



**SCHOOL BUS
CONSULTANTS**

**Independent Audit
Baltimore City Public Schools
Transportation Protocols**

Final Report

**Maryland State Department of Education
January 31, 2018**



**PROUD PARTNER WITH THE
TRANSPAR GROUP OF COMPANIES**

**(888) 518-3377
www.transpargroup.com**



SCHOOL BUS CONSULTANTS

January 31, 2018

Mr. Gabriel Rose
Director of Transportation
Maryland State Department of Education
200 W. Baltimore Street
Baltimore, MD 21201

Dear Mr. Rose:

School Bus Consultants is pleased to provide the enclosed Final Report on its audit of Baltimore City Schools transportation protocols. I, and the entire project team at SBC greatly appreciate your cooperation, support and involvement throughout the process. We have endeavored to cover all aspects of the required scope of work, and to do so in a manner that will add value in your and the BCPS ongoing efforts to improve the safety and reliability of its transportation services. We look forward to your thorough review of the report, and to answering any questions you may have.

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas W. Platt".

Thomas W. Platt
Lead Investigator



**PROUD PARTNER WITH THE
TRANSPAR GROUP OF COMPANIES**

18 SW 3rd St., Ste. 200
Lee's Summit, MO 64063
(888) 518-3377 | www.transpargroup.com

Table of Contents

Background & Introduction	1
Precipitating Events.....	1
Audit Timeline, Scope, Planning, and Process	1
Principal Results	4
Overall Conclusions	4
Corrective Actions Required	4
General Assessment of BCPS Transportation.....	6
Organization and Operation of BCPS Transportation Services.....	6
Key Findings.....	11
Key Recommendations.....	12
School Bus Driver Qualifications, Monitoring, & Assessment.....	13
Key Findings.....	16
Key Recommendations.....	17
Audit Results.....	19
Summary of Approach.....	19
Federal Motor Carrier Safety Administration Requirements.....	21
Corrective Actions Required	22
Best Practice Observations & Recommendations	23
Code of Maryland Requirements	24
Corrective Actions Required	28
Best Practice Observations & Recommendations	29
Baltimore City Public Schools Policies and Procedures.....	31
Corrective Actions Required	34
Best Practice Observations & Recommendations	35
Audit Conclusions	37
Summary of Results	37
The Path Forward.....	37

Background & Introduction

Precipitating Events

In the early morning of November 1, 2016, a school bus operated by the motor carrier AAAfordable Transportation under contract to, and on behalf of, the Baltimore City Public Schools (BCPS) was involved in a crash with a private vehicle and a transit bus operated by the Maryland Transit Administration (MTA). The drivers of both buses and four passengers on board the MTA bus died as a result of this crash. This incident has since been under investigation by the National Transportation Safety Board (NTSB).

The final NTSB report has not yet been released, but one of the early recommendations provided in the NTSB Safety Recommendation Report of March 29, 2017 was for the BCPS to “Request that the Maryland State Department of Education (MSDE) have an independent and neutral third party conduct a performance audit of (the BCPS) transportation department that includes a review of crash reports and of disqualifying conditions for school bus drivers...”, and that “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...”. This report documents the results of the requested audit as recommended by the NTSB, and as conducted by School Bus Consultants.

Audit Timeline, Scope, Planning, and Process

TransPar Group, Inc., d/b/a School Bus Consultants (SBC) responded to a “Scope of Work Request – Emergency Contract Independent Audit – Baltimore City Public Schools Transportation Protocols” as released by the Maryland State Department of Education (MSDE). SBC was awarded a contract to conduct the subject audit on September 29, 2017. The audit was placed on an accelerated timeline, and was provided one extension for completion whereby the final report was due to the MSDE on January 31, 2018. Work commenced immediately after contract award, and continued through completion of this final report.

The required scope of work was provided by the MSDE in 15 “General Requirements” which were collectively drafted in response to the findings and recommendations of the NTSB Safety Recommendation Report of March 29, 2017. The essence of the requirement was to conduct a comprehensive audit of the BCPS pupil transportation program as it applies to specific elements of the governing requirements for such operations embodied within the following documentation:

- Relevant Federal Motor Carrier Safety Administration regulations¹;
- Relevant Code of Maryland Regulations²;
- Baltimore City Public Schools policies; and
- BCPS transportation standard operating procedures and manuals.

