

Modesto City Schools/Special Education Department
Grand Jury Case No. 02-01-C
April 4, 2002

REASON FOR INVESTIGATION

The Stanislaus County Civil Grand Jury received a complaint from four employees of the Special Education Department of the Modesto City Schools (MCS).

THEIR COMPLAINT:

1. The MCS Director of Special Education instructed some of his employees to alter, falsify, and misrepresent certain Special Education forms relating to the re-evaluation of Special Education students.
2. The Director of Special Education abused his position by requiring some of his employees to participate in an unlawful act and cover-up.
3. The Director of Special Education's supervisors created a conflict of interest when they allowed the Director to investigate the complaint rather than delegate the matter to a third party.
4. The Director of Special Education hired a long time friend from another county school system to fill a program specialist position. This individual did not, at the time of hiring, possess the proper credentials for the position.

ADDITIONAL ISSUES AND CONCERNS:

5. During the course of the Grand Jury's investigation of the complaint, it was determined that several programs, policies, and procedures required by the MCS were not being followed, or are not functioning efficiently or productively.
 - 5A. The SELPA Procedural Handbook was not updated annually, nor was it distributed to the school sites as required.
 - 5B. Resource Specialists were not to carry caseloads of over twenty-eight (28) pupils without caseload waivers.
 - 5C. Witnesses who appeared before the Grand Jury testified regarding their concerns about the Director of Special Education's communication skills and management style.
 - 5D. The Community Advisory Committee's (CAC) policies, procedures, and meeting

schedules were not adhered to effectively.

BACKGROUND

The MCS has a current enrollment of approximately 34,000 students of which 3,900 are enrolled or participate in the Special Education program. The Special Education program serves students with special physical, communicative, emotional, and/or learning needs. These students are identified through an assessment process and receive individually tailored educational programs. The program also provides options to meet students' educational needs in the least restrictive environment.

The MCS system, comprised of Modesto City Elementary and High School Districts, is organized under a single governing board. The Governing Board of the MCS Special Education Local Plan Area (SELPA) is responsible for the Special Education programs operated within its jurisdiction. The Governing Board is the sole policy making entity for the MCS-SELPA.

The superintendent is the CEO and is responsible for implementation of the Local Plan as authorized by the Governing Board.

The SELPA Director is directly responsible for the administration of the policy decisions of the Governing Board. The Director has the responsibility for administration of the Local Plan and also serves as the Director for Special Education. The Director reports to the MCS Associate Superintendent of Educational Services Division.

The Special Education Program is mandated by Federal regulations, Public Law 105-17, the Individuals with Disabilities Education Act (IDEA) of 1997 and Part 30 of the California Education Code.

The SELPA is funded through the federal government (via California Department of Education (DOE)) and MCS. The MCS budget for Special Education 2000-2001 was approximately \$25 million.

PROCEDURES FOLLOWED

1. The Civil Grand Jury interviewed:

SPECIAL EDUCATION MCS EMPLOYEES

- a. The complainants.
- b. Five (5) program specialists.
- c. A former program specialist.

- d. Six (6) psychologists.
- e. Four (4) resource specialists.
- f. A language-speech-hearing specialist.
- g. A Special Education day class teacher.
- h. A typist clerk II.
- i. A department staff secretary III.
- j. Director of Special Education.
- k. Four (4) school site principals.
- l. Associate Superintendent for Personnel.

NON- MCS EMPLOYEES

- a. Division Administrator-Special Education Stanislaus County.
 - b. The Director Special Education for Stanislaus County.
 - c. A Special Education consultant for the California Department of Education.
 - d. Executive Director Modesto Teachers Association.
 - e. Five (5) members of the Community Advisory Committee MCS/SELPA.
2. The Civil Grand Jury reviewed the following documents and records:
- a. California Education Code.
 - b. Special Education Law in California by Professional Development Network.
 - c. Modesto City Schools Local Plan (SELPA).
 - d. MCS Procedural Handbook for Special Education.
 - e. California Association of Resource Specialists[] newsletter June/July/August 1999.
 - f. Pamphlets, newsletters, flyers relating to MCS[] []Child Find[] program.
 - g. By-laws Community Advisory Committee (non-adopted).
 - h. Community Advisory Committee meeting minutes 1995-2001.
 - i. Two variations of MCS/SELPA form 2-B dated June 2000.
 - j. California DOE Findings: non-compliance sheet regarding: reevaluations.
 - k. Letter-Director Special Education to parents dated June 20, 2000.
 - l. A 2-B form from parent to Special Education Department.
 - m. Letter from Director of Special Education to parents dated September 22, 2000.
 - n. Letter from Director of Special Education to Special Education staff dated September 22, 2000.
 - o. Form 2-Bs on twenty-seven (27) Special Education students that were mailed to parents on June 20, 2000 and returned by parents.
 - p. List of names of seventy-two (72) students whose parents were sent 2-B forms on June 20, 2000.
 - q. Letter from Director of Special Education and the school locations of the

