



*A bold voice for transportation workers*

## **SAFE SCHOOL TRANSPORTATION AT ODDS WITH INCONSISTENT RULES AND INADEQUATE OVERSIGHT**

Everyday 26 million students across America take a school bus to and from school and other activities. The trips they take – 10 billion student trips per year – are an important part of a student’s school day and are too often overlooked among those responsible for delivering a quality education experience to America’s students. Meanwhile, the over half a million school bus drivers and other employees responsible for transporting students face severe challenges, including unsafe equipment and working conditions; a patchwork of vague and inconsistent standards, regulations and laws; and contract employers that routinely provide substandard services and jobs. Policymakers at every level must come together to address these problems.

School transportation employees serve an invaluable role as the men and women on the frontline of providing these vital services to our nation’s schools. Unfortunately these workers – drivers, monitors and mechanics – are placed at a unique disadvantage, often falling through the cracks of regulatory oversight. As a consequence, they are especially vulnerable to a number of the detrimental aspects of today’s labor market and deteriorating economy.

TTD hosted a School Bus Summit this past July with representatives of numerous unions to identify the main issues and problems related to school transportation work and to develop a unified policy agenda. The Summit identified six key areas needing action:

- clarifying regulatory oversight;
- improving worker health and safety;
- strengthening job security;
- combating employer discrimination;
- improving standards for transporting special needs students; and
- creating more stable funding streams.

Although the decentralized nature of school transportation places limits on the ability to resolve these issues at the federal level, transportation labor will challenge policy leaders to address the most pressing problems facing the school bus transportation system and its workers.

### **Closing Regulatory Loopholes**

A necessary first step is to close existing regulatory loopholes. School transportation is divided among many agencies at the federal level and considerable oversight is left to the states, resulting in jurisdictional confusion, loopholes and limited federal supervision. At the federal level, the Federal Motor Carrier Safety Administration (FMCSA) does not oversee school to home transportation; the National Highway Traffic Safety Administration’s (NHTSA) role is limited primarily to certifying the safe manufacturing of vehicles; and the Occupational Safety and

Health Act (OSHA) only covers the employee's worksite, which does not include the bus. As a result, the major concerns of school transportation employees generally go unaddressed at the federal level and are subject to the whims of budget-constrained states. For example, because NHTSA only certifies the crashworthiness of buses while the vehicle manufacturer actually specifies the capacity, school buses throughout the country are typically overcrowded. This loophole and many others should be closed. We call on the Transportation and Labor departments to clarify regulatory authority and develop a coordinated plan to eliminate the inefficient and inadequate patchwork of rules and oversight. A wholesale reexamination of regulatory mandates and jurisdictional roles is necessary to ensure the long-term safety and quality of school transportation.

### **Health and Safety**

From the physical design of the buses to the work environment, school transportation workers are exposed to a variety of hazards, including heat stress, dangerous equipment and inhalation of diesel fumes. School buses often have outdated seats and are not required to provide air conditioning, leaving workers exposed to debilitating ailments, including lower back pain and heat stress. These workers are also exposed to potentially toxic levels of diesel fumes when they are operating the bus or refueling in enclosed areas. Such workplace hazards must be addressed. Unfortunately, OSHA only covers private employees, and its intervention for private-sector employees is restricted by jurisdictional limitations. Clearly the agency's mandate for school transportation should expand to cover all workers – both public and private. But public employees in 25 states are not covered by OSHA. We join with the broader labor movement in supporting legislation to expand OSHA coverage to all public employees. In the meantime, policy leaders must not permit this exclusion in coverage for public transportation employees to result in unsafe working conditions in school transportation, a problem that if left unchecked also exposes students to countless safety and health hazards.

### **Privatization and Contracting-Out**

The privatization of public services is not a new concept, but as local economies continue reeling from budget deficits, school transportation is among the first items where school districts look to make cuts. Contractors obviously take advantage of these crises by promising incredible savings and quality services. Of course, these contractors, such as British-based First Student, promise these savings by slashing wages and benefits, and cutting corners on safety. Too often these contractors operate with total disregard for employee interests. They also systematically deny benefits, ignore collective bargaining agreement obligations, and illegally fire employees with no recourse. In the end, many of the almost 500,000 men and women who transport our children in substandard and unhealthy working conditions struggle to earn a living wage.

Moreover, the "savings" offered by contractors are frequently pure fiction, as many school districts end up paying more to the vendor than for the original, in-house school transportation services that have been outsourced. It is important that school districts are provided a comprehensive understanding of the ultimate price, both in terms of financing and quality of life, that privatization entails before making a decision.

