Advocacy, Inc., Senior Attorney, letter dated September 21, 2000.

2. AGENCY ADMINISTRATION

Mid-Placer has had four Chief Executive Officers in the last few years. This constant shifting of management has undoubtedly contributed to the problems of transporting special needs children. These problems include, but are not limited to the following:

- Required and/or qualified aides not on buses
- Special needs children intermixed with high school students without parental⁶ knowledge or approval
- Parents not notified of route changes and/or cancellations
- Telephone calls not returned to parents by Mid-Placer staff and management
- Driver changes without prior notification to parents
- Allowing a substitute driver (who works in the office) with an alleged equilibrium problem to transport special needs children on Mid-Placer buses
- Violation of Individualized Education Program (IEP) requirements

Individualized Education Program (IEP)

An individualized education program (IEP)⁷ is a written statement for each child with a disability that is developed, reviewed, and revised in accordance with Section 614(d) of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.). Included with the IEP are requirements for 'related services' which encompass transportation as may be required to assist a child with a disability to benefit from special education. The IEP is devised through a series of evaluations and reevaluations with parental consent. The IEP is developed by a program team made up of (1) the parents of the child, (2) one regular education teacher, (3) one special education teacher, (4) a qualified representative of the local educational agency, and (5) other qualified professionals who have knowledge or special expertise regarding the child.

As the IEP team develops a student's Individualized Education Program, in addition to considering educational goals and objectives, the team should also consider related services to support these objectives. One of the most important related services to be considered for a student in need of special education is transportation. If it is determined that the student will need transportation service, routing becomes a vital part of the student's success equation. In each situation, the transportation needs of the student must be assessed on an individual basis.⁸

Each special needs child's IEP is on file with the Placer County Office of Education, with appropriate instructions for transporting that child provided to Mid-Placer Transportation Agency. Examples of instructions that may be included in an IEP are: that the child cannot be on a bus (or other vehicle) more than 1½ hours; may not be exposed to temperatures above 103°; may not sit next to a child of the opposite gender; may not be

⁶ Throughout this report, references to parents also refer to legal guardians.

⁷ The Individualized Education Program (IEP) is also referred to as the Individualized Treatment Plan (ITP) by Mid-Placer Transportation Agency.

⁸ School Transportation News, Special Needs, August 2000.

transported with older children; must have an aide on the bus; must have a particular type of seat belt or restraint harness, etc.

All of these instructions should be provided to the drivers of special needs routes. Testimony before the Grand Jury indicated that such instructions are not being relayed to the proper personnel and that Mid-Placer Transportation Agency routinely ignores such instructions.

Communication

Emergency information for special needs children appears not to be updated routinely. Drivers, not only school bus drivers, but also the cab companies, have little or no information on special education children despite the internal procedure manual requirements of Mid-Placer Transportation Agency. It is often difficult or impossible (when radios are not working or in the buses) for drivers to contact dispatch to advise of problems or ask questions concerning the special needs children.

On a continuing and routine basis bus routes are canceled, and either parents are not notified in advance, or they are asked on short notice to transport the children from home to school or school to home. **It is inconceivable to the Grand Jury that such an agency as Mid-Placer and ultimately the Placer County Office of Education would choose to ignore statutory requirements and place the burden on parents for these most vulnerable students.**

Furthermore, pursuant to testimony to the Grand Jury, when parents of special needs children complained about services and their concerns, the former CEO and some (current) management personnel at Mid-Placer Transportation Agency did not return telephone calls. In fact some retaliation may have taken place against the parents and therefore, ultimately the children. This retaliation took the form of unnoticed route changes, children not being picked up on time, or at all, etc.

Parents have routinely complained not only to Mid-Placer but also to the Placer County Office of Education, apparently without significant improvements in services. From documents received under subpoena from the Placer County Office of Education, complaints they receive are simply forwarded to Mid-Placer with the assumption that Mid-Placer will solve the problem and/or return the telephone calls. It is disconcerting to the Grand Jury that the Placer County Office of Education has not been more proactive in addressing these concerns as most, if not all, special needs education is executed and monitored from the Placer County Office of Education.