- seventy-two (72) students on list.
- r. Letter to Grand Jury from Director of Special Education explaining the Form 2-B situation.
 - s. 2-B form completed by two (2) teachers at direction of program specialist.
 - t. Three (3) Form 2-Bs signed by program specialists.
 - u. Letter from a program specialist dated May 25, 2001 recanting a portion of testimony before the Grand Jury.
 - v. Fax dated September 23, 2000 from Director of Special Education to the Superintendent of MCS.
 - w. Fax transmittal from Executive Director of the MTA to California DOE.
 - x. Letter from Grand Jury dated May 9, 2001 requesting documents, and letter from Director Special Education dated May 15, 2001 in reply.
 - y. Letter from Grand Jury dated May 16, 2001 requesting documents, and a letter from Director Special Education dated May 25, 2001 in reply.
 - z. Letter from Grand Jury dated August 1, 2001 requesting documents, and a letter from Director of Special Education in reply dated August 10, 2001.
 - aa. Letter from Grand Jury dated August 14, 2001 requesting documents, and a letter from the Director of Special Education in reply dated August 21, 2001.
 - bb. Statistical compilation by Grand Jury after review of 2-B forms at ten (10) school sites.
 - cc. MTA application for legal services to the law firm of Tuttle and McClosky dated September 14, 2000.
 - dd. Letter from Tuttle and McClosky to MTA Executive Director dated September 18, 2000.
 - ee. Letter from MTA Executive Director to Director of Special Education requesting list of teachers whose names had been [forged]; cc to Superintendent dated September 19, 2000.
 - ff. A letter from Director of Special Education to MTA Executive Director identifying teachers as requested by MTA.
 - gg. Fax dated September 25, 2000 from Director of Special Education to the Superintendent outlining what had been done to correct the Form 2-B situation.
 - hh. Letter from one (1) of the complainants to Grand Jury regarding his conversation with a representative of the DOE regarding the Form 2-B incident.
 - ii. Two (2) completed MCS employment applications dated March 3, 1993 and April 16, 1993.
 - jj. State of California Teaching credential.
 - kk. MCS request to advertise/employ, date signed February 11, 1993.
 - ll. A letter dated May 4, 2001 from the Grand Jury to the Associate Superintendent for Personnel.
 - mm. MCS job description-program specialist dated June 12, 1991.
 - nn. MCS job description two (2) program specialist dated Revised June 4,

1996.

3. The Grand Jury visited ten (10) school sites and reviewed forty-nine (49) Special Education files for the presence of 2-B forms.

COMPLAINTS:

1. The MCS Director of Special Education instructed some of his employees to alter, falsify, and misrepresent certain Special Education forms relating to the re-evaluation of Special Education students.
2. The Director of Special Education abused his position by requiring some of his employees to participate in an unlawful act and cover-up.
3. The Director of Special Education's supervisors created a conflict of interest when they allowed the Director to investigate the complaint, rather than delegate the matter to a third party.

FINDINGS

1. The Modesto City School Administration Staff and the Director of Special Education cooperated fully during the investigation of these complaints.
2. The Modesto City Schools' Special Education employees interviewed were found to be conscientious, dedicated, knowledgeable and professional.
3. Prior to 2000, the Special Education staff members of the Individualized Educational Program (IEP) team, were required to prepare a three (3) year assessment on certain Special Education students.
4. The federal law was changed in the 1999-2000 school year to allow staff to waive the three (3) year assessment if they felt it was not necessary and the parent agreed with that decision.
5. To facilitate this change in the law, the MCS developed and implemented a form (MCS/SELPA 2-B: June 2000) where staff and parents could indicate by signature their agreement or disagreement to waive the full three (3) year assessment.
6. In May 2000 the California Department of Education (DOE) did a Correction Action Plan (CAP) Review on three (3) year assessments.
7. MCS was notified by the DOE that, as of December 1, 1999, two-hundred and

