



National Transportation Safety Board

Washington, DC 20594

Safety Recommendation Report

Shortcomings of Driver Qualification Processes for Baltimore City Public Schools and of the Disqualified Driver Database for All Maryland School Districts

Accident Number:	HWY17MH007
Location:	Baltimore, Maryland
Date:	November 1, 2016
Recommendation Numbers:	H-17-13 through -15
Adopted:	March 29, 2017

Background

The National Transportation Safety Board (NTSB) is an independent federal agency charged by Congress with investigating every civil aviation accident in the United States and significant accidents in other modes of transportation—railroad, highway, marine, and pipeline. We determine the probable causes of the accidents and issue safety recommendations aimed at preventing future accidents or lessening their severity.

The NTSB is investigating a collision between a school bus and a transit bus that occurred in Baltimore, Maryland, on November 1, 2016. In the course of the investigation, the NTSB has identified deficiencies with the oversight of school bus driver operations and qualifications by the city of Baltimore and by the Maryland State Department of Education (MSDE). These deficiencies include (1) failure of Baltimore City Public Schools (BCPS) to adequately review or take action in response to reports of previous crashes concerning its school bus drivers, and (2) inconsistencies in the interpretation of state regulations on what conditions disqualify school bus drivers from employment and on when drivers should be entered into the state database of disqualified drivers. Consequently, the NTSB is issuing two safety recommendations to BCPS, one of which is designated urgent, and one safety recommendation to the MSDE. Information to support these recommendations is provided below.

Baltimore Crash

About 6:30 a.m. (local time) on Tuesday, November 1, 2016, a 2015 IC 64-passenger school bus was traveling east in the 4000 block of Frederick Avenue in Baltimore, Maryland. The school bus, operated by the motor carrier AAAfordable Transportation, was occupied by a 67-year-old driver and an adult teacher aide. No students were on the bus at the time. After the

school bus traveled through the intersection of Frederick Avenue and South Loudon Avenue, it struck the rear of a 2012 Ford Mustang passenger car, which was also traveling east on Frederick Avenue.¹ After striking the Ford Mustang, the school bus continued traveling east on Frederick Avenue, crossed through the center turn lane, and entered the westbound travel lane, where it collided with the left side of a 2005 New Flyer transit bus operated by the Maryland Transit Administration (MTA). The transit bus was occupied by a 33-year-old driver and 13 passengers. As a result of the crash, the drivers of both buses and four transit bus passengers died. Seven transit bus passengers were seriously injured. Two transit bus passengers and the teacher aide on the school bus sustained minor injuries. The driver of the Ford Mustang also sustained minor injuries.

Preliminary information suggests that neither bus driver was using a cell phone at the time of the crash. Both bus drivers had been driving for less than 3 hours when the crash occurred. Postcrash mechanical inspections of both buses identified no mechanical defects.

Inadequate Response to Crash Reports and Incomplete Driver Documentation

According to information obtained by NTSB investigators, the school bus driver had a history of hypertension, diabetes, and seizures. In the past 5 years, he had been involved in at least 12 crashes or incidents while operating a school bus or personal vehicle.²

NTSB investigators reviewed BCPS records and found reports on the following four crashes in the driver's file:

- September 7, 2011 – The driver hit a parked vehicle while backing up a school bus with a teacher aide and no students onboard. No injuries were reported.
- October 14, 2011 – The driver struck three poles and a parked car after he “passed out” while driving a school bus with a teacher aide and one student onboard. The student was not injured, but the teacher aide sustained neck and back injuries.
- March 2, 2012 – The driver sideswiped a car after dropping off a student. There was a teacher aide but no students onboard. No injuries were reported.
- September 23, 2015 – The driver sideswiped a parked vehicle, left the scene, and failed to report the crash. No one else was onboard the bus at the time. The driver was suspended for 72 days for failing to report the crash and leaving the scene of an accident.

NTSB investigators also identified a fifth crash, which occurred on July 19, 2016; BCPS was notified of this crash on the day it occurred, but it did not appear in the driver's records.³

¹ The teacher aide who was onboard the school bus during the crash recalled asking the school bus driver what had happened after the impact with the Ford Mustang but stated that the school bus driver did not respond.

² The NTSB gathered these crash and incident data from police reports, BCPS records, and employer records. Only a subset of these crashes or incidents had been reported to BCPS.