Disability Harassment

The U.S. Department of Education takes a dim view of “harassment based on disability.” The Grand Jury has no reason to suspect that officials of Mid-Placer intentionally created conditions which resulted in “harassment” of special needs students, but because of their inattention and lack of oversight of transportation

operations allowed “de facto harassment” to occur. Whether harassment was or was not intentional, the end result was the same. Mid-Placer on occasion victimized special needs students, along with their families by not ensuring that documented requirements were met.

“Disability harassment can have a profound impact on students, raise safety concerns, and erode efforts to ensure that students with disabilities have equal access to the myriad benefits that an education offers. Indeed, harassment can seriously interfere with the ability of students with disabilities to receive the education critical to their advancement.”⁹ In addition, according to experts in the field, a significant number of special needs children cannot and do not tolerate changes. Changes in routing, vehicles, bus drivers, etc. can and often do have a detrimental effect on the behavior of special needs children and ultimately on their ability to function in a classroom setting. Furthermore, the reaction of one special needs child to unwelcome changes can negatively impact others on a route or in the classroom setting. Every effort should be made to ensure that special needs children’s routines, schedules, and surroundings remain as stable as possible.

Former U.S. Secretary of Education Richard Riley emphasized the importance of ensuring that schools are safe and free of harassment. Students cannot learn in an atmosphere of fear, intimidation, or ridicule.¹⁰

“Schools...have a responsibility to ensure equal educational opportunities for all students, including students with disabilities. This responsibility is based on Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Act of 1990 (Title II), which are enforced by the...Office of Civil Rights. Disability harassment is a form of discrimination prohibited by Section 504 and Title II.

“State and school districts also have a responsibility under Section 504, Title II, and the Individuals with Disabilities Education Act (IDEA)...to ensure that a free appropriate public education¹¹ (FAPE) is made available to eligible students with disabilities. Disability harassment may result in a denial of FAPE under these statutes. Such harassment includes ‘students continually taunt or belittle a student with mental retardation’ or physical disabilities ‘by mocking and intimidating him (or her) so he (or she) does not participate in class.’”

Parents reported three incidents over approximately a one-year period involving sexual encounters between special needs students while being transported by Mid-Placer. If

⁹ Norma V. Cantú, Assistant Secretary for Civil Rights, Office for Civil Rights, U.S. Department of Education, Washington, D.C., July 25, 2000.

¹⁰ Ibid.

¹¹ Free appropriate public education means special education and related services that (a) have been provided at public expense, under public supervision and direction, and without charge; (b) meet the standards of the State educational agency; (c) include appropriate preschool, elementary, or secondary school education in the State involved; and (d) are provided in conformity with the individual education program required.

students had been seated according to documented seating charts, these incidents more than likely would not have occurred.

According to testimony, the first incident involved a boy displaying his naked genitals in the face of a girl. The second and third incidents involved a boy putting his hands down a girl's shirt and fondling her. These incidents were not reported to the parents by Mid-Placer. When the parents learned of the incidents from their children and complained to Mid-Placer, they were promised the seating situation would be resolved, but it was not.

According to the June 1999 report made to the Placer County Sheriff's Department, a substitute driver was not provided with the special needs seating assignments of the children. The Placer County Sheriff's Office found that the incidents did take place. The Sheriff's Office interviewed the Special Education Administrator for the Placer County Office of Education. The Administrator stated that the situation would be remedied immediately for the remainder of the summer school schedule and would be continued throughout the new school year. However, the parents of the girl testified that this did not occur.

