TECHNICAL ASSISTANCE NOTE **No. T-07-03**

Department of Education
John L. Winn, Commissioner

School Business Services
School Transportation Management Section

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Student Transportation Vehicle Usage Update

DATE: **August 30, 2006**

TO: **School District Transportation Directors**
Charter Schools

FROM: **Charlie Hood, Director**
School Transportation Management

SUBJECT: **Student Transportation Vehicle Usage Update**

Ensuring access to educational programs requires that students be transported in safe, authorized vehicles. This Technical Assistance Note (TAN) updates TAN T-01-08, and includes references to revised Florida Statutes regarding student transportation vehicle usage. TAN T-01-08 defined the types of vehicles that may be owned or operated for student transportation by school districts and charter schools under the limited circumstances when a school bus is not required. This TAN also informs districts and other pupil transportation providers of important new federal prohibitions on the use of 15-passenger vans.

Section 1006.22, Florida Statutes (F.S.), specifies the types of vehicles that may be used for student transportation. The 2006 Legislature adopted Senate Bill 772, which revised Section 1006.22, F.S., to further define the types of vehicles, including **trucks** and multipurpose passenger vehicles (MPVs), which may be owned or operated for student transportation by school districts and charter schools under the limited circumstances in which a school bus is not required. The pertinent language is as follows:

> 1006.22 Safety and health of students being transported.--Maximum regard for safety and adequate protection of health are primary requirements that must be observed by district school boards in routing buses, appointing drivers, and providing and operating equipment, in accordance with all requirements of law and rules of the State Board of Education in providing transportation pursuant to s. 1006.21:
>
> (a) District school boards shall use school buses, as defined in s. 1006.25, for all regular transportation. Regular transportation or regular use means transportation of students to and from school or school-related activities that are part of a scheduled series or sequence of events to the same location. "Students" means, for the purposes of this section, students enrolled in the public schools in pre-kindergarten disability programs and in

kindergarten through grade 12. District school boards may regularly use motor vehicles other than school buses only under the following conditions:

1. When the transportation is for physically handicapped or isolated students and the district school board has elected to provide for the transportation of the student through written or oral contracts or agreements.

2. When the transportation is a part of a comprehensive contract for a specialized educational program between a district school board and a service provider who provides instruction, transportation, and other services.

3. When the transportation is provided through a public transit system.

4. When the transportation is for trips to and from school sites or agricultural education sites or for trips to and from agricultural education-related events or competitions, but is not for customary transportation between a student's residence and such sites.

(b) When the transportation of *students is provided, as authorized in this subsection, in a vehicle other than a school bus that is owned, operated, rented, contracted, or leased by a school district or charter school* (emphasis added), the following provisions shall apply:

1. The vehicle must be a passenger car or multipurpose passenger vehicle or truck, as defined in Title 49 C.F.R. part 571, designed to transport fewer than 10 students. Students must be transported in designated seating positions and must use the occupant crash protection system provided by the manufacturer unless the student's physical condition prohibits such use.

2. An authorized vehicle may not be driven by a student on a public right-of-way. An authorized vehicle may be driven by a student on school or private property as part of the student's educational curriculum if no other student is in the vehicle.

3. The driver of an authorized vehicle transporting students must maintain a valid driver's license and must comply with the requirements of the school district's locally adopted safe driver plan, which includes review of driving records for disqualifying violations.

4. The district school board or charter school must adopt a policy that addresses procedures and liability for trips under this paragraph, including a provision that school buses are to be used whenever practical and specifying consequences for violation of the policy.

Please note the basic requirement that school buses meeting Federal Motor Vehicle Safety Standards (FMVSS) and Florida School Bus Specifications are to be used for most regular transportation. In the alternative, school districts and charter schools may only own or operate for student transportation the types of vehicles specified as an allowable exception to the use of a school bus, and may only use them in the specified circumstances.

In addition to passenger cars and multipurpose passenger vehicles (MPVs), **allowable exceptions now include trucks used in agricultural education programs**. For all allowable exceptions to the use of school bus, **including trucks**, these requirements must be followed:

- Students must be transported in designated seating positions and must use all available occupant crash protection systems. Seat belts must be buckled.

- Students may not drive these vehicles on public rights-of-way. Students may drive authorized vehicles on school or private property as part of the curriculum as long as no other student is in the vehicle.

- All drivers of authorized vehicles transporting students must maintain a valid driver's license and adhere to the safe driver policy of the district or charter school.

- District school boards and charter schools using allowed authorized vehicles other than school buses must adopt policies that address procedures for trips, including a provision that school buses are to be used whenever practical and specifying consequences for violations of the policy.

School buses remain the safest form of student transportation and should be used whenever practical or required. Each transportation provider should consider known safety factors and legal requirements in transporting students to and from school functions or events.

Recognizing the higher risk of rollover associated with the short wheelbase "utility vehicle" subcategory of MPVs (as opposed to the larger sport utility vehicles and minivans), federal regulations require that utility vehicles with a wheelbase of 110 inches or less have a rollover warning label affixed to the driver's sun visor (Title 49 CFR, Part 575.105). School districts and charter schools are advised not to use these vehicles to transport students. A sample of the rollover warning label graphic contained in federal regulations is provided in Attachment A.