³ The NTSB located information concerning this crash in the records of Reliable Transportation, a previous employer of the driver.

Again, the driver hit a parked vehicle while driving a school bus; on this occasion, he had a teacher aide and two students onboard. No one was injured.

The MSDE regulates pupil transportation by local school systems in the state of Maryland in *Code of Maryland Regulations (COMAR)* Title 13A, Subtitle 6, Chapter 7. Two sections address school vehicle driver qualifications. Section 13A.06.07.06 addresses “School Vehicle Driver Trainee and School Vehicle Driver Qualifications” and the various requirements that must be met by school vehicle trainees and school vehicle drivers before transporting students in school vehicles. This section also describes required school vehicle driver evaluations that must take place at least once every 2 years. Section 13A.06.07.07 addresses “School Vehicle Driver Disqualifying Conditions and Termination” and describes disqualifying conditions based on driving records, criminal conduct, crashes, or other actions deemed unsafe by the supervisor of transportation. Section 13A.06.07.07.E, “Disqualification for Accidents,” outlines the following three-tier disciplinary structure in response to preventable crashes:

- (1) A driver who has a preventable crash involving personal injury or appreciable damage shall have a conference with the supervisor of transportation and attend appropriate training if directed.
- (2) A driver who has had two preventable crashes involving personal injury or appreciable damage in a 24-month period may not operate a school vehicle in any local school system for a period of 5 years from the date of the last accident.⁴
- (3) A driver who has more than two preventable accidents involving personal injury or appreciable damage in any 24-month period is to be permanently disqualified from operating a school vehicle in Maryland.

Section 13A.06.07.01.B.(3) defines “appreciable damage” as property damage in excess of \$1,500. Only one of the five crash reports found by the NTSB included a damage estimate. For the September 7, 2011, crash in which the driver backed into a parked vehicle, the damage estimate was \$1,100, which did not qualify as appreciable damage. Because BCPS did not document the property damage costs for the other four crashes, the NTSB could not determine whether any met the threshold for appreciable damage. Under section 13A.06.07.07.E, the degree of damage (measured by cost) caused by a preventable crash is one of the criteria for determining whether a driver should be disqualified from driving a school bus. Because BCPS failed to adequately document the school bus driver’s previous crashes, school district decision-makers were left with incomplete information when making the determination of whether this driver should be disqualified from driving a school bus for BCPS.

The October 14, 2011, crash involved the driver passing out while driving a school bus, resulting in personal injury to a teacher aide. Section 13A.06.07.07.E.(4)(a) requires that, in such a case, the driver have a conference with the supervisor of transportation, but none was held. NTSB investigators interviewed the BCPS Safety and Training Supervisor of the Office of Pupil Transportation and asked if BCPS took any actions in response to the October 14, 2011, crash; the

⁴ Disciplinary measure (2) is to be taken unless the supervisor of transportation places a letter in the driver’s personnel file documenting sufficient reasons to retain the individual as a qualified school vehicle driver. The crash driver’s personnel file contained no such letters.

supervisor responded “no.” The BCPS Safety and Training Supervisor also stated that nothing was done to evaluate the school bus driver’s medical condition after this crash and that no policies or procedures are in place to conduct such evaluations after a school bus driver has a medical event. The NTSB concludes that BCPS did not adequately document or review the school bus driver’s prior crashes or take appropriate action in response to the October 14, 2011, crash in which the driver passed out while driving a school bus.

During its investigation, the NTSB documented numerous instances in which BCPS did not review or maintain records as required to comply with state or federal regulations. BCPS did not review crash reports, did not maintain crash cost documentation, did not maintain criminal background reports, and had a drug-testing program that did not comply with the *Federal Motor Carrier Safety Regulations*.⁵

BCPS provides transportation to schoolchildren through four means: city-owned school buses, MTA transit buses, contracted privately owned school buses, and taxicabs. The school bus involved in this crash was being operated by a privately owned school bus company. BCPS contracts with about 10 privately owned school bus companies that bid on routes for student transportation.

Between 2008 and 2016, the school bus driver involved in this crash worked for five different privately owned school bus companies contracted to operate school bus routes for BCPS.⁶ At the time of the crash, the driver was working for the carrier AAAfordable Transportation of Baltimore, Maryland. AAAfordable Transportation had contracts to run seven Baltimore City school bus routes and three Howard County school bus routes at the time of the crash.