¹ 49 CFR Part 40 Subpart B

² COMAR 11.19.05.01; 13A.06.07.06; 13A.06.07.07; 13A.06.07.10; 13A.06.07.17

Collectively, this documentation provides a hierarchical roadmap describing the compliance requirements for any school bus operator providing service to the BCPS. Each subsequent level of documentation incorporates, interprets and expands upon the requirements of the others, ending with the relevant policies of the BCPS. These requirements are issued by the governing authorities and describe *what* must be done. The final level in the hierarchy, the BCPS standard operating procedures, should then expand on these requirements by describing *how* the responsible organization will execute on these requirements.

Much of the audit was focused on assessing compliance against specific elements of these documented requirements, and in determining whether BCPS follows its own documented procedures. SBC's backbone of experience in providing advisory services to the industry was therefore applied primarily to establishing a judgement of compliance as thus required by the scope, and where necessary, to provide recommendations on corrective actions. There were also evaluative elements of process and system assessment included in the scope in the work. Identifying where procedural or, in some limited cases, regulatory documentation is inadequate to the task, determining the efficacy of undocumented BCPS practices, and the appropriateness and use of available data systems and reporting structures were deemed to be of importance where a strict assessment of compliance was either not possible, or would fail to provide appropriate context to our findings. We therefore also offer other related, but not strictly compliance focused recommendations for improvement.

SBC began the audit with a planning and scope refinement process as required, and established a regular communication protocol with the Contract Monitor assigned by MSDE. Following these important startup activities, SBC pursued the following process to complete the work:

1. SBC collected a variety of qualitative information and quantitative data. The data and information were organized and reviewed as a means to inform the subsequent conversations and stakeholder interviews.
2. SBC then organized and conducted a series of initial interviews. This required engagement beyond BCPS, and included representatives from the City of Baltimore, bus contractors, and emergency personnel. The first round of interviews was conducted immediately after contract award.
3. SBC delivered a preliminary findings summary (Preliminary Report as required by the scope) to act as a checkpoint and pivot point before continuing beyond the first phase of discovery.
4. A secondary set of interviews and meetings was then conducted. These interviews were more technical than general, focusing on confirming and adding depth to the specific findings then becoming apparent.
5. With the clarification and expansion of understanding provided by this second phase of discovery, SBC began to analyze results and craft this final report.

The content of this report therefore measures BCPS compliance with designated statutory, regulatory, and policy-based requirements for pupil transportation service, and offers associated recommendations. The organization of the report starts with a brief description of the principal results for the general reader. Following this, we provide a generalized assessment of Baltimore City Public Schools operating processes and protocols. Then, in several subsequent sections, we provide a detailed assessment of compliance against the governing requirements together with

specific recommendations for corrective actions, if necessary. Finally, and in conclusion, we provide an overall summary assessment of the operation, draw overarching conclusions, and make recommendations regarding the path forward for the transportation operations of the Baltimore City Public Schools.

The ultimate objective of this audit is to improve the safety and effectiveness of BCPS pupil transportation operations. Compliance with standards to ensure that BCPS drivers do not pose any avoidable safety risks is the foundation. Identifying corrective actions to ensure compliance must, therefore, take priority in any follow-up actions resulting from this audit.

Principal Results

Overall Conclusions

There was an incident on November 1, 2016 involving a school bus being operated by a contracted service provider on behalf of the Baltimore City Public Schools (BCPS). The NTSB is investigating the incident and requested an audit of BCPS transportation services in the safety recommendation report. There were no school children on the school bus at the time, and this event represents an operational anomaly. That said, the results of this audit point to certain systemic conditions within the BCPS Office of Pupil Transportation that should be addressed to help avoid future incidents.

There was a series of errors leading up to this event. The school bus involved was being operated under contract to the BCPS who, as an organization, failed to provide the single, cohesive, and robust system that is necessary to prevent an accumulation of errors, or to provide due diligence over the systems that it does have in place. It is this primary finding that allowed a school bus driver with a disqualifying medical condition to move from employer to employer, never staying long at any one, but never once being rejected for employment at any employer who was in the business of providing service to the BCPS. The accumulation of errors resulting in this tragic incident occurred due to issues within the organization and operations of the Baltimore City Public Schools Office of Pupil Transportation.

A systemic absence of leadership over an extended period of time is the culprit. SBC found BCPS Transportation staff to be largely engaged, interested, and committed to executing their responsibilities professionally. Rather, it is the system in which the individual operates that is to blame. It was the absence leadership that allowed the system to erode. It is certainly reenergized leadership that is required to turn it back around.