Safe Delivery of Children

The Grand Jury is also concerned with Mid-Placer's apparent lack of commitment to monitor the successful delivery of special needs children entrusted to them for transport. During this investigation the Grand Jury learned, through testimony from parents, of an incident that occurred on Tuesday, March 21, 2000. On that day, a parent arrived as scheduled at 5:15 p.m. at the home of his child's day care provider, to learn that his child (who was normally dropped off no later than 3:30 p.m.) had not yet been delivered from school by one of the taxicab companies. While he was on hold for 5 minutes waiting to talk to Mid-Placer's dispatch office, a police officer arrived with his child. The parent hung up without speaking to anyone at Mid-Placer.

The day care provider told the parent she had contacted Mid-Placer three times between 3:45 and 4:55 p.m. to find out where the child was. The first two times, she said she was told the child would be delivered by 4:15 p.m. and then by 4:45 p.m. She was not informed that the child's delivery was delayed because the driver had gotten lost, although later communication from Mid-Placer management to the child's parents indicated that Mid-Placer was aware of the situation at the time of the incident. In response to her third call, just before 5:00 p.m., the day care provider was told the van was smoking and the child would be delivered by a police officer. The parents testified that they were also informed by Mid-Placer that dispatch personnel would be leaving at 5:30 p.m., whether or not the children had been delivered.

The police report on this incident confirmed that an officer had stopped a taxicab company van at approximately 4:40 p.m. due to smoke issuing from the engine compartment. After calling the fire department, the officer arranged for the three special needs children in the van to be delivered to their assigned destinations by another police officer. The last child was safely delivered at 5:25 p.m.

Additional Operational Issues

There are additional issues between management and union employees which include, but are not limited to, nepotism, favoritism, lack of leadership, lack of trust, altering timecards without employee knowledge, poor employee morale, poor communication within and outside the agency, high driver staff turnover, and postponed routine maintenance on buses. However, while the Grand Jury finds that there are apparent numerous management issues at Mid-Placer, the main focus and concern of this report is the treatment of special needs children.

In November 2000, an outside consultant presented “Organizational Review Findings and Recommendations” to the Board of Directors of Mid-Placer. The consultant found that “the perception of the organization by stakeholders is an organization that lacks respect for people, is not committed to communication to affected parties, has very little, if any trust between parties, management and staff do not work together, and has confusion of roles and responsibilities.”

The consultant’s report goes on to say that the employees are “currently disillusioned and defensive...[O]ur sense is that the employees care deeply about the students and the service they provide... The concerns and needs of special education students require unique treatment within operations...[T]he Agency must respond to their needs in a different manner than the general student population.” The consultant makes the following recommendations, and the Grand Jury wholeheartedly agrees with these suggestions:

- “Continue to follow rules and regulations already in place (e.g. route maps, seat assignments, and communication with parents).
- Separate regular and special education student schedules and operational procedures within operations (e.g. drivers and aides, training expectations, operational alternatives, priority changes).
- Set the priority of staffing toward special education students/routes.
- Never combine regular and special education routes/drivers/students.
- Train several regular drivers for special education driver and aide staff back up.”

3. FAILURE TO PROVIDE MANDATED SERVICES TO SPECIAL NEEDS CHILDREN

For a number of years, funding for school transportation has been mandated for special needs children. According to California Transportation Data for the school year 1997-98, annual State funding for all Kindergarten-12th grade transportation was \$1,004,658,122¹² with the annual transportation cost per pupil at \$1,004. The number of students with disabilities who received transportation funding for the same period was 106,908 at a cost of \$277,183,514. The cost per special needs student was \$2,593. The State allocated 27.5% of its annual K-12 transportation budget for students with

¹² These funds include special needs, home schooling, reimbursement and district encroachment transportation costs.

disabilities. Parents of all other children must pay a fee¹³ for each child or provide for their own transportation.

The Grand Jury found several areas of non-compliance with mandated services for special needs children. These include but are not limited to the following:

- Required aides not on buses
- Seating charts and protocols¹⁴ not known by the driver
- Children riding the bus for more than 1 ½ hours at a time
- Children not picked up from home and/or school
- Ensuring that children are on time to class
- Cancellation of routes without prior notice

California Government Code §41850 specifically states that special education/needs children must be transported from home to school and returned (to home or other designated location). As previously mentioned, Mid-Placer is paid for the transportation of special needs children while the parent (or guardian) must pay for regular education children's transportation (see footnote 13).