- eighty (280) students had not received reevaluation (assessment) within the prescribed timelines. MCS was given until June 30, 2000 to rectify this.
8. The Director of Special Education met with program specialists in early June 2000 and asked them to help correct the problem of tardy reevaluations. This was requested because summer vacation was at hand and school site staff would not be available to complete the reevaluations.
 9. Some of the program specialists thought this request was inappropriate. They felt this was the sole responsibility of the IEP team members.
 10. Some program specialists did complete and/or instructed on-site staff to complete 2-B forms without required input from school psychologists.
 11. The Director of Special Education mailed letters to the parents of seventy-two (72) students on June 20, 2000 asking them to sign an enclosed 2-B form and return it to MCS as soon as possible.
 12. The 2-B forms mailed to the parents failed to have any input from staff with knowledge of the students' needs. The boxes on the form were checked indicating staff had reviewed the students' needs. This was not the case. The signature blocks for staff were blank.
 13. Twenty-seven (27) of the 2-B forms were signed by the parents and returned to MCS; forty-five (45) were not returned.
 14. The Director of Special Education sent another letter to the seventy-two (72) parents on September 22, 2000 apologizing and explaining that the letter of June 20, 2000 was sent in error because it failed to have the required input from staff. He stated that this was his error. Testimony was taken that he had instructed a secretary and a clerk to send the letters.
 15. The 2-B forms, printed in English only, mailed to parents on June 20th have what appears to be a signature block below the typed phrase "Staff with Knowledge of Students Needs." The Director testified that this was not intended to be a signature block.
 16. The 2-B form was revised in September 2000 to read above the signature block "Staff with Knowledge of Students Needs/ Signature." According to the Director, this change was made at the insistence of two school psychologists. When the revised form was reprinted, it still included the old form number MCS/SELPA: 2-B June 2000.
 17. When the twenty-seven (27) 2-B forms signed by parents were returned to MCS,

- a clerk in the Director's office entered the data into the computer and forwarded it electronically to the DOE.
18. The clerk attempted to match the names of IEP team members at the student's school site to the Form 2-B's.
 19. The clerk printed the names of these staff members in the signature block of the returned 2-B forms. She could not recall if that was done on her own initiative or she was instructed to do so.
 20. Many of these staff, whose names appeared on the 2-B forms, had no association whatsoever with the student. In fact, several of the staff whose names appeared on the forms had retired prior to the forms being filled out.
 21. When school began in September, some of the 2-B forms, with names of staff printed on them, were discovered at school sites by staff members.
 22. Several staff members expressed concern that their names appeared on the 2-B forms giving the impression that they had reevaluated the student. They were also concerned that, while the files indicated the students had been reevaluated, they may not have been.
 23. The Director addressed this concern with a letter to staff dated September 28, 2000. He wrote "the program specialists are working to bring closure to this situation." Staff members were asked to work with the program specialists on any students they (staff) felt needed a reevaluation.
 24. The Director also stated in his letter that the staff names were put on the 2-B forms by a clerk in his office and routed to the school sites without his knowledge.
 25. The clerk testified that she did not print the names onto the 2-B forms to facilitate the routing to school sites.
 26. A secretary testified that the Director told her and a clerk to put staff names on the 2-B forms. A program specialist testified that the clerk had told her that the Director had instructed her to put the names on the forms.
 27. The Director testified that he does not remember telling the clerk to put staff names on the 2-B forms. He thinks she did it on her own initiative.
 28. Program specialists were initially instructed by the Director to review the files of

- the twenty-seven (27) students and remove the 2-B forms completed by the clerk in his office.
29. Program specialists were then re-directed by the Director not to remove the 2-B forms. However, some files had already been reviewed by the program specialists.
 30. The Director testified that "We do not remove forms from student files."
"No one has the authority to remove it unless it goes through the process."
 31. The Director denied telling program specialists to pull 2-B forms from student files. After discovering they were pulling 2-B forms, he told them to put them back.
 32. The Director recanted his previous testimony and testified he had told the program specialists "to replace" the improper 2-B forms with newly completed ones.
 33. The Grand Jury reviewed twenty-one (21) of the twenty-seven (27) files in question and found only seven (7) contained the 2-B forms with the printed staff names on them.
 34. The Grand Jury reviewed the list of seventy-two (72) students who had letters mailed to their parents on June 20, 2000. Their schools of attendance were identified and forty-nine (49) of the seventy-two (72) students' files were reviewed. This included twenty-one (21) of the twenty-seven (27) files of those students whose parents returned the 2-B forms of June 20, 2000.
 35. Of the forty-nine (49) student files reviewed, six (6) were found not to have been reevaluated as required.
 36. During the review, fifteen (15) 2-B forms with names printed on them were found.
 37. The complaining employees contacted the Executive Director of the Modesto Teachers Association (MTA) about the questionable 2-B forms.
 38. The MTA filed an application and request for group legal services (September 14, 2000) with the law firm of Tuttle and McClosky. MTA wanted an opinion of any liability for Special Education staff whose names had been falsified on the 2-B forms and if they were legally obligated to report these falsifications.
 39. The law firm replied (September 18, 2000) and suggested that MTA contact MCS

and demand that the student reevaluation be properly done immediately on the questioned students.

