New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor

Motor Vehicle Commission
Background Checks - School Bus Drivers

November 1, 2007 to February 29, 2008

Richard L. Fair
State Auditor
The Honorable Jon S. Corzine  
Governor of New Jersey  

The Honorable Richard J. Codey  
President of the Senate  

The Honorable Joseph J. Roberts, Jr.  
Speaker of the General Assembly  

Mr. Albert Porroni  
Executive Director  
Office of Legislative Services  

Enclosed is our report on the audit of the Motor Vehicle Commission, Background Checks - School Bus Drivers for the period of November 1, 2007 to February 29, 2008. If you would like a personal briefing, please call me at (609) 292-3700.

Richard L. Fair  
State Auditor  
May 7, 2008
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Motor Vehicle Commission
Background Checks - School Bus Drivers

Scope

We have completed an audit of school bus driver qualification procedures and data of the Office of Fiscal Accountability and Compliance within the Department of Education (DOE) and the Motor Vehicle Commission (MVC) for the period November 1, 2007 to February 29, 2008. To be a school bus driver one must pass a background check and obtain the School Bus "S" and Passenger "P" endorsed license from the MVC. Declaring if one will or will not be transporting school age children under the jurisdiction of the DOE determines the level of background checks required and whether the DOE or MVC will oversee the process. An individual who transports school age children under the jurisdiction of the DOE must pass an initial background check done through the Federal Bureau of Investigation (FBI) and the Division of State Police. An individual not transporting school age children under the jurisdiction of the DOE is only subject to an initial background check performed by the Division of State Police.

Objectives

One objective of our audit was to determine whether all school bus drivers had an appropriate background check and have remained qualified per the records maintained by the DOE and MVC. Another objective was to determine if notification is given to the organization responsible for the safety of a school age child when an individual becomes disqualified.

This audit was conducted pursuant to the State Auditor’s responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.
In preparation for our testing, we studied legislation and administrative code. We also interviewed Department of Education and Motor Vehicle Commission personnel to obtain an understanding of the criminal history review process and to determine if disqualified individuals could have an active "S" endorsement on their commercial driver’s license.

A nonstatistical sampling approach was used. We sampled drivers who were not approved or who were disqualified by the DOE to provide a conclusion about the status of these individuals’ "S" endorsements. We judgmentally selected individuals working at various school districts, bus companies, and other employers. Our audit also included a comparison between a data file of the MVC commercial drivers with the “S” endorsement and the DOE qualified and disqualified individual database.

Conclusions

We found that the lack of standardization of background check procedures that includes input from both the Federal Bureau of Investigation and the Division of State Police poses a risk to certain school age children. Using both background checks provides a comprehensive review that transcends state lines and jurisdictions. This type of review is already required of all prospective employees of school districts having immediate contact with school age children. School bus drivers who would not be required to have the additional FBI background check include those working for private schools that have chosen not to be under the jurisdiction of DOE, and those working for the departments of Human Services, Children and Families, and Law and Public Safety.

The DOE and MVC school bus driver data needs to be periodically reconciled. Our review noted seven individuals whose disqualification by the DOE was never noted on the MVC system and the drivers maintained an active “S” endorsement license. We also noted that appropriate notification to the responsible oversight organizations is not
always done when disqualification information is obtained. When disqualifications are issued by the DOE, it provides written notification to the applicant, the MVC, and the employer. When there is a disqualification, revocation, or suspension of a school bus driver’s license by the MVC it only notifies the individual. The DOE is not notified as required by N.J.S.A. 18A:39-19.1 nor is the employer notified.

Recomendation

To ensure the safety of school age children in the state, we recommend that legislation be pursued to standardize the qualification process for school bus drivers to include federal and state background checks. To further ensure the safety of the school age children, we also recommend the administration of the background checks and disqualification notification to the responsible individuals be centralized. The state should consider assigning this responsibility to the DOE which has the means to notify the organization responsible for the safety of school age children. We further recommend that school bus driver data of DOE and MVC be periodically reconciled to ensure all disqualified individuals have their “S” endorsement removed.
May 2, 2008

Steven M. Eells
Assistant State Auditor
Office of Legislative Services
Office of the State Auditor
125 South Warren Street
PO Box 067
Trenton, NJ 08625-0067

Dear Mr. Eells:

The following is the New Jersey Motor Vehicle Commission’s (MVC) written response to your confidential draft report of the Motor Vehicle Commission, Background Checks – School Bus Drivers.