Mid-Placer provides parents with a Special Education Parent Handbook. This handbook clearly states,¹⁵

“Each pupil is assigned to a definite bus and may be assigned to a particular seat. Pick up time, routes, buses, and pick up points may need to be changed during the year to accommodate new children. No pupil will be permitted to leave the bus at a point other than his or her assigned stop...Drivers are not allowed to deviate from assigned routes...”

The Special Education Parent Handbook goes on to state¹⁶

“The buses operate on a precise schedule in order to have the children on board for the least amount of time and still meet the scheduled school starting and dismissal times.”

“No student will be delivered to any address other than the regularly scheduled stop except in an emergency situation.”

Parents and teachers have been complaining to Mid-Placer and the Placer County Office of Education about the level of services provided by Mid-Placer. The Grand Jury

¹³ Mid-Placer currently charges parents of non-special needs children \$90 per semester/\$180 for the school year for one child; \$160 per semester/\$320 for the school year for two children; and \$230 per semester /\$460 for the school year for three or more children.

¹⁴ This refers to specific instructions regarding a special needs child, such as temperature control, length of time on the bus, etc.

¹⁵ Special Education Parent Handbook, revised August 18, 2000, page 2.

¹⁶ Ibid., page 3.

found many instances where special needs children had been left at other than assigned stops and/or left without the presence of a parent, caretaker, or teacher.

Former CEO Finen of Mid-Placer Transportation Agency¹⁷ stated at a public meeting¹⁸ that Mid-Placer has been in the “habit” of canceling special needs routes when there are not sufficient drivers to cover regular, special needs, or special events (such as sports) routes.

As part of the investigation process, the Grand Jury subpoenaed Placer County Office of Education complaint records. The table listed on the following page **does not include** complaints that Mid-Placer received directly. The Grand Jury then tabulated and categorized the complaints received from the Placer County Office of Education as shown on the following page.

¹⁷ CEO Finen resigned her position in October 2000. A new CEO has been hired and is currently on board at Mid-Placer.

¹⁸ Mid-Placer Transportation Agency Governing Board meeting, September 28, 2000.

**COMPLAINTS RECEIVED BY THE PLACER COUNTY OFFICE OF EDUCATION
FROM PARENTS AND TEACHERS¹⁹ REGARDING MID-PLACER
FROM SEPTEMBER 1998 THROUGH OCTOBER 2000**

COMPLAINT**	NUMBER*
Bus late – either to pick-up or drop off	315
No telephone call or failure to return telephone calls	59
Parent or guardian ²⁰ had to transport child from school/home	58
No regular driver	53
Child did not go to school because of the lack of transportation	39
Bus did not show up at all and no telephone call prior to pick up time	27
Bus did not stop at bus stop	26
No harness/seat belt/vest/car seat on bus or not used on student	26
Child left at other than authorized place (i.e., home, school, etc.)	26
No aide on bus as required	24
Child kept on bus too long (past their IEP requirements)	23
Parent had to leave work to pick up or take child to school/home with no prior notice	18
Driver did not have proper instructions on how to find home, seating protocol, etc.	14
Child missed or late to medical or therapy programs because of Mid-Placer's service or lack thereof	14
Mid-Placer regularly paying parent in lieu ²¹ of transportation	10
Special needs child placed on bus with high school students (without prior notice)	8
Taxi cab offered but parents refused because they did not know or "trust" the driver	8
Taxi cab called to pick up child without prior notification to parent	7
Parents not notified of pick up time change or other changes on the route	6
School day short – bus arrived two more hours late or did not arrive at all	6
Driver refused to pickup students	4
Parents having problems at work (attendance) because of Mid-Placer's lack of service	3
Bus completely without or without working radio – Driver could not be contacted by Mid-Placer	2

*Some complaints had multiple categories such as (1) no aide on the bus, (2) bus late, (3) did not go to school, etc.