Attachment B contains a list of short wheelbase utility vehicles that appear to require a rollover warning label and are, therefore, not recommended. Attachment C provides an outline

of the acceptable vehicle **types** under Section 1006.22, F.S., and the other (non-SUV) prohibited vehicle **types**.

Attachment D lists the federal definitions for the various vehicle types (Title 49 CFR, Part 571.3). This attachment does not specify vehicle makes and models, but does provide detailed information on how to positively determine the vehicle type and the wheelbase. **Before important purchase or usage decisions are made, it is critical to know the official vehicle type, i.e., the federal definition applied to the vehicle,** as certified by the manufacturer.

For the primary benefit of non-school district transportation providers, we have attached a recent letter from the National Highway Traffic Safety Administration (NHTSA), conveying provisions from the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU), Pub. Law 109-59, signed into law on August 10, 2005, by President Bush (Attachment E).

A section of the Standards and Compliance chapter of the Motor Vehicle Safety Act previously prohibited the **dealers from selling or leasing** a non-school bus vehicle for student transportation. SAFETEA-LU (Section 10309) amended this section of the Safety Act to **also prohibit schools or school systems from purchasing or leasing** a new 15-passenger van "if it will be used significantly by or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses." In other words, the federal prohibitions on full-size vans that previously applied only to sellers of vans now apply to purchasers of vans when the vehicle will be "significantly used" to transport students to or from school or related events.

"Significant use" can be as little as one day a week according to Attachment F, a letter written in 1998 by Frank Searles, Jr., and John Womack, NHTSA officials (retyped by the Department of Education to make the document ADA-compliant). It would be reasonable to assume that this same interpretation regarding the applicability to public and private schools regarding the extent of use will be applied to the new SAFETEA-LU prohibitions on purchase and use.

Full-size vans and any other vehicle designed to transport more than ten persons that is a bus, but not a school bus meeting Federal Motor Vehicle Safety Standards and Florida Specifications for School Buses, remain prohibited for transportation of public school students by school districts and charter schools. Although some private schools and day care centers use full-size vans for student transportation, they are no longer allowed to purchase them for this purpose under the SAFETEA-LU requirements outlined above and in Attachment E.

Please note that there may be a few cases in which full-size vans, originally designed to seat more than ten persons and, therefore, originally certified as a Bus (not School Bus), have been modified by conversion companies to seat ten persons or fewer. Without full federal recertification and re-labeling by the final manufacturer, these vehicles do not become MPVs or acceptable for use as a result of the reduced passenger seating. Most of the conversion vans start out as MPVs (designed to seat ten or fewer persons) from Chevrolet, GMC, Ford, and Dodge, and the vehicle type and resulting standards applicability do not change when they are modified by the conversion company. These "conversion van" MPVs are acceptable, under Section 1006.22, F.S., for student transportation under the same circumstances as other qualifying MPVs.

Another point of confusion we have observed is that the vehicle definition used on the Florida vehicle registration does not always match the official federal definition. **The vehicle type for the purpose of public school transportation usage is <u>always</u> the type listed on the official federal certification label located on the vehicle.** See Attachment D for more detailed information.

We frequently receive questions from parents and schools that want to know what types of privately-owned vehicles may be used by parents or other volunteers for single-event trips. Please refer to Section 1006.22, F.S., paragraphs (2) through (5), for the related requirements. Section 1006.22(4), F.S., specifically authorizes school districts to adopt policies related to the use of privately owned vehicles that are more restrictive than the statute itself, and we support the school districts' authority in this matter. Several school districts have such policies in order to reduce their risk and ensure consistency with the kinds of publicly owned and operated vehicles that the school district and charter schools may use. However, it should be emphasized that there is no state statutory requirement restricting the type of vehicle that parents may use for these trips.

The new language in Section 1006.22(1)(d), F.S., may help school districts that wish to revise their policies to be less restrictive for parents and volunteers, since more models of vehicles, primarily trucks, are now included in policies that the school district or charter school itself may use. <u>The decision about whether to adopt a policy limiting private motor vehicle usage and the policy's content remain at the discretion of local school districts.</u> Regardless of whether a formal policy is adopted, under Section 1006.22(2), F.S., school districts "may authorize the transportation of students in privately owned motor vehicles on a case-by-case basis…," subject to the additional requirements of Section 1006.22(2) through (5), F.S.

Please convey this information to district and charter schools, your risk management director, your safety officer, and other appropriate individuals in your district to ensure statutory compliance and safety for students. Please call me or any of our

staff members at (850) 245-9795 if have questions and comments or need further clarification of these vehicle usage issues.

CFH/tje

Attachments:

Attachment A - Rollover warning label graphic
Attachment B - Short wheelbase utility vehicles that require a rollover warning label
Attachment C - Outline of acceptable vehicle types
Attachment D - Federal definitions for vehicle types (Title 49 CFR, Part 571.3)
Attachment E - NHTSA letter conveying provisions from SAFETEA-LU
Attachment F – NHTSA letter defining “significant use” (reproduction)

cc: School District Superintendents
School District Service Managers
Workforce Education Contacts