The MVC has carefully reviewed the State Auditors report and findings regarding the school bus driver background checks. Clearly, there is a need to provide effective administration of these background checks and driver disqualifications, as well as standardization of the process (cover public and private schools). The MVC supports the Auditor’s conclusions.

It should be noted that responsibility for supporting the background check process for school bus drivers is located in the MVC’s Division of Inspection Services, Bus Application Unit. In addition to administering disqualifications for initial background checks, this and other MVC units support background check compliance for school bus driver license renewal.

The scope section of the report indicates non-DOE school bus drivers are only subject to a state level background check. It should be clarified that this check is under MVC authority (N.J.S.A. 39:3-10.1) and only applies to Commercial Driver License (CDL) holders with a passenger endorsement. This law does not address the safety of school age children transported by commercial drivers. Further, the law requires the MVC to communicate license status with the license holder. Based on this limitation, we support the Auditor’s conclusion regarding the need to centralize administration of background checks for all school bus drivers. This issue will be discussed with the DOE.

The DOE must be responsible for ensuring each disqualified driver is also suspended by the MVC. This recommendation is consistent with the relevant statute, which finds the DOE ultimately responsible for school bus driver disqualification. MVC will provide the DOE free access to driver records provided by the MVC to verify MVC has suspended the school bus endorsement of each driver reported to us. This check, if implemented by the DOE, should eliminate any possibility that a driver disqualified by the DOE does not have his or her “S” endorsement suspended by the MVC.
As discussed in the report's conclusion section, the MVC does not notify an employer when it suspends a school bus driver's endorsement. Statutes related to the suspension of driver privileges only require the MVC to notify the driver, and this is to ensure due process. The MVC has no authority to collect and maintain a driver's employer information. Under U.S. Department of Transportation, Federal Motor Carrier Administration regulations, employers are responsible for monitoring the license status of CDL holders they employ (§391.25). Furthermore, CDL holders are responsible for reporting suspensions to the carrier (§383.33).

In addition, N.J.S.A. 18A:39-19.1 states:

"Following qualification for employment as a school bus driver, the Motor Vehicle Commission shall immediately forward to the Commissioner of Education any information which the division receives on a conviction for an alcohol or drug-related motor vehicle violation that would disqualify the driver from employment pursuant to the provisions of this subsection. The commissioner shall notify the employing board of education or contractor that the driver is no longer eligible for employment."

With respect to the provisions of N.J.S.A. 18A:39-19.1, as noted in the report's conclusion section, the MVC is only responsible for notifying the DOE when a school bus driver's license has been suspended (court ordered) for alcohol or drug related convictions. The law does not include notice to employers.

The audit report also includes a recommendation to periodically reconcile the DOE and MVC records. This is to ensure drivers disqualified by the DOE have also been suspended by the MVC. The MVC believes this is a good recommendation and will help validate the DOE's efforts to confirm each report for disqualification has been processed. The MVC will work with DOE to identify an approach to reconciling school bus driver records.

The audit recommends that legislation be pursued to standardize the qualification process for school drivers to include federal and state background checks. However, the audit does not indicate who should pursue the legislation and ultimately who would be held responsible if such legislation were not pursued. The MVC will discuss this with the DOE.

We would like to commend the State Auditor's approach to this audit. It was conducted in a professional manner and the Auditor's representatives dedicated time to researching and developing an understanding of the background check processes. If you have any questions related to this response, please contact MVC's Director of Financial Management, Carol Hollows, at 609-292-4522.

We would like the opportunity to discuss the audit recommendations with the DOE and report back to you on our discussions for a revised background check process.

