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ELEMENTARY AND SECONDARY EDUCATION

Analysis of School Bus Driver Compliance Requirements



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Improvements Are Needed to Reduce School Bus Driver Risk to Children

Public school districts have primary responsibility to protect school children by ensuring criminal record checks and other requirements are completed for school bus drivers. Because of the importance of ensuring the safety of children transported to and from schools, we followed up on selected recommendations in our 2003 report titled *School Bus Safety (Report No. 2003-35)*, and related issues. Specific audit objectives included determining whether (1) public school districts complied with state and/or federal regulations regarding school bus drivers, (2) improvements are needed in the Department of Elementary Education's (DESE) oversight of public school transportation, and (3) state laws adequately prevent persons that may pose a risk to children from being employed as school bus drivers and/or bus aides.

Improvements are needed to reduce risk to children

Improvements are needed because school districts did not always ensure persons employed as school bus drivers and/or aides had (1) fingerprint based criminal record checks completed, (2) federally required drug tests completed, and (3) met training requirements. However, most districts met licensing and physical exam requirements. School district noncompliance occurred, in part, because school bus companies have not always complied with district contracts. District oversight of bus contractors has not been adequate because district officials were generally not monitoring contractor compliance with laws and regulations, and not maintaining certain driver records at school district offices. (See page 8)

DESE oversight could be improved

DESE has not been aware of noncompliance in the school bus transportation area because its oversight in that area has been limited. DESE's oversight of school transportation could be improved by requiring school districts to conduct periodic self assessments of compliance with state and federal regulations governing the employment of school bus drivers. (See page 13)

State laws not adequate, but changes proposed

State law has not mandated school bus drivers and aides hired prior to January 1, 2005 undergo fingerprint based criminal record checks (CRCs), and has not required any bus drivers or aides to undergo CRCs on a periodic follow-up basis. During the 2008 legislative session, the General Assembly proposed legislation that could have enhanced screenings of drivers and aides. Drivers and aides would have been subject to family care safety registry (FCSR) registration and screening, as of January 1, 2009. Also, the proposed legislation would have required school bus drivers and aides to undergo CRCs and FCSR checks on an annual basis. However, the General Assembly did not enact that legislation. (See page 15)

Driver history and social security records checks could disclose problems

Although not required, we found 17 of 30 school districts conducted statewide periodic driver history checks through the Department of Revenue (DOR). Public school districts also have not been required to verify social security numbers for new employees. However, eight school districts have been verifying social security numbers. Driver history checks and verification of social security numbers could disclose problem drivers. (See page 17)

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Abbreviations

CFR	Code of Federal Regulations
CRC	Criminal Record Check
CSR	Code of State Regulations
DESE	Department of Elementary and Secondary Education
DHSS	Department of Health and Senior Services
DOR	Department of Revenue
DSS	Department of Social Services
EDL	Employee Disqualification List
EDR	Employee Disqualification Registry
FCSR	Family Care Safety Registry
MSIP	Missouri School Improvement Program
RSMo	Missouri Revised Statutes
SAO	State Auditor's Office



SUSAN MONTEE, CPA
Missouri State Auditor

Honorable Matt Blunt, Governor
and
Members of the General Assembly
and
Dr. Kent King, Commissioner
Department of Elementary and Secondary Education
Jefferson City, MO

Public school bus drivers transported approximately 560,000 students during school year 2006-07 and by law, public school districts have primary responsibility to ensure criminal record checks and other bus driver requirements are met to protect transported children. Because of the importance of ensuring the safety of children transported to and from schools, we followed up on selected recommendations in our 2003 report titled *School Bus Safety (Report No. 2003-35)*, and related issues. Specific audit objectives included determining whether (1) public school districts complied with state and/or federal regulations regarding school bus drivers, (2) improvements are needed in the Department of Elementary Education's (DESE) oversight of public school transportation, and (3) state laws adequately prevent persons that may pose a risk to children from being employed as school bus drivers and/or bus aides.

Our audit disclosed students transported on public school buses may be at risk because school districts have not always complied with state and/or federal regulations governing public school bus transportation. Improvements are needed because school districts did not always ensure persons employed as school bus drivers and/or aides had (1) fingerprint based criminal record checks completed, (2) federally required drug tests completed, and (3) met training requirements. However, most districts met licensing and physical exam requirements. School district noncompliance occurred, in part, because school bus companies have not always complied with district contracts. District oversight of bus contractors has not been adequate because district officials were generally unaware of contractor noncompliance, and because certain driver records have not been maintained at school district offices. DESE's awareness and oversight of school transportation issues could be improved by requiring school districts to conduct periodic self assessments of compliance with state and federal regulations governing the employment of school bus drivers.