Corrective Actions Required

In the section immediately following this, SBC presents a series of key findings regarding the organization and operation of transportation services within the BCPS that, in turn, lead to a set of recommendations for immediate corrective actions. The BCPS must immediately and aggressively take these required steps to maximize the safety of the operation while also establishing an environment to support systemic, meaningful change to the philosophy and values of the organization. Well beyond these tactical steps, and others as recommended throughout this report, four key fundamentals will be required to fully transform BCPS transportation services:

1. Strong and consistent leadership to provide direction:

We identify throughout this report the cumulative effects on an organization of a leadership vacuum. The leadership called for here must occur at all levels of the BCPS administrative structure. It will not be enough to exert strong leadership within the Office of Pupil Transportation itself, but rather it must be demonstrated at all levels if real, substantive, and positive change is to take root and prove sustainable over the long term.

2. Support for the organization from all stakeholders:

Leadership will not be enough. All stakeholders in the success of the BCPS in its primary mission of education must demonstrate their support in executing the transition required within transportation services. This must begin with a recognition that transportation is a critical support service to the core mission, and that transporting students safely is a critical component to their arriving at school ready to learn.

3. Sufficient funding to support safe and effective operations:

Admittance of the critical nature of transportation as a service must be followed by a stream of funding sufficient to ensure that the service can be provided safely and effectively.

4. A commitment to change:

Leadership, support at the grassroots, and guaranteed funding will have a material impact on operational safety if, and only if, BCPS recognizes that the systemic changes required will take time. A firm commitment to change over the entirety of the associated timeline is an absolute requirement for success.

These are the required actions at a fundamental level. The need for, implication and meaning of, these changes begins to gain clarity in SBC's evaluation of BCPS transportation policy, organization, and operational protocols, which is the subject of the next section of this report.

General Assessment of BCPS Transportation

There were 15 General Requirements defined by the scope of work for this audit. Within these requirements were a mix of directly auditable compliance elements (i.e., yes or no answers), and several more generalized evaluative elements that demand a different assessment methodology. We reserve to the subsequent sections of this report our assessment of compliance with the specific auditable requirements as identified. Here we provide a more generalized assessment of the Baltimore City Public Schools, Office of Pupil Transportation that is specific to its organization and operating protocols. Included within this discussion are references to those elements of the General Requirements that are being addressed.

Organization and Operation of BCPS Transportation Services

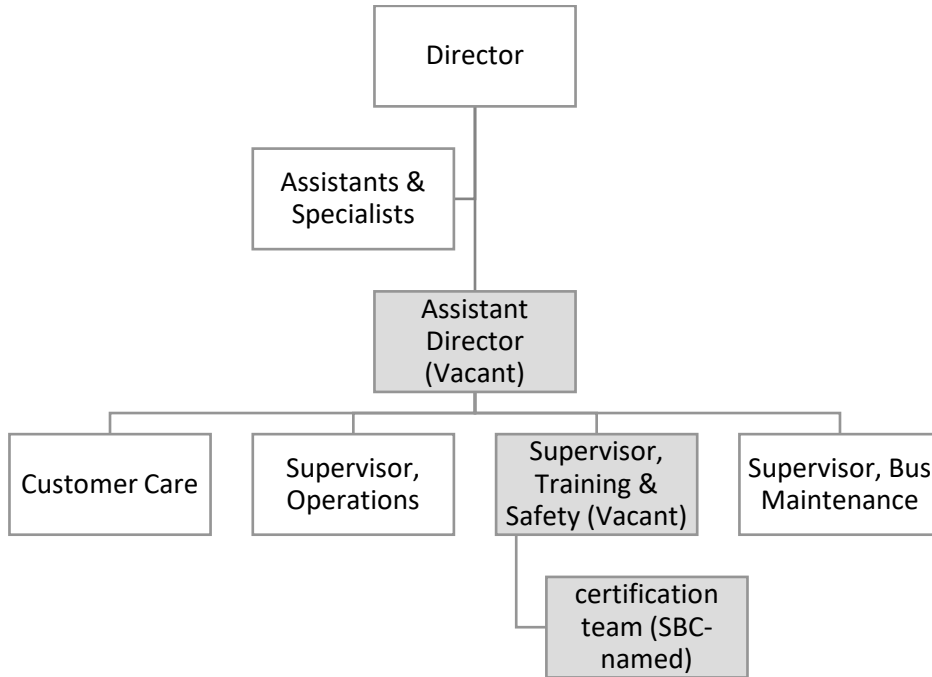
The Baltimore City Public Schools Office of Pupil Transportation (BCPS transportation) provides a mix of services whereby students are transported on district-owned and operated school buses, contractor-owned and operated school buses, contracted taxicabs, and public transit. This mix presents a complicated management challenge that requires an extensive and diverse set of organizational, management, supervisory, and administrative skills and activities. By means of introducing our general assessment of performance, SBC identifies the following core activities that must be properly organized, managed, and performed by BCPS transportation to ensure safety and effectiveness in this environment:

- Regulatory compliance planning and monitoring
- Contract management and compliance monitoring
- Operational supervision
- Incident response management

There are, of course, many other activities required for the complete functioning of the organization. These include such critical elements as training, strategic planning, school bus routing and scheduling, fleet management, and special trip management, among others. Individually and collectively all of these individual factors influence the mission success of the organization. For example, basic strategic decisions such as which modes of transportation to utilize (e.g., taxicabs, public transit) influence and help to define subsequent organizational and operational requirements. In this portion of our assessment, however, we accept as static the current structure of operations, instead focusing only on the four core activities as identified. It is the procedures and internal controls regarding the management of these core functions that form the focus for the overall audit³.

By means of providing further clarification, an abbreviated organization chart for BCPS transportation is included below. Within this we highlight as shaded blocks those elements of the organization structure that have responsibilities to execute and/ or oversee these four core activities:

³ Scope of Work General Requirement 3 and 4



With this as context, we begin by acknowledging that the BCPS transportation organization as a whole is governed by federal and state requirements, as covered in subsequent report sections, and by the internal policies of the BCPS. A core requirement of this audit is to provide an assessment of internal controls to ensure compliance with these requirements⁴. As a first step we must determine whether the BCPS Office of Pupil Transportation has been properly designed to provide for these controls.

SBC has determined that vacancies in staff, together with overlaps in job descriptions and assigned duties, have resulted in deficiencies in the ability of the organization to provide for an appropriate level of internal control. A direct relationship will become clear when examining some of the noncompliance findings found in the subsequent Audit Results section of this report. Here we examine in more detail the structural deficiencies.

Within the structure of the organization, we express a concern regarding critical staff vacancies, the sufficiency of administrative positions given the preponderance of manual record keeping processes, and an unresolved overlap of responsibilities within the Safety and Training team. High rates of turnover, positions closed due to budgetary cuts, and staff outages for medical reasons, are additional factors that limit the capabilities of the organization to perform critical operational oversight functions. Evidence of a failure to properly organize and staff the department exists in the observation that even after the tragic events of November, 2016, no apparent changes were made to organizational structure or operating practices to mitigate the risk of a similar subsequent event occurring.

Job descriptions were provided to SBC for investigation. We determine that they are outdated (latest update was in 2012), are not representative of actual duties as assigned, or of current

⁴ Scope of Work General requirement 4

requirements. Time constraints, reassignment of duties due to vacancies, and lack of resources, may indeed be the reason behind these inconsistencies, but they cannot be an excuse. The absence of clear organizational lines of responsibility and authority increases the probability of a safety risk, decreases employee morale, and can lead to noncompliance with established regulations.

In addition to specific position descriptions, there is structural risk established within the organization through overlaps and illogical splits in assigned responsibilities. There are requirements outlined in standard operating procedures of the department that clearly state certain responsibilities, but we find confusion in actual operations as to who is actually executing which specific action. The organization chart displays a position for Manager of Safety and Training, for example, but this position is vacant. Many of the responsibilities for this position are now with a certification team (as named by SBC for the purpose) whose main responsibilities are to assure that all drivers, BCPS and contracted drivers, are properly certified. This is accomplished through information provided by Human Capital (a district department outside of BCPS transportation), medical certification and drug and alcohol testing from contracted medical facilities, information from contracted bus companies, the Motor Vehicle Administration, Criminal Justice Information System, and National Crime Information System, to name a few. Whereas the Manager of Safety and Training would have been the responsible supervisor reviewing, and providing oversight of the completeness and accuracy of the qualifications file for each driver, that responsibility now falls to two newer employees we have designated as the certification team, one of which is a temporary employee. This team now answers to the Supervisor, School Bus Operations, given the vacancy in Safety and Training. Furthermore, due to personal reasons, this substitute supervisor was not at work for much of this audit, leaving only the Director of Transportation providing oversight, given another vacancy in the Assistant Director position. This is a wholly unworkable situation given the complexity of the requirements and the specialized knowledge and expertise required to ensure that all drivers are properly, and continually qualified for their positions.