40. The Executive Director of MTA requested that the Director of Special Education send him a list of the Special Education staff whose names had been printed on the "forged" 2-B forms. There was a cc to the Superintendent of MCS.
41. The Director of Special Education provided a list of the names of Special Education staff whose names had been "forged" on the 2-B forms to the Executive Director of MTA.
42. The Director of Special Education sent a fax to the MCS Superintendent summarizing how he had corrected the 2-B problem by having the program specialists take the twenty-seven (27) students back through the reevaluation process. There was no mention of the other forty-five (45) students whose parents received letters and incomplete 2-B forms to sign and did not return them.
43. The Executive Director of MTA contacted the DOE by telephone and discussed the 2-B matter with a representative. The Director also faxed the DOE a copy of a questionable 2-B form, but never received a return call or any correspondence from the DOE.
44. One of the complainants contacted the DOE by telephone and spoke to a Special Education consultant who handled the MCS/SELPA review. The consultant said she accepted the Director of Special Education's explanation of the 2-B incident and how he had corrected the problem. She was satisfied that the matter was corrected.
45. The Special Education consultant does not recall the complainant's phone call. She testified no written report was ever made by DOE of the allegation of falsified Special Education documents.
46. The Special Education consultant called the MCS Director of Special Education after a call from the MTA Executive Director. She accepted the Special Education Director's explanation that he had a secretary in his office write the names of IEP members on the 2-B form rather than have it typed. The consultant suggested he not do that again.
47. The Director testified that no one from DOE ever contacted him regarding the 2-B form issue.
48. The MCS Superintendent of Schools did not assign anyone to investigate the complaint of the MTA or the complainants.

CONCLUSIONS

The Civil Grand Jury concluded that:

1. The Director of Special Education was under severe time constraints from the DOE to complete the tardy student reevaluation forms or face possible sanctions for being out of compliance.
2. The Director, after being refused by his program specialists, instructed his secretary and a clerk to complete the reevaluation forms without required staff input and mail them with his cover letter to parents for signature.
3. This lack of a three (3) year evaluation could conceivably result in a student going six (6) years without an evaluation as required by law.
4. When the signed 2-B forms were returned by the parents, there is strong evidence suggesting that the Director instructed a clerk to put staff names on the forms. After the forms had the names placed on them, it gave the appearance that the students had been reevaluated with input from the staff. The forms were then placed in the students' files.
5. The Director's letter of September 22, 2000, apologizing to the affected parents and stating he made an error by not having staff input, is misleading. The Director sent the letter knowing it was misleading, untruthful, and done as part of an overall strategy to bring compliance without completing reevaluation and to avoid possible sanctions by DOE.
6. When staff discovered what had occurred and questioned his actions, the Director sent each affected staff member a letter placing the blame on a clerk. It appears that the Director attempted to wrongfully place blame on a clerk, rather than assume full responsibility for his own actions.
7. At first the Director denied, then admitted, that he had ordered program specialists to illegally remove 2-B forms from students' files.
8. A program specialist advised 2-B forms had been illegally removed from students' files, but the exact number was unknown.
9. It appeared to the Grand Jury that several students who required reevaluation were not taken back through the process and reevaluated.
10. The DOE, after being contacted by the MTA and a MCS psychologist, both

expressing concern about [forged documents], should have conducted a thorough investigation of the matter.

11. Simply accepting the Director of Special Education's explanation, and not documenting the matter, makes the DOE remiss in its duties and responsibilities.
12. The Grand Jury found portions of testimony from the Director of Special Education to be in conflict with the testimony of at least four (4) other witnesses.
13. The Superintendent of MCS failed to adequately investigate and address this issue.

RECOMMENDATIONS

The Civil Grand Jury Recommends that:

1. The MCS Superintendent and Assistant Superintendent of Curriculum and Instruction, as the Director's immediate supervisors, verify and assure that the seventy two (72) students whose parents received letters and reevaluation forms on June 20, 2000 have, in fact, been reevaluated, and their files contain the proper documentation of the reevaluation.
2. The MCS/SELPA establish and follow a procedure to ensure that a backlog of students requiring reevaluation does not occur in the future.
3. When new or revised MCS forms are introduced, specific in-service training is conducted on the forms.
4. All MCS forms, when revised, should have printed on them [revision] and the date revised.
5. When practical MCS/SELPA correspondence to parents should be written in a language familiar to them.
6. Accusations of misconduct or illegal acts should not be investigated by the accused party. Investigations should be undertaken by the supervisor of the accused or a disinterested third party.