**There were several overall comments that did not fit into any category. These include but were not limited to: Mid-Placer is not helpful, doesn't care, won't return telephone calls, won't communicate with parents, always saying that there is a shortage of drivers, putting the burden of transporting the children on the parents, etc.

¹⁹ These complaints specifically related to special needs children.

²⁰ Will be referred to simply as parent.

²¹ Mid-Placer has a budget of \$27,000 per year for payment to parents in lieu of transportation.

4. OUT OF AGENCY TRANSPORTATION

As a stopgap measure to the problem of insufficient drivers, Mid-Placer has been using the services of two taxicab companies to transport special needs children. The cost of such services was \$180,740 for the period of July 1999 through June 2000 and \$173,624 from July 2000 through December 2000.

In 2000-2001 budget documents provided, Mid-Placer has a line item of \$200,000 for "contract services." This represents 5.57% of the total agency budget of \$3,584,854. In testimony from the new CEO of Mid-Placer the projected costs for the 2000-2001 budget year will more than likely exceed \$300,000 which amounts to an expenditure of 8.36% of the agency annual budget.

Mid-Placer has an ongoing financial arrangement (i.e., a verbal trip-to-trip hiring agreement) with Medicab of Sacramento/Sierra and Macy Transportation and Communications d.b.a.²² Sierra Cab. Mid-Placer did not ensure nor require that these two companies' drivers have the same qualifications as school bus drivers.²³ Nor did Mid-Placer require that the drivers comply with California Education Code §45125 (as amended by the Montoya Law).

After the tragic death of Michelle Montoya, California enacted legislation authored by (now Senator) Deborah Ortiz²⁴ to protect children. This law, more commonly referred to as the Montoya Law, amended California Education Code §45125.1 to state:

"(a) Except as provided...if the employees of any entity that has a contract with a school district...to provide any of the following services may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice...

- (1) School and classroom janitorial
- (2) Schoolsite administrative
- (3) Schoolsite grounds and landscape maintenance
- (4) **Pupil transportation** (emphasis added)
- (5) Schoolsite food-related"

California Vehicle Code §34500 states "The department (CHP) shall regulate the safe operation of the following vehicles: ...(c) Buses, school buses, school pupil activity buses, youth buses, and general public paratransit vehicles."²⁵

²² D.b.a. means "doing business as."

²³ Medicab testified to the Grand Jury that they are certified under Title 22 specifications issued to Medi-Cal providers. These requirements include that the drivers (a) have a current California drivers license or current California Ambulance Driver Certificate issued by DMV, (b) be at least 18 years of age, (c) possess at least a current American Red Cross Standard First Aid and Personal Safety Certificate, (d) have passed a physical examination within the past two years, (e) possess a current DMV Medical Examination Report, (f) not be a registered sex offender, (g) not be addicted to narcotics or dangerous drugs, and (h) not habitually or excessively use intoxicating beverages.

²⁴ California Statute AB2103, Chapter 840, signed by Governor Pete Wilson in September 1998.

Further excerpts from the California Vehicle Code specifically spell out the requirements for persons who drive vehicles for regular and special needs children. (See addendum for a more complete explanation of those requirements.) Those requirements include but are not limited to: (1) Applicants should be interviewed and tested at the closest CHP office, (2) School bus officers and coordinators will conduct an initial interview to ensure minimum requirements for the certificate, (3) medical examination and certificate, (4) fingerprinted by the CHP, (5) FBI fingerprint card, (6) first aid exam as determined by the Emergency Medical Services Authority, et al.²⁶

