



National Transportation Safety Board

Washington, D.C. 20594

Safety Recommendation

Date: July 6, 1999

In reply refer to: H-99-20 and -21

Honorable Donna E. Shalala
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

In 1999, the National Transportation Safety Board initiated a special investigation as a result of its findings from four recent accidents involving “nonconforming buses,” that is, vehicles for student transportation that meet the Federal definition of a bus¹ but not the Federal occupant crash protection standards of school buses.² In the subject accidents, 9 people were killed, and 36 were injured. One of the accidents investigated occurred on December 8, 1998, in East Dublin, Georgia, when a 15-passenger van transporting children to a Head Start program collided with a pickup truck. During the accident sequence, a 4-year-old child was ejected from the van and sustained fatal injuries. The van driver sustained serious injuries; the adult aide and remaining four children sustained minor injuries. The van was owned and operated by the Laurens County Rural Transit System.

The nonconforming bus involved in the East Dublin accident did not and was not required to meet Federal school bus occupant crash protection standards, which were enacted in the 1970s for the specific purpose of safeguarding children being transported to and from school or school-related activities. The States, which are responsible for enforcing the use of school buses, in most cases, require that children be transported to and from school only on buses meeting Federal school bus crashworthiness standards. However, despite clear directives to the contrary from the National Highway Traffic Safety Administration (NHTSA) and national associations, some States by statutory exclusion or exception either allow or do not prohibit the use of nonconforming buses to school-related activities, including Head Start programs.

In 1977, NHTSA issued an interpretation letter in a response to an inquiry as to whether Head Start facilities are considered preprimary schools for purposes of applying the Federal school bus safety standards. The letter reads, in part:

¹ FMVSS (CFR 571.3) defines *bus* as a motor vehicle designed to carry more than 10 persons and *school bus* as a bus that carries students to or from school or school-related activities.

² For additional information, refer to Special Investigation Report—*Pupil Transportation in Vehicles Not Meeting Federal School Bus Standards* (NTSB/SIR-99/02).

[NHTSA] has determined that these [Head Start] facilities are primarily involved with the education of preprimary school children. Thus, the buses used to transport children to and from the Head Start facilities are considered school buses...and must meet all Federal school bus safety standards.

For its special investigation report, the Safety Board reviewed a February 1999 survey conducted by the National Association of State Directors of Pupil Transportation Services. Of the 32 directors responding, 20 said that their States permitted the use of nonconforming vans for Head Start transportation; only 8 States specifically prohibited using vehicles other than school buses to transport Head Start children.³

The Safety Board is disturbed by the trend toward using nonconforming vehicles rather than school buses in pupil transportation. When States allow children to be transported in vehicles not meeting Federal school bus construction standards, NHTSA's intent of protecting school children is undermined. This trend is potentially serious in that it puts children at greater risk of fatal or serious injury in the event of an accident. The Safety Board is firmly convinced that the best way to maximize pupil transportation safety is to require the use of school buses or buses built to equivalent occupant crash protection standards.

In 1995, the Head Start Bureau issued a notice of proposed rulemaking (NPRM) to establish required safety features and operating procedures for any vehicle, including all buses, used to transport children to Head Start programs. The NPRM proposes that the transport of Head Start children be limited to school buses. The release of this rulemaking should be expedited to prevent future injuries and fatalities to children enrolled in Head Start programs.

The Safety Board is aware that in February 1999, NHTSA published the *Guideline for the Safe Transportation of Pre-School Age Children in School Buses*, which recommends that preschool-age children be transported in child safety restraint systems on school buses. Because Head Start children are primarily preschool age, the Safety Board believes that the DHHS should incorporate and mandate the use of the guidelines from this NHTSA publication into its rules for the transportation of Head Start children.

The Safety Board therefore recommends that the U.S. Department of Health and Human Services:

Require that Head Start children be transported in vehicles built to Federal school bus structural standards or the equivalent. (H-99-20)

Incorporate and mandate the use of the guidelines from the National Highway Traffic Safety Administration's *Guideline for the Safe Transportation of Pre-school Age Children in School Buses* into the rules for the transportation of Head Start children. (H-99-21)

³ The total number of responses to some questions varied because some State directors did not answer all survey inquiries.

Also, the Safety Board issued safety recommendations to the Governors of the U.S. States and Territories, the Mayor of the District of Columbia, the National School Boards Association, the National Association of Independent Schools, the National Conference on School Transportation, the National Parent Teacher Association, the National Association of Child Care Professionals, the National Child Care Association, the National Head Start Association, the Young Men's Christian Association, the Young Women's Christian Association, the national headquarters of 14 major churches, and the Community Transportation Association of America.

Please refer to Safety Recommendations H-99-20 and -21 in your reply. If you need additional information, you may call (202) 314-6444.

Chairman HALL, Vice Chairman FRANCIS, and Members HAMMERSCHMIDT, GOGLIA, and BLACK concurred in these recommendations.

By: Jim Hall
Chairman