We also found state law has not mandated school bus drivers and aides employed prior to January 1, 2005 to have fingerprint based criminal record checks, or required employed bus drivers and aides to undergo background checks on a periodic follow-up basis. Legislation proposed during the 2008 legislative session could have enhanced screenings of drivers; however, the General Assembly did not enact the proposed legislation. We also found some districts periodically checked driver history, and verified social security numbers.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis. This report was prepared under the direction of John Blattel and key contributors to this report included Robert Spence, Brenda Richardson, Amy Ames, Ryan Redel, and Josh Bryant.

A handwritten signature in black ink, appearing to read "Susan Montee". The signature is fluid and cursive, with a large initial "S" and a stylized "M".

Susan Montee, CPA
State Auditor

Introduction

The Department of Elementary and Secondary Education (DESE) has limited oversight responsibility for public school bus transportation. As part of its oversight, DESE conducts Missouri School Improvement Program (MSIP) reviews of public school districts. The MSIP is conducted to ensure school districts comply with educational standards set forth by state law. Ensuring students are transported to and from school in a safe and efficient manner is part of the MSIP review. (See page 13 for discussion of DESE oversight.) State law and regulations place primary responsibility for bus transportation issues at the public school district level.

State and nationwide CRCs now required

State law¹ requires a fingerprint based criminal record check (CRC) be conducted on all persons hired after January 1, 2005 who have contact with children, including bus drivers and aides.² This applies to those employed by school districts or by transportation companies under contract with school districts. Once the electronic fingerprints are taken, the Missouri State Highway Patrol (highway patrol) conducts a statewide search of criminal records, and sends a second set of prints to the Federal Bureau of Investigation for a nationwide search. The highway patrol sends the results of the searches to DESE, and DESE then notifies school districts or bus companies. Districts may allow the newly hired drivers to operate buses pending the result of the CRCs. See page 8 for additional information on CRCs.

Prior to August 28, 2003, the law required the Department of Revenue (DOR) to conduct name based CRCs on drivers, but not aides. Beginning August 28, 2003, the law required DOR to perform fingerprint based CRCs on drivers. House Bill 487 required fingerprint based CRCs be performed on drivers and aides hired after January 1, 2005. This bill, signed by the Governor on July 5, 2005, also transferred responsibility for ensuring fingerprint based CRCs were performed from DOR to school districts. However, DOR and DESE agreed school districts would be responsible for CRCs beginning June 1, 2005.

Previous SAO Work

The State Auditor's Office (SAO) published a report³ in 2003 that, in part, addressed issues related to CRCs of persons interested in becoming licensed school bus drivers. In that report, we recommended the General Assembly

¹ Section 168.133, RSMo.

² Aides ride on school buses and help monitor children.

³ School Bus Safety, SAO, April 15, 2003 (Report No. 2003-35).

Scope and Methodology

require current and potential school bus drivers to submit fingerprints with permit renewal applications or first-time permit applications.⁴

The General Assembly took action and enacted legislation, effective January 1, 2005, requiring school districts to ensure fingerprint based CRCs are performed on individuals, hired after January 1, 2005, authorized to have contact with pupils. However, the legislation does not require school districts to conduct follow-up CRCs on bus drivers and bus aides. See page 15 for additional discussion on this issue.

To accomplish audit objectives, we conducted work at DESE in Jefferson City and at 30 public school districts in the state. We also conducted work at 3 contractors that provide school bus transportation for 10 of the 30 school districts. We interviewed knowledgeable officials and reviewed program documentation and/or data needed to accomplish objectives.

To determine whether districts performed random drug tests in accordance with federal regulations, we reviewed state and federal requirements and analyzed random drug testing records for 2006 at the 30 districts.

To determine whether fingerprint and non-fingerprint based CRCs had been conducted on drivers and aides at the 30 districts, we reviewed records for 2,362 transportation employees (1,987 drivers and 375 aides) sampled from a universe of 4,680 drivers and aides at those districts. When records of CRC results were missing from district files, we compared driver and aide records against DESE and DOR records to ascertain whether CRCs had been conducted.⁵

To determine whether school districts met state requirements for driver training, we reviewed training records for 1,987 drivers at the 30 school districts for the 2006-07 school year.

To determine whether requirements relating to commercial driver licenses had been met, we searched driver files for copies of commercial driver licenses with the proper endorsements for 1,987 sampled drivers.

⁴ School bus permits were replaced by commercial drivers licenses with an "S" endorsement in 2005.

⁵ DOR records contain evidence that name based and fingerprint based CRCs have been conducted and DESE records contain evidence that fingerprint based CRCs have been conducted.