COMPLAINT:

4. The Director of Special Education hired a long-time-friend from another county school system to fill a program specialist position. This individual did not, at the time of hiring, possess the proper credentials for the position.

FINDINGS

1. This individual was previously employed by the Sonoma County Office of Education from 1981 to 1992 as a speech and language specialist.
2. The MCS Director of Special Education was also employed during part of this time in Sonoma County as a program manager for Special Education.
3. This individual was acquainted with the MCS Director of Special Education for about five (5) years in Sonoma County.
4. There was no social relationship between them or their families. The individual testified that he only saw the Director about ten (10) times in that five (5) year period.
5. The Director left Sonoma County in 1989 for a position with MCS.
6. The individual was hired by MCS in 1992 as a speech therapist in the Special Education Department.
7. In early 1993, MCS advertised for the position of program specialist.
8. The minimum education requirements in 1993 for the MCS position of program specialist was a masters degree and a Special Education credential, but the masters degree requirement was eliminated in June 1996.
9. Three (3) candidates were interviewed, and only two (2), including the individual, met the State requirements. Neither held a masters degree as required by MCS.
10. The MCS Assistant Superintendent for Personnel testified he was employed in his current position in 1993 and had the authority to waive the requirement for a masters degree.
11. The MCS Assistant Superintendent testified that he probably discussed the waiver of the masters degree requirement with the Superintendent, but has no independent recollection of doing so.
12. No documentation was created regarding this matter, nor is it customary to do so.

13. The Assistant Superintendent for Personnel believes the waiver for the masters degree was approved by himself and the Superintendent.
14. The Assistant Superintendent for Personnel testified that granting the waiver for a masters degree would not have been a decision made by the Director of Special Education. The individual was given the position of program specialist for the school year 1993-1994. He currently holds the same job title.

CONCLUSIONS

The Civil Grand Jury concluded that:

1. The individual was not hired from Sonoma County to fill a position for program specialist, but for the position of speech therapist.
2. The individual was not, at the time of his employment by MCS (1992), a long-time friend of the MCS Director of Special Education.
3. The individual did not possess a masters degree as required by MCS when he applied for the position of program specialist in 1993.
4. The Assistant Superintendent for Personnel had the authority to waive the MCS requirement for a masters degree during the filling of the program specialist position in 1993 and exercised his right to do so.
5. The Director of Special Education does not make the final decision of who will be hired. This is the function of the Personnel Department, based in part on the Director's recommendation.
6. The Director of Special Education committed no improprieties in the filling of the program specialist position and the selection of the individual.

RECOMMENDATIONS

The Civil Grand Jury recommends:

When any specified qualifications for a position with MCS is waived, it should be documented and signed by the authorizing authority and made a part of the employee's personnel file.

ADDITIONAL ISSUES AND CONCERNS:

- 5A. The SELPA Procedural Handbook was not updated annually, nor was it distributed to the school sites as required.

FINDINGS

1. In accordance with the California Education Code, Section 56200, a local plan for the education of individuals with exceptional needs residing in MCS districts has been developed. The plan is identified as the Special Education Local Plan Area (SELPA).
2. An important part of the plan is the SELPA Procedural Handbook. It contains specific procedures for the coordination of the Local Plan.
3. The Procedural Handbook states: "This handbook and accompanying forms are intended for use by all special education service providers. It is intended to provide structure to the entire SELPA in implementing legal requirements."

"The purpose of this handbook extends beyond a compliance with legal requirements. It is primarily intended to provide assistance to all staff in implementing program requirements in the most efficient and effective manner possible in order to assure quality special education services to individuals with exceptional needs."
4. The Procedural Handbook cover has 1998-2002 printed on it.
5. The SELPA calls for the Procedural Handbook to be updated annually.
6. The SELPA Local Plan Section II page 5 states "the Procedural Handbook is provided to all SELPA staff, site principals, support staff, and members of the general public upon request."
7. The Director of Special Education testified that before anyone gets a copy of the handbook, it must be requested.
8. Only five (5) out of the forty-three (43) on-site administrators and special education staff had ever seen the Procedural Handbook. Only three (3) of ten (10) school sites visited had a copy on hand. Most had never heard of it.
9. The Director of Special Education testified he did not print a copy for each school site because he thought it impractical.
10. The Director of Special Education testified that the Procedural Handbook had not

been distributed to each school site prior to September 2001.

