Jim Doyle
Governor

Helene Nelson
Secretary

State of Wisconsin

Department of Health and Family Services

DIVISION OF CHILDREN AND FAMILY SERVICES

1 WEST WILSON STREET
P O BOX 8916
MADISON WI 53708-8916

Telephone: 608-267-3905
FAX: 608-266-6836
dhfs.wisconsin.gov

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BRL GCC Memo-2005-03

To: Group Child Care Centers

From: Jill Chase, Director
Bureau of Regulation and Licensing

RE: Requirements for Written Policies on the Transportation of Children

Under Wisconsin's Administrative Code, children may never be left unattended in a vehicle. In order to prevent tragedies like the recent death of a young toddler left in a van and to ensure that children are transported safely, you are now required to develop written policies as outlined in HFS 46.

Currently, you are required to ensure all child care workers know the children assigned to their care and their whereabouts at all times [HFS 46.04(2)(i)8]. Further, HFS 46.08(2)(a) and HFS 46.08(5)(c) states that a center is responsible for a child between the time the child is picked up until the child reaches his/her destination and that after transporting a child to his/her destination, an adult shall wait until the child enters the building or is in the custody of the adult.

All written policies must be in place by **August 15, 2005** and submitted to your licensing specialist by the next license continuation date along with any other revisions and a copy of the CFS-2048, Group Child Care Center Policy Checklist. Please ensure that your written policies include the following:

1. a procedure in the orientation policy to notify a parent or guardian when children are absent from the child care center without notification; and
2. if you transport children or contract for transportation services, written procedures in your orientation policy that track children and ensure that the whereabouts of children being transported are documented from the time a child is picked up until that child is relinquished to the responsible caregiver.

You may decide which procedures will work best for your child care center. For example, you may require the driver to use a check-off list documenting the times a child has been picked up and dropped off. You may want to require the driver to review that check-off list with another center staff member who will confirm that all children are accounted for and that all children have safely exited the vehicle. You may also want to require the driver to include a physical walk through of the vehicle to check

all seats or require the use of an alarm system requiring the driver to disable the alarm at the rear of the vehicle. You may implement one or all of these options.

As always, you must continue to ensure that all staff meet other supervision and transportation regulations such as: checking the drivers' license and driving record of center drivers, properly restraining children in car safety seats and meeting safety risk reduction procedures issued by the National Traffic Safety Administration to not transport more than 10 persons total in 15 passenger vans. *

Failure to meet all supervision and transportation rules that protect the health, safety and welfare of children in care may affect your ability to transport children or may result in sanctions and/or penalties up to, and including, revocation of your child care center license.

Please contact your licensing specialist if you have any questions about these requirements. Thank you for your efforts to protect the health, safety and welfare of children in your care.

* Attachment: Use of 10 + Passenger Vans to Transport Children

USE OF 10 + PASSENGER VANS TO TRANSPORT CHILDREN TO AND FROM SCHOOLS

Any programs that provide transportation for children to or from school may not use passenger vans designed to carry more than ten people (typically these are 15-passenger vans). Programs that already have these larger vans may continue to use them to transport children provided there are no more than ten people in the van including the driver. In addition, programs may not be able to purchase new passenger vans designed to carry more than 10 people for transporting children to and from school. Programs that violate the law and choose to transport children to or from school in vans carrying more than ten people including the driver are subject to a traffic citation of at least $143.80.

The National Highway Traffic Safety Administration (NHTSA) is responsible for enforcing the law that prohibits automobile dealers from selling certain vehicles designed to carry more than ten people to schools or other programs that transport school children. The law also prohibits schools and other programs from using these large passenger vans to transport students.

Background

For a number of years, the law was interpreted federally to apply only to school districts. Other programs that provided transportation to and from schools were able to purchase large passenger vans. In the early 1990's, NHSTA changed the interpretation of the law and decided that all programs that transport children to or from school or school-related events do, in fact, fall under the law. With this interpretation, automobile dealers are, in effect, prohibited from selling new large passenger vans to any agency if the program will use the van to transport children to and from a public or private school (and dealers face a $10,000 penalty if they do so). Programs that transport children to and from school are prohibited from using large passenger vans if the van carries more than ten people including the driver.

The Wisconsin State Patrol (and possibly other law enforcement agencies as well) may issue traffic citations to programs that transport children to and from schools in vehicles that carry more than ten people including the driver. These citations are for using a vehicle that does not meet the definition of a school bus under s. 340.01(56), Wis. Stats., or does not qualify as an "alternative vehicle" under s. 121.555, Wis. Stats.

Other Options

There are other options that programs can choose if they want to offer transportation to and from schools.

- Purchase school buses.
- Use smaller vehicles (i.e. mini-vans or cars).
- Carry no more than ten people including the driver in a van that has the capacity to carry more passengers.
- Arrange for the school system's buses to pick up and drop off children at the program.

Programs may also want to consider discontinuing the school transportation service.

Transporting Children on Field Trips

Programs are not prohibited from using larger 10+ passenger vans filled to capacity for activities such as field trips for children enrolled in the program. However, the State Patrol recommends that only smaller vehicles or school buses be used because the larger vans (when filled to capacity) pose a significant risk of a roll-over accident.

The National Highway Traffic Safety Administration has determined that school buses are much safer for children than are large vans. Therefore, programs that transport children may be faced with liability concerns that were not an issue in the past if the program continues to use large vans for the transportation of any children. Should a vehicle used to transport children be involved in an accident, attorneys representing children or adults in the accident may cite the safety statistics.