To determine if all drivers at the 30 districts held valid commercial driver licenses with the proper endorsements, we conducted a data match of names and dates of birth provided by the 30 districts for 4,680 drivers and aides to DOR's database of commercially licensed school bus drivers. This electronic data match produced 1,427 records where either the name or date of birth provided by districts did not match DOR records exactly. Because non-matches could be the result of a driver's middle initial on school records and the driver's full middle name on DOR records, we manually compared the driver names and dates of birth to DOR records. Due to time constraints, we limited the comparison to driver last names beginning with A-F, or 435 drivers. This manual search identified 68 of 435 drivers who were not included in DOR's database containing approximately 21,000 school bus driver names. We provided the 68 names to applicable school districts to determine whether the district could provide documentation showing those drivers held valid, unexpired commercial drivers licenses with the proper endorsements. We also provided the 68 names to DOR to determine whether licenses had been issued after we received the file of school bus drivers.

To determine whether requirements relating to annual physical exams for drivers had been met, we searched 1,987 sampled drivers' records for physical exam certificates which would show whether the exams had been performed and/or whether exams had been conducted within 90 days prior to the start of the 2007-08 school year.

To determine whether school districts kept certain records on file, as required by state regulations, we interviewed district officials, and searched personnel files of our sampled drivers and aides.

To determine the adequacy of DESE's oversight of school bus transportation issues, we reviewed the most recent MSIP reports for the 30 districts. One district had the full MSIP review, and four districts had waivers⁶ for the 2006-07 school year, the same time period of our audit. We reviewed the five reports to ascertain the basis of DESE's determination that districts provided transportation to and from schools in accordance with Missouri statutes and regulations.

To determine the adequacy of state laws and regulations governing school bus drivers, we reviewed applicable portions of the laws and regulations to

⁶ Schools qualifying for waivers are exempt from the MSIP on-site review process; however, an area supervisor will visit to verify compliance with the standards and indicators listed in the waiver checklist.

ascertain the impact on screening of persons applying to be school bus drivers and aides. To determine the potential impact of proposed legislation related to school bus drivers and aides, we reviewed House Bill 1314, as of February 29, 2008.

To determine whether any of the 4,680 drivers and aides employed by the 30 districts posed a possible risk to children, we obtained 3 state databases listing persons who have substantiated charges of abuse and/or neglect of children or other vulnerable persons. We cross-matched names and social security numbers of the 4,680 drivers and aides with those 3 databases. The databases are maintained by the departments of Social Services, Mental Health, and Health and Senior Services. (See Appendix I to identify databases and Appendix II for a description of the databases.)

To test the accuracy of school district records, we conducted a data match of 4,680 district records of names, dates of birth and social security numbers of drivers and aides to Social Security Administration records. We found problems with two social security numbers.

To test the accuracy of DOR records, we conducted a data match of 4,680 school district records of driver and aide names and dates of birth to DOR's database of school bus drivers and found 1,427 records where the district records did not match DOR records exactly, as discussed on page 5. This procedure detected one licensed bus driver not included on DOR's database.

We were limited in matching data with DOR records electronically because DOR officials removed social security numbers from the file of licensed school bus drivers, citing confidentiality concerns. However, we mitigated this limitation by manually matching 435 district provided records of names A-F to DOR records using names and dates of birth.

Improvements Needed To Reduce Bus Driver Risk to Children

School districts may be putting some children at risk by not always complying with state and/or federal regulations governing school bus driver requirements. Improvements are needed because (1) fingerprint based CRCs have not always been conducted by school districts and/or school bus companies, and (2) random drug testing has not always met the requirements of federal regulations. In addition, school districts have not always ensured school bus drivers met training requirements; however, most districts met requirements for drivers obtaining timely physical exams and licensing. Noncompliance occurred, in part, because school bus companies have not always complied with contract requirements. District oversight has not been adequate because officials were generally unaware of contract noncompliance. Some district officials were also unaware that certain driver records are required to be maintained in school district files. DESE's oversight of school transportation could be improved by requiring school districts to conduct periodic self assessments of compliance with state and federal regulations governing the employment of school bus drivers.

State law has not mandated school bus drivers and aides hired prior to January 1, 2005 undergo fingerprint based CRCs, and has not required any bus drivers or aides to undergo CRCs on a periodic follow-up basis. However, the General Assembly proposed legislation⁷ during the 2008 legislative session that could have enhanced screenings of drivers and aides. Drivers and aides would have been subject to family care safety registry (FCSR) registration and screening, as of January 1, 2009. Also, the proposed legislation would have required school bus drivers and aides to undergo CRC and FCSR checks on an annual basis. However, the General Assembly did not enact the proposed legislation. In addition, driver history checks and verification of social security numbers could disclose problem drivers.

Improvements Needed To Reduce Risk To Children

Our audit disclosed instances in which school districts and contracted bus companies had not always ensured fingerprint based CRCs had been conducted and random drug testing met federal requirements. In addition, school districts have not ensured drivers have met training requirements; however, most districts met requirements for driver physical exams and licensing. We also found that certain driver records have not been maintained at school district offices, as required by state regulations, and bus companies providing transportation services have not always complied with contract terms.