School bus drivers are required by law to receive more training than any other driver in the State. A school bus driver receives training in student management and first aid. A school bus driver's background is checked by the Department of Justice and/or the FBI prior to receiving a license to drive a school bus. Laws strictly regulate school bus stops. Procedures to load and unload the students are also regulated by laws. School bus drivers are regulated by hundreds of additional laws governing the operation and maintenance of a school bus. School bus drivers receive so much original and continual training, that a school bus driver can legally drive any bus on the roadways. **Therefore, special needs children deserve and need drivers with this level of training and professionalism.**

In an era when children have become victims of predators and in light of California statutes it is logical to assume that the Mid-Placer Board of Directors, Mid-Placer Transportation Agency management, and ultimately the school districts that are mandated to transport special needs children, would do everything in their power to ensure the safety of these most vulnerable children. The Grand Jury found that these agencies were not doing everything possible to protect the children.

Mid-Placer's Special Education Parent Handbook²⁷ states

“Occasionally it is necessary for the Agency to use the services of the local medical cab companies. The drivers used in this service are fingerprinted for background checks, as well as their driving history is evaluated. While they are not bus drivers, they do pass the same background checks that school bus drivers go through.

Every effort is made to keep students on Agency buses. However, sometimes it is necessary to place students in the cab service to meet medical or other unique needs. This service is arranged and monitored through the Agency Dispatch office.”

In response to criticism of Mid-Placer former CEO Finen wrote a letter to the Auburn Journal stating the following, in part:

²⁵ California Highway Patrol, Passenger Transportation Safety Handbook, HPH 82.7, Chapter 1, pg 1-1.

²⁶ Ibid, Chapter 2, pages 2-1 through 2-4.

²⁷ Special Education Parent Handbook, revised August 18, 2000, page 6.

“It is obvious the intent of the California State Legislature that the transportation of school children (whether they are regular or special education) be carried out in a safe and secure fashion. California law requires all school bus drivers be fingerprinted twice, once by the CHP, and again by the employer. The CHP background check goes back 10 years, the districts look at whether an applicant **has ever** been convicted of certain crimes. A DUI conviction causes DMV to revoke a school bus driver’s Special Certificate; therefore, they could not drive a school bus in California...To **qualify to be tested** by CHP, a person must receive at least 20 hours of classroom instruction and at least 20 hours of one-on-one behind the wheel training from a State Certified Instructor. After they pass the training course, DMV, and CHP testing, they must still receive a minimum of 10 hours each year, of in-service training on material relevant to public transportation.”²⁸

After stating this public opinion and explanation of what it takes to become a bus driver, it seems unconscionable to the Grand Jury that Mid-Placer would not take the same care in ensuring that contract service providers for special needs children not only meet the minimum requirements, but even exceed them as Mid-Placer has no direct “hands-on” management of the contract agencies.

Mid-Placer relied on Medicab and Sierra Cab to hire drivers, but not to have them undergo fingerprinting, criminal background checks, additional first aid training and certification(s), as required by law for a school bus driver. **While the Grand Jury found that Medicab and Sierra Cab have been trying to comply with the regulations on their own**, the fact remains that Mid-Placer and ultimately the JPA have an obligation to the parents and the special needs children to ensure that all safety precautions and qualifications of individuals “hired” by them are held to the higher standard.

In a written opinion of October 3, 2000, the Placer County District Attorney’s office stated, “Unless the school district has made an affirmative determination that the contact is so limited that no check is required, pursuant to [Education Code] Section 45125.1 c, the taxicab drivers driving pupils to or from school should be required to undergo background checks by the DOJ.”

The Attorney General of the State of California in an opinion dated February 1, 2001, stated that:

1. “A school district may contract for taxi cab services to transport children to and from school “
2. “A criminal background check procedure involving fingerprint clearance by DOJ is applicable for any person engaged in pupil transportation under contract with a school district including taxi cab drivers transporting children to and from school.”

²⁸ Letter dated May 23, 2000 from Rita Finen (CEO at the time) of Mid-Placer to the Auburn Journal.