The BCPS *Office of Pupil Transportation Standard Operating Procedure* (SOP) outlines the administration of, and guidelines for maintaining, school bus driver qualifications. The document states in section 3.0, “Pre-Service Certification of School Bus Personnel,” and section 5.0, “Responsibility,” that BCPS shall maintain all documentation related to school bus personnel, such as medical examinations, pre-employment drug testing, random drug and alcohol testing, postaccident drug and alcohol testing, initial motor vehicle administration records, and criminal background reports.

A driver’s criminal conduct is also used as a critical element in the qualification or disqualification of a driver. Under *COMAR* section 13A.06.07.07.C, certain criminal charges are disqualifying conditions for school bus drivers. To ensure compliance with this section, BCPS requires that contractors conduct and maintain a Criminal Justice Information Service (CJIS) background check for their bus drivers on behalf of BCPS. Whenever a contractor hires a driver, BCPS is responsible for reviewing and maintaining a record of that driver’s CJIS alerts.⁷ The

⁵ BCPS was conducting US Department of Transportation postaccident drug testing that did not meet the requirements of 49 *Code of Federal Regulations* 382.303.

⁶ The five companies were CT Transportation, City Wide Bus Company, Barber Transportation, Reliable Transportation, and AAAfordable Transportation.

⁷ The CJIS sends BCPS an alert whenever there is any change in a driver’s criminal record related to events that initially required the driver to be fingerprinted.

BCPS SOP states, under section 3.0, “Pre-Service Certification of School Bus Personnel,” as well as section 6.0, “Procedures,” subsection 6.4, that “CJIS sends the report results via e-mail to the Safety and Training Officer [within BCPS] for review to assure compliance with the Code of Maryland Annotated Regulations (COMAR).”

NTSB investigators determined that in the period since AAAfordable Transportation hired the accident driver, the CJIS sent BCPS 11 alerts regarding criminal charges against the driver.⁸ However, the BCPS qualification file for this driver contained only the original background check conducted in 2008. As a result, the NTSB could not determine whether BCPS staff examined the driver’s criminal records during his years transporting students for the school system. The absence of these CJIS alerts is yet another example of missing documentation that hindered adequate oversight of school bus drivers. The NTSB concludes that, because BCPS failed to maintain files on the accident driver’s criminal history, as required by its own SOP, there is no evidence that it evaluated the accident driver’s criminal history to ensure compliance with *COMAR* section 13A.06.07.07.C while he was transporting children for the school system.

The NTSB is concerned that these BCPS shortcomings in its oversight of school bus drivers place BCPS students, as well as the public, at risk. BCPS did provide investigators with information on some postcrash actions it has taken to better review crash reports and driver qualifications. However, although BCPS has taken some steps to improve its processes, the risks posed by unqualified drivers remain.

The MSDE has oversight authority for BCPS, and it conducts financial audits on each of Maryland’s 24 school districts every 2 years. The MSDE also has the authority to conduct other types of audits, when so requested by a school district. Maryland Code, Education, Section 5-110, sets forth the terms under which the MSDE can conduct a performance audit of a public school system. Performance audits assess a school system’s practices or programs to determine whether the system is operating economically and efficiently, and whether corrective actions are needed to improve performance.

Performance audits are conducted at the request of the public school system and the local governing body (such as the Baltimore City Council). When such a request is made, the MSDE contracts with an independent and neutral third party to examine the area of concern. The statute states that the MSDE must make reasonable efforts to ensure that a performance audit is completed and its results are made available to the requestor in time for them to be considered in the preparation of the budget for the next fiscal year. The school system and local governing body share the cost of the performance audit equally (MD Educ. Code § 5-110 [2013]).

The NTSB concludes that an objective examination of the BCPS transportation program by an independent and neutral third party with knowledge of state and federal transportation regulations would help BCPS identify and address existing deficiencies in its driver and carrier oversight program. Therefore, the NTSB recommends that BCPS request that the MSDE have an

⁸ (a) The CJIS sent those alerts via secured e-mail to the BCPS Safety and Training Supervisor of the Office of Pupil Transportation on the following dates: December 14, 2011; January 26, 2012; July 27, 2012; July 30, 2012; August 7, 2012; October 5, 2012; October 9, 2012; November 2, 2012; November 7, 2012; November 19, 2012; and February 6, 2014. (b) The CJIS sends alerts whenever an individual is charged with, processed for, and/or convicted of a crime, regardless of the nature of the offense or its potential to be a disqualifying condition under the *COMAR*.

independent and neutral third party conduct a performance audit of its transportation department that includes a review of crash reports and of disqualifying conditions for school bus drivers under *COMAR* section 13A.06.07.07. The NTSB further recommends that, as soon as the performance audit referenced in Safety Recommendation H-17-13 is complete, BCPS take the corrective actions recommended to improve internal controls and ensure that all school bus drivers meet the qualification standards under *COMAR* sections 13A.06.07.06–.07 and that they do not pose any safety risks.