⁷ House Bill No. 1314.

CRCs not always done

Our review of 1,987 driver and 375 aide records at 30 districts disclosed no evidence fingerprint based CRCs had been conducted on 47 drivers and 18 aides hired after January 1, 2005. In addition, DESE's records of CRCs conducted since January 1, 2005 confirm the 65 individuals had not had a fingerprint based CRC performed. State law requires bus drivers and aides hired after January 1, 2005 undergo a fingerprint based CRC.

We provided the results of our testing to applicable school district officials, but they could not provide documentation that fingerprint based CRCs had been conducted when drivers and aides were hired or anytime after. In discussing this issue, officials at five districts told us they would require these employees to have fingerprints taken, and perform CRCs.

Some districts not complying with random drug testing requirements

Our audit disclosed most of the 30 districts complied with federal random drug testing requirements. However, three (10 percent) of the school districts did not comply with testing requirements in 2006. The three districts tested an average of 37 percent of drivers. State regulations⁸ require school bus drivers to undergo testing for illegal drugs in compliance with laws. Federal regulations state: "...the minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of driver positions."⁹

District officials unaware of noncompliance

We found school district officials were generally not aware their districts had not met state and federal requirements for drug testing. This situation occurred because school districts and bus companies rely on contractors to conduct drug testing in compliance with federal regulations. We found school districts and bus company officials did not question third parties on procedures used, methodology, or whether a sufficient number of driver positions were randomly tested to meet federal requirements.

In discussing this issue, an official at one district told us the transportation department would have to request a budget increase to conduct more random testing. An official at another district said the district did not meet the 50 percent threshold because the district's list of current drivers had been updated only once in 2006 instead of monthly. Therefore, terminated drivers selected for testing would not have been tested and as a result, too few drivers were tested. The official also told us the list of drivers will now be updated monthly.

⁸ 5 CSR-30-261.010 (2) (A) 3.

⁹ 49 CFR 382.305.

Districts not always
complying with training
requirements

Our audit of driver training records at 30 school districts disclosed 405 (20 percent) of 1,987 drivers had not obtained the minimum 8 hours of school bus training for the 2006-07 school year. State law requires: "On an annual basis, each school district shall provide training in at least 8 hours of duration to each school bus driver employed by the school district or under contract with the school district. Such training shall provide special instruction in school bus driving."¹⁰

Discussions with bus company and school district officials disclosed varying reasons for not complying with state law. For example, one bus company manager told us it was a corporate decision to provide only 5 hours of training annually due to budget cuts. At another school district, an official told us drivers have been reluctant to take time off for training and therefore, usually do not obtain the 8 hours of training required annually. Officials at other districts told us they had trouble keeping drivers so officials did not always take punitive action, such as withholding paychecks, when drivers did not obtain the required 8 hours of training.

Most districts met license
and physical exam
requirements

We found most districts complied with state laws regarding licensing.¹¹ However, we found instances in which some drivers did not have a valid commercial drivers license with a school bus endorsement. Commercial drivers licenses must be renewed every 6 years for persons who are at least 21 and under the age of 70. If 70 or older, the driver must renew the license every year.

Testing disclosed some
unlicensed drivers

Our data match of 4,680 drivers and aides against DOR's database of licensed school bus drivers disclosed 1,427 records where the name or date of birth did not agree exactly with the name or date of birth on DOR's database. Additional manual review of 435 district provided records of last names beginning with A through F, showed 68 drivers were not included on DOR records. Further review of DOR and school records disclosed 65 drivers had valid licenses and three drivers had not been properly licensed to drive school buses, even though they did not transport students. For example, a mechanic and a fueler did not have commercial drivers licenses, even though both may drive a bus while performing job duties. Another mechanic had a commercial drivers license, but it lacked the P endorsement. According to state regulation,¹² the driver of any vehicle designed to

¹⁰ Section 162.065, RSMo.

¹¹ Section 302.177, RSMo and Section 302.273, RSMo.

¹² 12 CSR 10-24.200 (11).

Most physical exam
requirements met

transport 16 or more passengers, including the driver, must have the proper class of license and have a P endorsement.¹³

In discussing this issue, a bus company official told us he does not believe mechanics or fuelers are required to have endorsements on their commercial drivers license, but he will review requirements for personnel that do not transport students.

Additional testing of 1,987 sampled drivers also disclosed one driver that transported students for 5 years, and another that transported students for over 3 years, but neither driver had the proper license endorsement. These persons are no longer employed as bus drivers.