It was not until after the Grand Jury began its investigation that Mid-Placer actually had written contracts with these outside companies to transport the special needs children.²⁹ Until the contracts of October 10, 2000, there was no mandate to do background criminal checks or training.

The Placer County Grand Jury interviewed both Medicab and Sierra Cab owners. Both owners testified that prior to the Grand Jury investigation, no contracts existed between the companies and Mid-Placer. The outside companies further testified that they could not provide their own background checks because they did not and are not allowed to have an account with the Department of Justice. The companies also do not receive feedback on the background and fingerprint checks from Mid-Placer, unless there is a problem.

According to former CEO Finen of Mid-Placer Transportation Agency, “we will continue to [use Macy Transportation] until such time as we can fulfill our service requirements.”³⁰

Clearly there is a relationship, and it appears that there will continue to be a relationship, between Mid-Placer Transportation Agency and Macy Transportation and Sierra Cab and by extension with the Placer County Office of Education and the other members of the JPA. This constitutes an on-going fee-for-service relationship.

In an effort to determine if the transportation of special needs children via cabs was a unique situation, the Grand Jury also interviewed representatives from other Placer County school districts not affiliated with Mid-Placer. The table on the following page shows the information gathered from those interviews and from the investigation of Mid-Placer by the Grand Jury.

²⁹ Medicab of Sacramento/Sierra and Macy Transportation and Communications, d.b.a. Sierra Medical.

³⁰ Letter from CEO Finen to parents of a special needs student dated April 19, 2000.

COMPARISON OF STUDENT TRANSPORTATION SERVICES IN PLACER COUNTY

QUESTION	MID-PLACER	ROCKLIN UNIFIED DISTRICT	EUREKA SCHOOL DISTRICT	ROSEVILLE CITY SCHOOLS	AUBURN UNION DISTRICT
Number of buses	74	20	27	55	0*
Number used for special needs children	29 (39%)	2 (10%)	4 (15%)	27 Vans 9 Special Ed buses (16%)	0
Are taxicab services used?	Yes	Yes	No. Used in the past but stopped because of poor service	No. Used in the past but stopped because of poor service.	Yes for ALL special needs children
Names of taxicab services	Medicab Sierra	Medicab	N/A	N/A	Medicab
Is this service (taxicab) under contract?	Not until 10/2000	No (as of 11/2000)	N/A	N/A	Yes
How often are cabs used?	Daily	Daily	N/A	N/A	Daily
How much money is spent on taxicabs?	Approximately \$200,000 budgeted for school year 2000-2001	\$15,000 - \$25,000 annually	N/A	N/A	\$190,000 for school year 2000-2001

*Auburn Union has a contract with Durham Transportation for school bus services. The School District had a three-year contract with Mid-Placer but at the end of the 1999-2000 school year, with one year remaining on the contract, Auburn Union terminated it. According to a District administrator, the decision to terminate was made in part because of the number of complaints received from Mid-Placer's clients (parents) and concerns with the safety of the children while riding Mid-Placer's buses. This administrator went on to say that he had spent "hours on the phone" dealing with Mid-Placer and parents. Safety concerns included lack of adequate emergency training for the drivers, inadequate driver training, and reports of minor bus accidents.

Summation

It was and is the intent of the California State Legislature that the transportation of all children including those with special needs is to be carried out in a safe and secure fashion. This appears not to be the case with Mid-Placer Transportation Agency. The welfare of Mid-Placer's clients cannot be guaranteed, most especially the needs of their special education students, when Mid-Placer continues to use taxi drivers without verifying their qualifications (i.e., licensed and trained in transporting special education

children, fingerprinting, and background checks).³¹ It should be pointed out, however, that Mid-Placer operates under the authority of the JPA made up of member school districts and the Placer County Office of Education. The Board of Directors of the JPA has the responsibility to oversee the operations and policies of Mid-Placer.