Sincerely,

[Signature]
Sharon A. Harrington
Chief Administrator

SAH/DG/rmg
May 1, 2008

Mr. Richard L. Fair, State Auditor
Office of Legislative Services
Office of the State Auditor
125 South Warren Street
P.O. Box 067
Trenton, NJ 08625-0067

Dear Mr. Fair:

SUBJECT: Response to OLS Audit Report of the Department of Education, Background Checks – School Bus Drivers

The New Jersey Department of Education (DOE) has received and reviewed the conclusions and recommendation contained in the Office of Legislative Services (OLS) Audit Report of the Department of Education, Background Checks – School Bus Drivers for the period November 1, 2007 to February 29, 2008. The conclusions and recommendations along with our responses are as follows:

**Conclusions, Page 2**

We found that the lack of standardization of background check procedures that includes input from both the Federal Bureau of Investigation and the Division of State Police poses a risk to certain school age children. Using both background checks provides a comprehensive review that transcends state lines and jurisdictions. This type of review is already required of all prospective employees of school districts having immediate contact with school age children. School bus drivers who would not be required to have the additional FBI background check include those working for private schools that have chosen not to be under the jurisdiction of DOE, and those working for the departments of Human Services, Children and Families, and Law and Public Safety.

The DOE and Motor Vehicle Commission (MVC) School bus driver data needs to be periodically reconciled. Our review noted seven individuals whose disqualification by the DOE was never noted on the MVC system and the drivers maintained an active “S” endorsement license. We also noted that appropriate notification to the responsible oversight organizations is not always done when disqualification information is obtained. When disqualifications are issued by the DOE, it provides written notification to the applicant, the MVC, and the employer.
When there is a disqualification, revocation, or suspension of a school bus driver’s license by the MVC it only notifies the individual. The DOE is not notified as required by N.J.S.A. 18A:39-19.1, nor is the employer notified.

**Recommendation, Page 3**

To ensure the safety of school age children in the state, we recommend that legislation be pursued to standardize the qualification process for school bus drivers to include federal and state background checks. To further ensure the safety of the school age children, we also recommend the administration of the background checks and disqualification notification to the responsible individuals be centralized. The state should consider assigning this responsibility to the DOE which has the means to notify the organization responsible for the safety of school age children. We further recommend that school bus driver data of DOE and MVC be periodically reconciled to ensure all disqualified individuals have their “S” endorsement removed.

**Department Response**

The DOE agrees that legislation should be pursued to standardize the qualification process for school bus drivers to include federal and state background checks.

The DOE’s Criminal History Review Unit has entered into preliminary discussions with the MVC’s School Bus Unit and the Department of Human Services’ Fingerprint Unit to centralize all school bus drivers holding the “S” (school bus driver endorsement). We agree with the OLS auditor’s assessment that DOE should be assigned the responsibility for criminal history record checks on all school bus drivers, given that federal authorization exists to allow us to access federal criminal history files and the ability to make notification to the employer when a school bus driver is disqualified from employment. We currently notify the MVC via interoffice mail to remove the “S” endorsement when a disqualification has been made.

Following the review of the criminal history record check process conducted by the OLS auditors, the DOE has moved forward with access to the Department of Labor’s Wage Reporting Database to conduct comparisons between the two databases to identify individuals that have been employed by educational facilities or authorized school bus contractors, but have not submitted to the criminal history record check. The comparison will also identify individuals that have been disqualified from employment; however, were not removed by the employer or sought employment with another facility and were not submitted for the background check as required by law.

The DOE’s Criminal History Review Unit will work with the MVC to determine which agency will periodically reconcile the two school bus driver databases to ensure all disqualified individuals have their “S” endorsement removed.
We trust that our response satisfies the concerns raised in the audit report. If you have any questions or need further information, please contact Robert J. Cicchino, Director, Office of Fiscal Accountability and Compliance, at 984-5593.

Sincerely,

[Signature]

Lucille E. Davy
Commissioner

LED/JJH/response to OLS audit of background checks-school bus drivers

c: John J. Hart
    Robert J. Cicchino
    Carl Carabelli
    Charles Peffall