We found most drivers in school districts reviewed had obtained physical exams for school year 2007-08, in accordance with state regulations. However, 68 of 1,987 drivers (3 percent), in 18 of 30 districts, had not complied. We found:

- 18 instances in which no evidence that a physical had been conducted and the applicable districts could not locate evidence or did not respond to our request for evidence.
- 47 instances in which physical exams had not been conducted within 90 days of the start of the 2007-08 school year.
- Three instances in which no evidence that a physical had been conducted was on file, but district officials obtained and provided physical exam certificates.

State regulation requires all school bus drivers undergo a physical examination annually, no more than 90 days before the beginning of the school year,¹⁴ and a certificate documenting the exam is to be kept in district files.¹⁵

In discussing these issues, district officials provided various explanations for noncompliance. For example, some district officials told us:

- Drivers had physical exams, but they had not been within 90 days prior to the start of the 2007-08 school year.

¹³ Persons having a P endorsement can not transport children.

¹⁴ 5 CSR 30-261.010 (2) (A) 2.

¹⁵ 5 CSR 30-261.010 (1) (D).

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- Drivers had obtained physical exams, but the certificates had not been put in district files.
 - Many drivers did not attend the beginning of the school year 'kick-off' meeting.
 - They did not know how this happened, but the district is going to implement a system requiring a checklist to be placed in each driver's file, indicating all licensing requirements have been met.

Bus companies not always complying with contract terms

As discussed (pages 8 through 10), school districts have not always complied with state laws and regulations or federal regulations for school bus drivers. This situation occurred, in part, because bus companies have not always complied with contract terms. For example, our review of driver records disclosed none of the 3 bus companies, contracting with 10 school districts, complied with contracts in one or more of the following areas: record keeping, physical exams and certificates, CRCs, training, and proper licensing of drivers.

Contracts with bus companies contained either (1) general language requiring the bus company to comply with all applicable federal, state, local, and district rules, laws, policies, and regulations; or (2) specific language for compliance. Contracts containing specific language required bus companies ensure drivers would (1) obtain an annual physical exam, (2) receive 8 hours of school bus driver training annually, (3) maintain valid licenses and certifications, and (4) undergo CRCs, as required by law. The contracts also required bus companies implement a drug testing program in accordance with federal laws, and certain driver records be provided to school districts.

Districts not providing adequate oversight of contractors

When discussing contractor noncompliance with district officials, we found some officials were not aware contractors had not complied with contract requirements. For example, one official told us the purpose of contracting for transportation services is to have the bus company take all the responsibility regarding transportation of children. This official does not plan to conduct any monitoring of the contract between the school district and the bus company.

The 10 districts contracting for transportation services generally did not maintain any driver records in district files.¹⁶ State regulation requires physical exam certificates and school bus permits be maintained in school district files.¹⁷ Although not required, the 10 districts also did not maintain

¹⁶ One district maintained results of CRCs, but no other driver records.

¹⁷ School bus permits were replaced by commercial drivers licenses with an "S" endorsement in 2005.

other driver records, such as CRCs, driver training, and random drug testing records. Because state law requires school districts ensure certain tests and training are done, sound business practices dictate school districts maintain testing and training records in district files to ensure state and federal requirements are met, and review those records to ensure adequate oversight is provided over contractors.

In discussing these issues, school district officials at half of the 10 districts told us they did not know state regulation requires districts maintain any driver records at district offices. Officials also told us they did not maintain contractor driver records at district offices because the drivers are not district employees. DESE issued a regulation requiring copies of physical exam certificates and commercial driver licenses be maintained in appropriate school district files. However, a DESE official told us the department is advising districts it is not necessary to keep the records in district files, as long as the district has access to bus company records.

One district aware of noncompliance

One district official was aware of noncompliance in some areas by the contracted bus companies because the district conducts audits of bus company records. According to the official, the district has sent a letter to both bus companies notifying them of noncompliance, and has assessed penalties totaling approximately \$30,000 this year. This official also told us the new contract for transportation services, currently under re-negotiation, will contain a requirement the bus companies provide the district reports twice a year documenting completed training hours, dates of physical exams, dates of CRCs, dates of random drug testing, and all the requirements this report covers. The district plans to use these reports to conduct audits in the future, according to the official.

DESE Oversight Could Be Improved

DESE has not been aware of noncompliance in the school bus transportation area because DESE's oversight in that area has been limited to MSIP reviews, according to one official. As part of the MSIP review, DESE determines whether "safe and efficient transportation to and from school is provided in compliance with Missouri statutes, regulations, and local board policy."

For the 30 districts reviewed, DESE conducted five MSIP reviews¹⁸ during the 2006-07 school year—the timeframe of our audit period. According to

¹⁸ The five reviews represented one full, on-site review and four with waivers. Schools qualifying for waivers are exempt from the MSIP on-site review process; however, an area supervisor will visit to verify compliance with the standards and indicators listed in the waiver checklist.