As of January 2001 a new CEO for Mid-Placer has been hired and Mid-Placer's Board of Directors has a new president as well as many new members. The Grand Jury interviewed the new CEO for Mid-Placer upon the completion of this investigation in an effort to verify some of the conclusions addressed in this report. The conclusions reached by the Grand Jury following that testimony are that this report should be published as it stands and in its entirety.

³¹ The Grand Jury found that the cab companies on their own were trying to comply with background and fingerprint checks but it was not done as extensively as those of school bus drivers.

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.

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.

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.

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.

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.

Recommendation 3

School districts, Mid-Placer, and the Placer County Office of Education share responsibility in the matters 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 special needs children in accordance with State and Federal laws and agency policies.

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 drivers, routes, and/or vehicles.

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.

Finding 5

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

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 Office 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.

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.

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.

Finding 7

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

Recommendation 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.

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.

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.

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.

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.

Finding 10

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

Recommendation 10

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

Respondents

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
Placer County Office of Education
Placer Union High School District Superintendent

RESPONSE REQUIRED WITHIN 90 DAYS TO:

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

ADDENDUM

TERMINOLOGY:

1. **Developmental disability** – means a disability which originates before an individual attains age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual.” This term “shall include mental retardation, cerebral palsy, epilepsy, and autism.” It shall “also include disabling conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.”
2. **Special Education** – In the context of this report, special education, special needs, and children with developmental disabilities are used interchangeably and should be considered as having the same meaning.
3. **“d.b.a.”** – Doing business as. This is used when a business or an owner uses a fictitious name(s) to operate a business. There are legal requirements to file with the County and/or State and notify the public of these names.
4. **IEP** - The individualized education program (IEP) is a written statement for each child with a disability which is disability that is developed, reviewed, and revised in accordance with Section 614(d) of the Individuals with Disabilities Education Act.

APPLICABLE CODES:

California Chapter 840 statute clearly states, and amends the California Education Code §45125.1 that:

- (a) “Except as provided in subdivisions (b) and (c), if the employees of any entity that has a contract with a school district, as defined in Section 41302.5, to provide any of the following services may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the department for its costs incurred in processing the applications:
 - (1) School and classroom janitorial.
 - (2) Schoolsite administrative.
 - (3) Schoolsite grounds and landscape maintenance.
 - (4) Public transportation.** (emphasis added)
 - (5) Schoolsite food-related.

- (b) “This section shall not apply to an entity providing any of the services listed in subdivision (a) to a school district in an emergency or exceptional situation, such as when pupil health or safety is endangered or when repairs are needed to make school facilities safe and habitable.

- (c) “This section shall not apply to an entity providing any of the services listed in subdivision (1) to a school district when the school district determines that the employees of the entity will have limited contact with pupils, the school district shall consider the totality of the circumstances, including factors such as the length of time the contractors will be on school grounds whether pupils will be in proximity with the site where the contractors will be working, and whether the contracts will be working by themselves or with others. If a school district has made this determination, the school district shall take appropriate steps to protect the safety of any pupils that may come in contact with these employees.”

California Vehicle Code §34500

Those requirements include but are not limited to: (1) Applicants should be interview and tested at the closest CHP office, (2) School bus officers and coordinators will conduct an initial interview to ensure minimum requirements for the certificate, (3) medical examination and certificate, (4) fingerprinted by the CHP, (5) FBI fingerprint card, (6) first aid exam as determined by the Emergency Medical Services Authority, et al.

California Education Code §14550, Joint Powers Authority

- “(a) Notwithstanding any other provision of law, a local education agency’s obligations pursuant to law may not be avoided through participation in a joint powers authority.
- (b) A local education agency’s financial obligations to the state may not be avoided through participation in a joint powers authority.
- (c) A local education agency’s participation in a joint powers authority may not relieve the local education agency of any financial obligation or responsibility to the state unless the state entity undertaking the obligation is a party to the joint powers agreement and expressly agrees in the agreement to undertake the obligation.
- (d) A local educational entity retains ultimate responsibility over its obligations in case of default by a joint powers authority in which it participates.”