Outside of job description inconsistencies and structural issues, SBC also takes issue with the appropriateness of the current Standard Operating Procedures (SOP) as they apply to the organization and functioning of the department. SOP 1.1. is a General & Administrative procedure for the department with the subject Transportation Publications. It is structured to ensure that the department will develop, update, and arrange printed materials as appropriate. While seemingly innocuous, failure to comply with its requirements can have a corrosive effect on organizational cohesiveness and clarity of purpose. The stated purpose of SOP 1.1 is “to establish and delineate a standard operating procedure (SOP) governing printed materials produced and made available by the Office of Pupil Transportation”. SOP 1.1 also states that the Director of Pupil Transportation must designate someone as responsible for this duty. SBC found no evidence within provided job descriptions that this occurs. Setting aside the efficacy of focusing on printed rather than electronic materials, and just staying with the organization’s execution of the stated requirements, SBC encountered numerous examples of outdated materials and was provided with no examples of updated or adopted changes following the incident of November 2016. Section 6.1 of this SOP states “printed materials shall be reviewed and updated at least annually or as otherwise required”. SBC points to this one example to illustrate a general absence of attention to maintaining the validity of the department’s documentary guidance. This had, we believe, a further deleterious effect on the consistency and attention to detail that is required for proper functioning of the organization and avoidance of errors.

With this observation, we pivot our assessment to the totality of the internal documentary guidance for BCPS transportation. By this we refer to two sets of guidance: First, policies as established by the School Board as the governing authority over the school district; then any standard operating procedures that interpret and operationalize these requirements. Both are critical to the successful definition of first what services are to be provided, and then how they are to be provided. All, of course, must occur within the framework provided by federal and state regulations and requirements. Our assessment here is not intended to determine compliance with these internal requirements. That is provided in the subsequent Audit Results section of this report. Rather it is to provide the reader with insight into how current internal controls, as embodied within this internal guidance, are influencing the department's ability to comply with federal and state requirements.

As described previously, SBC focuses here on the four key functional areas that most influence the ability of the department to ensure the safety and effectiveness of operations. Not all internal documentation refers directly to these areas, but as indicated by the example of SOP 1.1 above, the totality of the documentation does have a large influence on the department's ability to be successful. We begin, therefore, with general remarks on the adequacy of the documentation.

Of particular note at the outset is the absence of any School Board policy or regulation that addresses transportation service. This is a remarkable and disturbing finding. The School Board policies as currently available via the school district's website were adopted on June 9, 2015 and do not include any mention of transportation services⁵. SBC possesses considerable experience in the design, and assessment of pupil transportation service delivery to the K12 education sector. We have never encountered an effective and efficient operation that lacks Board-level guidance to describe the scale and scope of service delivery requirements. Doing so places the operational organization, the BCPS Office of Pupil Transportation in this instance, in an untenable position of having to both govern itself as well as deliver its services. This is an ineffective structure that leads directly to exception-based decision making, inconsistent service delivery, and the absence of a framework suitable to strong internal controls.

BCPS transportation does possess the next level of documentation in a set of internal Standard Operating Procedures. As provided to SBC for investigation, these consist of 18 total statements in three categories. We identify several of these as directly relevant to the incident of November, 2016 and the department's ability to comply with the governing directives of state and federal law. Our assessment of internal compliance with these standard operating procedures is included in the Audit Results section of this report. Our general assessment here is instead focused on how this documentation generally encourages, or fails to encourage, an operating environment that ensures safety and effectiveness. We find directly relevant issues in the areas of contract management, the management and transfer of information, and the use of technology.

Contract Management – We introduced earlier the structure of BCPS transportation as a mixed operation that relies on both BCPS-owned and operated, and contractor-owned and operated vehicles. That said, the preponderance of vehicles in use (other than those from the transit agency) are provided by contracted entities, be they operators of school buses or taxicabs. Organizing a contracted operation for success requires a different set of precepts than does a strictly self-operated organization. Where the weight should be placed on managing contractors,

⁵ <https://www.boarddocs.com/mabe/bcps/Board.nsf/goto?open&id=87UHP87D677F>

we find the weight of organizational focus to be placed on the smaller, self-operated portion of the service.