MSIP results, the five school districts complied with all laws relating to the transportation of students. However, our audit disclosed the five school districts did not always comply with state law and/or regulations relating to the transportation of public school students. For example:

- School District A: we found no evidence that (1) one driver held a current commercial drivers license or (2) the district provided at least 8 hours of training in school year 2006-07 for two other drivers.
- School District B: we found no evidence that (1) one driver had a commercial drivers license with proper endorsements, (2) another driver had gotten a timely physical exam in the fall of 2007, or (3) the district provided at least 8 hours of training in school year 2006-07 for eight drivers.
- School District C: we found no evidence that one driver had a commercial drivers license with proper endorsements.
- School District D: we found no evidence that (1) three drivers had a commercial drivers license with proper endorsements, (2) a fingerprint based CRC had been done on four drivers hired after January 1, 2005, (3) the district provided at least 8 hours of training in school year 2006-07 for five drivers, or (4) one driver had gotten a physical exam in the Fall of 2007.
- School District E: we found no evidence that (1) three drivers had gotten a timely physical exam in the Fall of 2007 or (2) the district had provided 8 hours of school bus training during school year 2006-07 to 10 drivers.

According to a DESE official, MSIP reviewers may sample individual driver records, but usually do not. Instead, reviewers rely on what district officials tell them. The official also told us having the districts conduct substantive self assessment would be more thorough than current practices, but it may not be practical.

State Laws Not Adequate, But Changes Proposed

As previously discussed, in January 2005 state law changed to require new employees undergo fingerprint based CRCs. From August 2003 to January 2005, DOR required a fingerprint based background check on drivers for all new and renewal school bus permits, but not aides. Prior to August 28, 2003, DOR completed a name based background check on drivers for new and renewal school bus permit applicants, but not aides. However, prior to 1986, no CRCs were completed on bus drivers or aides. Therefore, school bus drivers and aides hired prior to 1986 have not had a CRC conducted.

State law also does not require school districts and bus companies to conduct follow-up CRCs on a periodic basis once initial CRCs have been conducted. Therefore, it is possible a driver or aide that previously passed a CRC could commit a criminal offense and the district would not be aware of the offense.

Proposed changes in law could have strengthened screenings of drivers

During the 2008 legislative session, the House of Representatives proposed changes to current law. House Bill 1314, as adopted by the House, would have required school districts continue ensuring fingerprint based CRCs are conducted on persons hired after January 1, 2005, who are authorized to have contact with children. In addition to certified personnel and others, current law is applicable to school bus drivers and aides. The proposed legislation would have also required drivers and aides employed after January 1, 2009 to register with the FCSR and to be cleared through its database.

The proposed legislation would have also required DESE develop procedures that permit an annual check of drivers and aides against criminal records, and the FCSR. This portion of the proposed legislation would have been effective January 1, 2012. However, the General Assembly did not enact the proposed legislation.

FCSR screens various databases

The proposed legislation also would have required bus drivers and aides, hired after January 1, 2009, to register with the FCSR and be screened. State law established the FCSR to help ensure persons who care for children, the elderly, and physically or mentally disabled individuals can be easily screened. The Department of Health and Senior Services (DHSS) is responsible for maintaining the FCSR.¹⁹ The law now requires registration by child care, elder care and personal care workers, and allows others to voluntarily register.²⁰ Any employer requesting a FCSR background check must first ensure the applicant has completed a registry application. When a

¹⁹ Section 210.903, RSMo.

²⁰ Section 210.906, RSMo.

background check is requested, the FCSR database accesses the other state databases, and FCSR records are updated. The requesting entity is notified if the individual is included on any of the following lists:

- Department of Social Services' (DSS) Child Abuse and Neglect Central Registry (Central Registry)
- Highway Patrol's Missouri Uniform Law Enforcement System for sexual offender registrations
- The Highway Patrol's criminal record check system
- DHSS's Employee Disqualification List (EDL)
- Department of Mental Health's Employee Disqualification Registry (EDR)
- Child care facility license denials, revocations, and suspensions
- Residential living facility and nursing home license denials, revocations, suspensions, and probationary status
- Foster parent licensure denials, revocations, and involuntary suspensions

State databases included in FCSR screening can be useful tools

In addition to using CRCs, as required by law, we found some districts have been using other state resources to help screen potential drivers and aides. For example, some districts used DSS' Central Registry to help screen potential employees for child abuse or neglect. (See Appendix II for discussion of the Central Registry.)

To illustrate the potential impact of using the Central Registry, we compared a listing of 4,680 drivers and aides employed by districts²¹ to persons listed on the registry. This procedure identified 82 drivers and aides listed on the Central Registry. The 82 individuals have substantiated reports of child abuse and/or neglect. We provided the 82 names to officials at 17 applicable school districts. Some of the district officials expressed surprise and told us they would investigate and take corrective action if deemed appropriate. An official at one district told us the district knew an applicant appeared on the Central Registry, but after investigating the circumstances the district hired them. An official at one district told us the district had screened potential employees using the Central Registry, and found no record. However, we found one of that district's drivers on the registry.