11. In September 2001, the Director of Special Education instructed the program specialists to distribute the handbook to all school sites, but was uncertain if this had been completed.
12. A school psychologist and a resource specialist made a written request for a copy of the handbook from the Director. Their request went unanswered.
13. The Director of Special Education testified that he has received only one request for a handbook and it was provided.

CONCLUSIONS

The Civil Grand Jury concluded that:

1. The Procedural Handbook is an integral part of the SELPA and is identified as such by SELPA documents.
2. The existence of the Procedural Handbook is, for all practical purposes, unknown by Special Education staff on site.
3. The Director of Special Education has been reluctant to distribute the Procedural Handbook.
4. The MCS has failed to follow SELPA policy by not implementing the provisions stated therein, [it (procedural handbook) contains specific procedures for the coordination of the Local Plan] (page five Local Plan Section II).

[It is intended to provide structure to the entire SELPA in implementing legal requirements] (Procedural Handbook page one).

It would be difficult for the MCS [Special Education Department and staff to implement and follow the requirements of the SELPA when the very document to be followed is not made available to them.

5. The Director of Special Education [s testimony concerning the Procedural Handbook frequently lacked clarity and often changed.

RECOMMENDATIONS

The Civil Grand Jury recommends:

1. If the Procedural Handbook's primary purpose is to provide assistance in implementing program requirements to assure quality special education service, then the manual must be readily available to the entire Special Education staff.
 - a. Provide each school site a hard copy of the handbook.
 - b. Post the handbook on the Modesto City Schools' web site.
 - c. Make available, if requested, a computer disc of the handbook.
2. The handbook must be updated as required and provide revisions to staff on a timely basis.

ADDITIONAL ISSUES AND CONCERNS:

- 5B. Resource Specialists were not to carry caseloads of over twenty-eight (28) pupils without caseload waivers.

FINDINGS

1. The California Education Code, Section 56362 (c), states "no resource specialist shall have a caseload which exceeds twenty-eight (28) pupils."
2. If the school district places more than twenty-eight (28) pupils in a resource specialist program, the district **must** submit a resource specialist caseload waiver application to the State Board of Education (SBE).
3. The caseload waiver asks the SBE to temporarily set aside Education Code Section 56362 (c).
4. Without a caseload waiver approval by the SBE, resource specialists may not have more than twenty-eight (28) pupils in their program.
5. The District must guarantee that, by increasing a caseload of twenty-eight (28) pupils up to no more than thirty-two (32) pupils, the education of the students would not be compromised.
6. The District must also submit, as part of the application, documentation outlining how these conditions will be resolved by the time the waiver expires.
7. The District must demonstrate to the SBE that extraordinary fiscal or

programmatic conditions exist, requiring the need for placing more than twenty-eight (28) pupils on a caseload.

8. An approved caseload waiver means that a resource specialist may increase his/her caseload up to thirty-two (32) pupils and that the District must provide a daily five (5) hour instructional aide in such cases.
9. Four (4) resource specialists interviewed testified they do have caseloads exceeding twenty-eight (28) pupils, and this situation has existed for several years.
10. The resource specialists interviewed testified they have never completed a caseload waiver.
11. The Director of Special Education testified that he is not aware of any resource specialist currently having a caseload exceeding twenty-eight (28) pupils.
12. The MCS has not submitted any caseload waivers to the SBE.
13. The Director of Special Education testified that the DOE did a focus monitoring of the MCS/Special Education for the 2000-2001 school year and found MCS in compliance regarding resource specialist caseloads.
14. According to the Director, the District will pay these existing resource specialists to work an additional period of time to reduce caseloads and will use credentialed substitutes when necessary.

CONCLUSIONS

The Civil Grand Jury concluded that:

1. Resource specialists' caseloads have been exceeded.
2. The resource specialists' caseloads were, at times, being exceeded during the school year 2001-2002.
3. The MCS has failed to submit caseload waivers to the SBE as required by Education Code Section 56362 (c).
4. The Director appears to be attempting to correct the problem with additional teaching time.

RECOMMENDATIONS

The Civil Grand Jury recommends:

1. The Associate Superintendent of Educational Services Division establish a procedure to monitor the status of resource specialists' caseloads.
2. Site principals report to the Associate Superintendent of Educational Services Division and the Director of Special Education when any resource specialists' reports exceed a caseload of twenty-eight (28) pupils.
3. Resource specialists, on a monthly basis, report to the site principal their caseloads and specifically note when they exceed twenty-eight (28) pupils.
4. Caseload waivers be submitted to the SBE when required.