We understand that in some school districts, private contractors are going to provide this service. But the public interest, the welfare of students and the rights of workers must be protected and best practices, or model contracting standards, must apply. Specific standards should include: prescreening contractors; honoring existing collective bargaining agreements; living-wage standards; and transparent, post-award enforcement. Without these accountability mechanisms in place, many companies will continue to abrogate their responsibility to students, employees and communities.

### **Improving Employment and Work Security**

Due to the variable nature of their work schedule, employer mistreatment, and the perilous fiscal circumstances facing states and municipalities, many of the benefits considered critical to a healthy, secure work environment remain elusive for school transportation workers. Currently, thousands of school bus employees are denied paid sick leave, summer unemployment insurance (UI) and overtime pay. Transportation labor believes these issues can, and must, be dealt with to improve both the lives of workers and, in turn, those of the children they transport. Specifically, we support H.R. 2460, The Healthy Families Act and changes to state and national UI standards to extend summer coverage to non-salaried school faculty. These changes would provide school transportation workers with paid sick leave and make collecting unemployment during summer vacation more seamless and fair.

### **Wages and Overtime**

The variable schedule of school transportation workers leaves them susceptible to deliberate attempts by employers to deny them overtime benefits. Efforts to erode the pay of school bus drivers and monitors take many forms, including averaging hours across weeks, failing to count the hours of all work-related activity, and exempting workers from statutory overtime protections. These are all violations of the Fair Labor Standards Act (FLSA). TTD will work to highlight the concerns of school transportation employees as the Department of Labor (DOL) seeks to more vigorously enforce the overtime provisions of the FLSA.

### **Reforming Background Checks**

Given the nature of school transportation, it is expected and understood that workers will be subject to extensive background checks to ensure their suitability to work with children. But we must also ensure all background checks are administered fairly and accurately. Unfortunately, some school bus employers, and particularly large private operators, are increasingly using background checks, including both credit and criminal checks, to illegally fire workers for non-employment related reasons. Specifically, it is illegal to use a background check to deny employment to any person with a criminal record without providing them the opportunity to challenge their record.

To curb these abuses, it is imperative to support state and federal legislative reforms that provide due process protections for workers subject to background checks. A great deal of work has been done in this area and the standards being developed must be applied to the school bus workforce. At the federal level, TTD is actively working on legislation introduced by Rep.

Bobby Scott, H.R. 5300, to ensure that the FBI criminal records used in employment background checks are accurate. As it stands, nearly 50 percent of the Bureau's records are inaccurate or incomplete, resulting in mistaken information. This legislation would update this information before it is released to employers and allow workers to correct any erroneous information.

### **Special Education**

The ability to seamlessly transport special needs students, an already demanding task, is being further complicated by diminishing resources and inadequate training standards. Currently, special needs transportation is funded by a combination of federal, state and local monies. The main federal funding stream, the Individuals with Disabilities Education Act (IDEA), only covers between 7 and 10 percent – rather than the authorized 40 percent – of special needs transportation related costs. Combining this unfunded mandate with the fiscal crises facing state and local governments, it is clear a poor structure for financing special needs transportation has emerged. Congress must ensure that IDEA is fully funded so as to properly reimburse special needs transportation providers. Also, despite the best efforts of workers who serve this sensitive group, they are too often forced to do without training. The combination of deteriorating economic conditions and the lack of uniform standards are eroding the quality of training. This places an unfair and perilous burden on workers and creates a potentially dangerous atmosphere for students. Meeting this challenge will require uniform standards or best practice guidance at the national level. Specifically, there must be ongoing, systematic training that makes appropriate adjustments for new programs and technological developments. In the interim, states also need to consider providing their own standards to ensure workers are given clear, effective training.

### **Funding**

Funding is a critical issue that touches all dynamics of school transportation. Unfortunately, even though school transportation remains the safest way to transport our nation's children, economic forces, especially now, are undermining this critical sector. We applaud DOT Secretary LaHood and the NHTSA for sponsoring an awareness campaign highlighting the safety benefits of riding school buses. However, with states continuing to suffer financially, the federal government must work to create more robust and stable funding streams.

School transportation workers play a fundamental role in the lives of our nation's children, and it is imperative they work in a safe and healthy work environment with proper benefits and work security. Transportation labor pledges to make these goals a focus by serving as a coordinating and policy medium for unions that represent school transportation workers. By specifically resolving pertinent regulatory and legislative issues, we can improve the lives and safety of school transportation workers and the passengers they transport.

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