We also compared our listing of 4,680 drivers and aides to the EDL and EDR databases and found 5 drivers included on the EDL and 4 drivers on the EDR. Persons listed on the EDL have been determined to have abused

²¹ We used social security numbers provided by 30 school districts to accomplish the cross-match.

or neglected individuals receiving services from DHSS, and persons listed on the EDR have been determined to have abused and/or neglected individuals receiving services from the Department of Mental Health. (See Appendix II for discussion of EDL and EDR.)

Driver History and Social Security Records Checks Could Disclose Problems

Our audit of 30 school districts disclosed 17 districts conducted statewide periodic driver history checks through DOR. State regulations do not permit DOR to issue or renew commercial drivers licenses with a school bus endorsement if the applicant's driving privilege has been suspended or revoked within five years preceding the application, or the applicant has certain other driving convictions.

According to officials from 2 of the 17 school districts, they conduct periodic driver history checks to detect driving offenses that may occur prior to license renewal, which is every 6 years.

A DESE official told us the department believes periodic driver history record checks should be done. According to officials, DESE and DOR collaborated to develop methods for districts to conduct periodic driver history checks through DOR. According to the DOR official, to get a driver history records search done, the district can call in on a general information line and a DOR employee will search Missouri driver records for up to three drivers at a time. Another method is the "dial-in" method, where district personnel call in and, using the phone, enters the driver information. There is no limit on how many drivers can be checked at one time using this method and it can be done anytime of the day. Both of these methods will provide driving convictions in Missouri or other states when reported on Missouri drivers. There is no cost for either of these methods. Districts may also obtain a printed record from the DOR's central office or by going to a local license office and paying the applicable fees.

Driver social security numbers not always verified

Public school districts have not been required to verify social security numbers for new employees; however, 8²² of 30 school districts reviewed have been verifying social security numbers. Employers, including school districts, can verify social security numbers for new employees through two sources. Districts and contracted bus companies can use the Social Security Administration²³ or the U.S. Citizenship and Immigration Services' E-Verify system²⁴ to verify identity and employment eligibility. In August 2007, the

²² As a result of our audit, two additional districts began verifying social security numbers.

²³ Contact the Social Security Administration at <http://www.ssa.gov/employer/ssnv.htm>.

²⁴ Contact the U.S. Citizenship and Immigration Services' E-Verify system at 888-464-4218.

Problem social security numbers found

SAO published a report which highlighted the importance of verifying social security numbers as part of teacher certification background checks.²⁵

We compared the social security numbers and dates of birth of 4,680 drivers and aides to a social security database.²⁶ The social security numbers of 2 of the 4,680 records 'failed'. The two represented instances in which social security numbers had been issued before the birth date of the individual using the social security number which could mean the birth date given is inaccurate, or the person could be using someone else's social security number.²⁷ We notified the applicable school bus company official of the discrepancies so he could follow up and verify the questionable social security numbers, and take corrective action if appropriate.

In discussing this issue, a DESE spokesperson told us the department does not consider this to be an issue related just to bus drivers and schools, rather it applies to all employees in the general population, and is really a Department of Labor and Industrial Relations issue. This official said the federal government believes social security number verification is a good thing to do, but too many employers do not know how to do it.

Conclusions

Improvements are needed in school district oversight of school bus transportation. School districts did not always conduct CRCs or comply with random drug testing requirements. District officials were generally not aware their districts had not met drug testing requirements because they relied on third party contractors to conduct random drug testing. School districts also did not always meet training requirements. District noncompliance can be attributed, in part, to contractor noncompliance by school bus companies, and the lack of oversight of these companies by district officials. District officials were generally not aware of contract noncompliance because officials did not maintain driver records at district offices, and did not review driver records.

DESE could enhance awareness of CRCs, drug testing, and training requirements, as well as other requirements, by issuing additional guidance to all public school districts clarifying those requirements and the need for adequate oversight of drug testing by third parties and bus transportation companies. DESE could also improve its awareness and oversight of bus

²⁵ See Educator Certification Background Checks, SAO, August 2007 (Report No. 2007-32).

²⁶ We used the Social Security Number Lookup system of Social Security Administration records maintained by the Texas State Auditor's Office.

²⁷ We also confirmed with the Social Security Administration that a problem existed on the two failed social security numbers.

transportation issues by requiring school districts to conduct self assessments of compliance with state and federal regulations governing the employment of school bus drivers on a periodic basis, and submit results to DESE.