SBC found little evidence to support how BCPS, from either a compliance monitoring or a performance management perspective, provides for individual, documented oversight of its contractors. Interviews indicate that there are monthly meetings at the BCPS transportation department, and the bus maintenance section is responsible for inspections of school vehicles, which is well documented. But no evidence exists as to a formal management plan that would tell the district the who, what, when, why and how of the contractors' operations relative to their contractual requirements.

The objective of a well-conceived contract management program is to tell a cohesive story, through a documented contract performance management plan, of how the contractor performs for BCPS, themselves, and BCPS stakeholders. In other words, there should be a formal program, documented within Standard Operating Procedure, for regular compliance monitoring and performance measurement of how each individual contractor performs relative to the specific terms and conditions of their contract with BCPS. SBC expects a method of scoring the contractor on the basis of criteria defined within the contract, which by its nature establishes the requirements. The management plan should specifically allow for BCPS management, or other assigned personnel, to go on-site and review contractor operations in every detail for compliance to terms, such as the required use and reporting of GPS data on bus locations. Additionally, there should be a customizable performance measurement component that allows BCPS to measure, report, and demand corrective actions relative to pre-established performance criteria, such as whether the contractor is operating routes and using established stops as prescribed by BCPS routing staff. A formal plan that is actionable, identifiable, and provides guidance for a properly operated and safe transportation operation is the goal.

Relevant to this subject, and to the internal controls and management of existing contracts for services, SBC determined via observation, inquiry, and investigation that there is a large gap between what is expected of vendors, as documented in contract, and what actually happens operationally. In addition, the requirements of each contract vary somewhat by vendor. This is an untenable set of circumstances which, when coupled with the absence of a formal compliance monitoring program, can lead directly to lapses in record-keeping, compliance, and associated failures.

Upon investigation into BCPS-provided contracts with each current vendor, it was determined that several variances exist between expectations and reality. Specific to the subject at-hand, there are significant differences in the way both personnel and accident files are kept (and ready for audit), as well as the interaction and frequency with which BCPS management is involved with standardizing operations and auditing contracted service provider records. For example, one of the contractors kept only three years of records, stating to SBC that "it was really not that important" to keep all of the records for BCPS, because BCPS also has them on file. This illustrates the loose type of management mentality that is detrimental to a safe operation.

Information Transfer and Management – SBC found it difficult to access information throughout the process of this audit. Lists with desired forms, processes, or answers to process or policy related questions were provided to the Office of Pupil Transportation as soon as possible following an audit finding, or in efforts to confirm or invalidate an identified deficiency. Significant delays were realized in receiving the required information. While this is a purely anecdotal finding, we

believe that it is indicative of an organizational and procedural reality, much of which was identified and discussed earlier, and some of which is endemic given the absence of appropriate procedural documentation.

While SBC acknowledges that vacancies and staff outages in the department, along with three separate ongoing audits, have made this process quite demanding of departmental management, we express concern over certain inconsistencies in our assessment, and that combine with the absence of expansive procedural documentation, to provide anecdotal evidence supporting our general assessment regarding the critical management of information flows within and between the department and its contractors. For example, management initially identified current exceptions to the SOPs that were under current review and revision to reflect the operational changes since the last SOP revision. This was, however, in direct opposition to previous statements in which, following a direct inquiry, we were informed that there are no procedures that the department follows in daily operations that fail to be currently documented in the SOP. Our overall assessment is that the level of documentation both fails to cover all necessary subject areas, and fails to be followed in many respects.

Use of Technology – Also as introduced earlier, we conducted this generalized assessment accepting the current organizational baseline. That said, SBC concludes that the use of technology throughout the operations of BCPS transportation is deficient and contributes to the circumstances enabling incidents such as occurred in November 1, 2016. By means of example, regular education bus routing is performed using electronic spreadsheets instead of routing software customized to the purpose. Also, GPS tracking systems and video monitoring are contractually obligated technologies that interviews indicate are not being enforced or routinely utilized for management purposes. Accidents records are tracked and stored in a combination of paper files and electronic spreadsheets. Leveraging technology to improve transparency and increase management effectiveness is largely absent in current BCPS transportation operations.