ADDITIONAL ISSUES AND CONCERNS:

- 5C. Witnesses who appeared before the Civil Grand Jury testified regarding their concerns about the Director of Special Education's communication skills and management style.

FINDINGS

1. The Director of Special Education testified that "he probably spent 70% of his time fending off compliance complaints" and potential legal issues.
2. On-site Special Education staff seldom, if ever, see or have any interaction with the Director of Special Education.
3. There is significant lack of written policy or procedures from the Director's office to provide guidance in the implementation of programs.
4. Communication from the Director is rarely provided in written form.
5. The Director seldom, if ever, makes an appearance at Special Education staff meetings or functions.
6. Program specialists are appointed by the Director as his representatives or surrogates at official functions and meetings.
7. The Director seldom meets with and discusses policies and issues with site

Special Education staff.

8. Staff members receive little recognition from the Director for good job performance.

CONCLUSIONS

The Civil Grand Jury concludes that:

1. The Director of Special Education spends an inordinate amount of time dealing with compliance and potential legal issues.
2. It is difficult for the Director to provide leadership and direction because of the time spent on compliance and legal issues.
3. The Director, according to many witnesses, is infrequently seen or heard from by the Special Education site staff.
4. The policies and procedures required to drive the Special Education program are not in written format or readily available to Special Education staff.
5. Communications from the Director are generally verbal, which creates misunderstandings, errors, confusion and results in a lack of accountability.

RECOMMENDATIONS

The Civil Grand Jury recommends:

1. The Modesto City Schools establish a "Parent Liaison Program" and employ a coordinator to develop and implement the program.
2. Part of this program should include a procedure for alternate dispute resolution which would allow the Director better utilization of his time to direct the Special Education program.
3. The Director should spend more time at school sites working with the administrators and Special Education staff.
4. All policies, procedures and directions from the Director's office should be in written format and distributed to staff.
5. There should be an ongoing program of policy and procedure review and revision.

6. The MCS should develop and implement a program that recognizes the hard work, contributions, and achievements by the employees of the Special Education program.

ADDITIONAL ISSUES AND CONCERNS:

- 5D. The Community Advisory Committee's (CAC) policies, procedures, and meeting schedules were not adhered to effectively.

FINDINGS

1. The Community Advisory Committee, hereafter referred to as the CAC, functions in an advisory capacity to the Modesto City Schools SELPA Governing Board and SELPA Director.
2. The SELPA Local Plan stipulates the CAC provide input on development, review and implementation of the Local Plan and its policies and procedures pertaining to individuals with special needs.
3. The SELPA Local Plan contains a section devoted to the CAC, including CAC Selection and Appointment Procedures and Responsibilities, but does not include a set of by-laws.
4. The SELPA Local Plan is to be signed by the chair(s) of the CAC after its review, but the co-chairs testified they either were not asked for their signatures or refused to sign the Local Plan after 1995.
5. The SELPA Local Plan stipulates CAC membership shall not exceed twenty-five (25) members with two (2) year terms and no more than 50% of the membership shall be replaced annually.
6. Parents of students in both Special Education and regular education are recruited for the CAC through the district newsletter, teacher and site administrators' recommendations, and the CAC members' recruitment efforts.
7. Other CAC members include representatives of the Department of Mental Health, California Children's Services, Valley Mountain Regional Center, local colleges and universities, although none of the mandated members have attended meetings on a consistent monthly basis since 1997.
8. The majority of CAC members are parents whose children are Special Education

students.

9. The SELPA Local Plan states CAC members are to recommend priorities to be addressed by the Local Plan Development Committee.
10. Education Code Section 56194 and the Modesto City Schools' Local Plan, specifies a needs assessment is to be developed during the first CAC meeting of each school year.
11. Needs assessment results are to be reviewed by the CAC Executive Board to prioritize staff in-service topics, parent education programs and CAC meeting discussion topics.
12. In June 1999, needs assessment surveys were bulk-mailed to parents of students in the Special Education program. Completed surveys were to be returned in envelopes addressed to a post office box previously rented for that purpose by the Special Education office. Those surveys returned by parents were never received by the CAC because the rental period for the post office box had expired.
13. No surveys were returned to the CAC in 1999 due to this administrative/clerical error.
14. The CAC sponsors parent advocacy training, parent workshops on parental rights and responsibilities, the IEP process and parental professional collaboration.
15. From 1996-1999, as many as ten (10) CAC members attended meetings.
16. In 1999-2001, only two (2) or three (3) CAC members attended meetings.
17. Three (3) of eight (8) meetings were canceled in 2000-2001 by the Special Education office.
18. Lack of attendance was a topic of discussion in four (4) of the eight (8) 2000-2001 CAC meetings.