State law has not required school districts to obtain fingerprint based CRCs on bus drivers and/or aides hired prior to January 1, 2005. In addition, state law has not required districts to conduct follow-up CRCs on a periodic basis. However, changes proposed in House Bill 1314 could have strengthened the screening process. If proposed legislation had been enacted, drivers would have been subject to FCSR registration and screening, as of January 1, 2009. Also, the proposed legislation would have required school bus drivers to undergo a CRC and FCSR check on an annual basis. The General Assembly should consider introducing legislation in the next legislative session to strengthen screening of school bus drivers.

Twelve of 30 school districts audited conducted periodic driver history checks through DOR records. Although not required, checking driving records on a periodic basis represents a sound business practice that should be adopted by all school districts. Performing these checks would help districts identify problem drivers. In addition, verifying driver social security numbers would help ensure school records are accurate and possibly identify persons using invalid social security numbers.

Recommendations

We recommend the Commissioner, Department of Elementary and Secondary Education:

2.1 Issue additional guidance to school districts to ensure:

- Districts understand the importance of conducting CRCs on drivers and/or aides.
- Third party drug testing is conducted in accordance with state regulations and federal law.
- Training requirements are met.
- Adequate oversight of bus contractors is accomplished by maintaining driver records at district offices, as required by law, and other records that will help ensure state and federal requirements are met.
- Bus company contractors that do not comply with state and/or federal requirements related to school bus drivers are penalized.

2.2 Require school districts to conduct self assessments of compliance with state and federal regulations governing the employment of school bus drivers on a periodic basis and submit results to DESE.

2.3 Ensure districts understand the importance of conducting periodic driver history record checks, and that it can be done at no cost.

2.4 Issue guidance recommending school districts verify social security numbers for new employees.

We recommend the General Assembly:

2.5 Strengthen screening of school bus drivers by enacting requirements such as those proposed in House Bill 1314.

Agency Comments

2.1 In relation to the first three bulleted items, DESE will continue through written communication and presentations at trainings and conferences to inform school districts of the regulations. DESE will take the recommendations in bulleted items four and five under advisement.

2.2 DESE will take this recommendation under advisement.

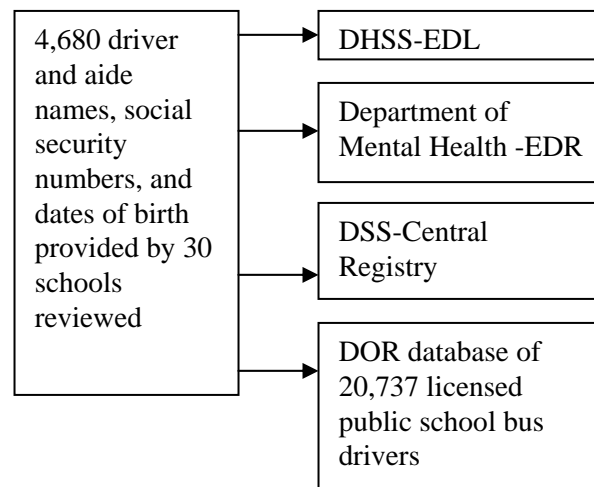
2.3 DESE will continue through written communication and presentations at trainings and conferences to inform school districts of the regulations.

2.4 DESE will take this recommendation under advisement.

SAO Database Matches

Figure I.1 displays the database matches SAO auditors performed against the EDL, EDR, and Central Registry to identify school bus drivers who could pose a risk to children. (For description of EDL, EDR, and the Central Registry, see Appendix II.) Also shown is our database match against DOR's database of licensed public school bus drivers.

Figure I.1: SAO Database Match Diagram



Source: SAO analysis of databases depicted in Figure I.1.

Descriptions of Databases

The following describes three databases analyzed by auditors. These records can be accessed as part of the FCSR once an employee registers.

- Central Registry - DSS's Child Abuse and Neglect Central Registry lists persons where an investigation by the Children's Division yields a finding of preponderance of evidence, probable cause, reason to suspect, or court adjudication that abuse did occur. Abuse and neglect can include incidents of physical abuse, sexual abuse, physical/medical neglect, or emotional maltreatment. The disposition of cases for persons on this registry is final, and the names do not drop off at a later date. School districts can access records of the central registry for current and newly hired employees.
- EDL - DHSS maintains the EDL, which lists individuals DHSS has determined to have (1) abused or neglected clients; (2) misappropriated funds or property belonging to clients; or (3) falsified documentation verifying the delivery of services to in-home services clients. As of February 29, 2008, school districts did not have access to this database.
- EDR – Department of Mental Health maintains the EDR which includes a listing of individuals the department has disqualified from working with clients receiving department services. The listing consists of individuals with substantiated abuse, neglect, or misuse of client funds, two Class II neglect or verbal abuse charges within a 12-month period. As of February 29, 2008, school districts did not have access to this database.