Interpretation of Relevant *COMAR* Requirements, Disqualified Driver Database

In reviewing relevant sections of the *COMAR*, the NTSB noted certain terms that were unclear, which could present challenges to school hiring officials in interpreting the regulations. For example, although school bus drivers may be disqualified for committing a “crime of violence,” this term is not defined in *COMAR* Title 13A, Subtitle 6, Chapter 7.⁹ In fact, although he was hired by AAAfordable Transportation to drive buses for BCPS, the accident school bus driver was not hired by a contractor that served a neighboring school district. The neighboring school district determined, during its pre-employment screening, that the driver was not qualified due to a combination of traffic violations and items in the driver’s criminal record.¹⁰ Other examples of terms that are not clearly defined in *COMAR* Title 13A, Subtitle 6, Chapter 7, include “unsafe actions,” “misfeasance,” and “incompetence.” The NTSB concludes that the lack of clarity in *COMAR* Title 13A, Subtitle 6, Chapter 7, introduces inconsistencies in the driver qualification processes for Maryland school districts.

The MSDE maintains a disqualified driver database, as required by section 13A.06.07.07.F. Each school district is required to check this database when conducting pre-employment screening. School districts are also required to notify the MSDE when they disqualify an employed driver within 30 days of the driver’s receipt of notification, so that the MSDE can add the disqualified driver to the database. Although not required by section 13A.06.07.07.F, some school districts also notify the MSDE when they deem a driver applicant not qualified during the pre-employment screening process due to conditions found during a background check.¹¹ If the regulations had such a requirement, it would help to prevent other school districts in Maryland from hiring driver-applicants who have already been screened and found not qualified. The NTSB concludes that the MSDE could improve transportation safety in Maryland school districts by requiring school districts to notify the MSDE of all drivers who are determined to be not qualified during the pre-employment screening process.

The NTSB recommends that the MSDE review and modify *COMAR* section 13A.06.07.07, “School Vehicle Driver Disqualifying Conditions and Termination,” to clarify the definitions of

⁹ “Crime of violence” is defined in sections 13A.08.01.18 (governing students) and 13A.12.01.02 (governing school personnel) of Title 13A. It is also defined differently in different parts of the *COMAR*. (For example, see sections 10.02.02.01, 29.03.01.01, and 29.05.01.01.)

¹⁰ AAAfordable Transportation hired the driver in 2008. The neighboring county conducted pre-employment screening on the driver in 2014 and 2015, which included the 11 CJIS alerts that BCPS was missing from its records.

¹¹ (a) The term “disqualified” applies only to those drivers who are removed from employment. The term “not qualified” is used for those who are not hired. (b) Drivers placed in the disqualified driver database can be removed from it based on a variety of factors and circumstances, including time since the violation and adjudication.

disqualifying conditions, and to require notification to the MSDE of all drivers who are determined to be not qualified during pre-employment screening.

Recommendations

To Baltimore City Public Schools:

Request that the Maryland State Department of Education have an independent and neutral third party conduct a performance audit of your transportation department that includes a review of crash reports and of disqualifying conditions for school bus drivers under *Code of Maryland Regulations* section 13A.06.07.07. (H-17-13) (Urgent)

As soon as the performance audit referenced in Safety Recommendation H-17-13 is complete, take the corrective actions recommended to improve internal controls and ensure that all school bus drivers meet the qualification standards under *Code of Maryland Regulations* sections 13A.06.07.06–.07 and that they do not pose any safety risks. (H-17-14)

To the Maryland State Department of Education:

Review and modify the *Code of Maryland Regulations* section 13A.06.07.07, “School Vehicle Driver Disqualifying Conditions and Termination,” to clarify the definitions of disqualifying conditions, and to require notification to the Maryland State Department of Education of all drivers who are determined to be not qualified during pre-employment screening. (H-17-15)

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