CONCLUSIONS

The Civil Grand Jury concludes that:

1. Modesto City Schools administration prepared Board Policy drafts on SELPA administration to include the CAC but failed to formalize and approve it as Board Policy as required by Education Code Sections: 56001, 56190-56194, 56195.7, 56200 (f), 56205 (12) and 56240.
2. Modesto City Schools' Special Education administration has assigned its newly

hired Assistant Director the task of providing a potential CAC member interest survey.

3. The meeting times and location of CAC meetings did not prove conducive to parents and external organizations attending meetings. Movement to more convenient times and rotational school sites was begun in September 2001 to increase CAC attendance.
4. The CAC is not provided an annual budget, making it difficult to initiate parent training workshops or implement innovative ideas at school sites.

RECOMMENDATIONS

The Civil Grand Jury recommends that:

1. Prior to June 2002, the Modesto City Schools Board of Education and the SELPA CAC should formally adopt by-laws to reflect the State Education Code requirements including: the creation and adherence to a CAC mission statement, and establishing criteria for duties, membership, meetings, officers, parliamentary procedures, and amendments.
2. The SELPA Curriculum-Personnel Development Committee provide for continuous participation by a CAC representative in 2001-2002 and following years.
3. The CAC receive and develop an annual budgeted amount of Special Education monies to support recruitment, assessments and parent training prior to establishing the 2002-2003 budget.
4. The CAC be provided Special Education administrative and clerical support to distribute, collect, analyze, and disseminate results of needs assessment surveys to all interested groups prior to the 2002-2003 school year.
5. The CAC be given the opportunity, on a semi-annual basis, to be placed on the agenda for a presentation to the Board of Education.

RESPONSE REQUIRED per Section 933 [c] and 933.05 of the California Penal Code:

Modesto City Schools Board of Education.

This Final Report will be available for public review on the Civil Grand Jury website located at: <http://www.co.stanislaus.ca.us/COURTS/courts/grandjury/index.html>

¶933. Comments and Reports on Grand Jury Recommendations

- [c] No later than 90 days after the grand jury submits a final report on the operations of any public agency subject to its reviewing authority, the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elective county officer or agency head for which the grand jury has responsibility pursuant to Section 914.1 shall comment within 60 days to the presiding judge of the superior court, with an information copy sent to the board of supervisors, on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All such comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury. A copy of all responses to grand jury reports shall be placed on file with the clerk of the public agency and the office of the county clerk, or the mayor when applicable, and shall remain on file in those offices. One copy shall be placed on file with the applicable grand jury final report by, and in the control of the currently impaneled grand jury, where it shall be maintained for a minimum of five years.

¶933.05 Response to Grand Jury Recommendations--Content Requirements

- A. Section 933.05 of the California Penal Code requires that a responding person or entity shall indicate one of the following:
- (1) The respondent agrees with the finding(s); or
 - (2) The respondent disagrees wholly or in part with the finding(s). If this response is chosen, the respondent will specify that portion of the finding(s) which is disputed and shall include an explanation of the reasons for the disagreement.
- B. As to each Grand Jury recommendation, the responding public officer or agency shall indicate one of the following:
- (1) The recommendation has been implemented and set forth a summary of the implemented action;
 - (2) The recommendation has not been implemented but will be implemented in the future with a time frame for implementation;

- (3) The recommendation requires further analysis with an explanation as to the scope of the analysis and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department or governing body being investigated. The time frame shall not exceed six (6) months from the date of publication of the Grand Jury report; and
 - (4) The recommendation will not be implemented because it is either not warranted or not reasonable with an explanation as to why the recommendation will not be implemented.
- C. If a finding or recommendation addresses budgetary or personnel matters of a department headed by an elected official, both the Department Head and the Board of Supervisors will respond. The Board of Supervisors response shall be limited to those budgetary or personnel matters over which it possesses decision making authority.

RESOLUTION

WHEREAS, the 2001-2002 Stanislaus County Civil Grand Jury has conducted an investigation and has reached certain conclusions and made recommendations; and

WHEREAS, the Stanislaus County Civil Grand Jury desires to make its *FINAL REPORT* thereof;

THEREFORE BE IT RESOLVED, by the Stanislaus County Civil Grand Jury that the report is hereby adopted as *FINAL REPORT, PART ONE*.

Robert E. Johnson
Civil Grand Jury Foreperson
Fiscal Year 2001-2002
Released on April 4, 2002