Key Findings

Within the context of this generalized assessment, as described previously, SBC summarizes our key findings as follows:

1. The Office of Pupil Transportation is not organized for success.

There are examples provided of overlapping sets of responsibilities, vacancies, and lack of focus on the preponderance of contracted operations. Each of these examples points to a core overarching finding that the basic organizational structure of the department fails to provide for assurance of safe and effective operations.

2. The Office of Pupil Transportation lacks sufficient documentary guidance.

Particularly in the absence of an effective organization, documentary guidance covering all aspects of the service to be provided and the mechanisms, processes, systems, and steps to follow in providing those services is an absolutely critical success factor. We cite examples that provide evidence of severe shortcomings from both a policy and procedural perspective.

3. The Office of Pupil Transportation fails to adequately leverage the use of technology⁶.

Many of the procedures that are in place are either not followed, or are no longer appropriate. The assessment reveals an organization that is failing to keep up with developments in technology that would vastly improve safety and effectiveness, and that is failing to pursue technological innovations that would mitigate the likelihood of the very circumstances that led to the November 1, 2016 incident.

Key Recommendations

Given these key findings, SBC recommends that the Baltimore City Public Schools pursue the following corrective actions:

1. Implement immediate fixes to minimize the probability of incident recurrence⁷.

By means of example, a key area of concern for recurrence was an audit non-compliance finding of two taxicab drivers who were without medical certification to transport students. BCPS needs to reassess operations in the certification team, with particular attention paid to their process for review of medical examinations. The objective is to better understand the requirements of the examination and how they directly relate to Maryland Motor Vehicle Administration physical requirements for all drivers, bus and taxicab, and to the Federal Motor Carrier Safety Act. An immediate modification of the associated SOP documentation must follow, together with a cohesive and deliberate training program to ensure that all staff and contractors become compliant. This is one example in one particular area. The Audit Results section of this report cites all of the areas of non-compliance to which this strategy should be applied. The resultant SOP modifications and re-training that occurs on each of these areas will serve to provide near-term stability in the safety of the program, and reassurance to stakeholders in the system.

2. Develop and implement School Board policies covering transportation services.

The School Board needs to recognize their governance role by assuming ownership for the success of transportation operations at the Board level, instead of relying on self-governance at the department level. *How* the transportation department operates should be the subject of its Standard Operation Procedures. But this must be in response to Policy guidance as established by the governing authority. This is the best practice observed by SBC over numerous years, and in hundreds of similar organizations.

3. Develop and implement a departmental reorganization plan⁸.

The Director of Transportation needs to work with leadership to fill positions that are currently vacant. Preceding this, a comprehensive review of each position's requirements and responsibilities should be completed by looking at assigned responsibilities for the current position, and the time the employee spends in the performance of their duties relative to the final product produced. There are areas specific to the management of contractors that simply do not get performed currently, by means of example, while other duties receive a preponderance of attention for little value added. SBC is recommending

⁶ See also Practice Recommendations following the Audit Results section on COMAR compliance.

⁷ See also Corrective Actions following the Audit Results section on COMAR compliance.

⁸ See also Best Practice Recommendations following the Audit Results section on FMCSA compliance.

a gap-fit analysis and a comprehensive assessment of the organization relative to its current requirements.

4. Develop and implement a revised and comprehensive Standard Operating Procedures manual⁹.

SBC believes that the employees of BCPS transportation are aware of the shortcomings within the current SOP, and that a substantial review and revision is required. This should only occur, however, in the context of the reorganization recommended previously, and only after the immediate fixes have been designed and implemented, and Board level policies regarding the delivery of services established.

School Bus Driver Qualifications, Monitoring, & Assessment

The tragedy that was the catalyst for this project resulted from a confluence of errors encapsulated within this specific area of BCPS transportation operations. SBC therefore deems it appropriate to provide a more in-depth assessment of the operating processes and protocols in this functional area alone. The discussion that follows focuses on the scope of work requirement for assessing internal controls, but consistent with the rest of this section does so only in general terms. Specific compliance items are covered in the Audit Results section that follows.

As noted in the description of the organization above, BCPS employs bus drivers both directly, and indirectly through contracted service providers. We therefore follow the process of employment for drivers irrespective of the employing agency (BCPS or contractor) as a means of better understanding where the errors occurred and how to prevent future recurrence. We begin with the process of ensuring driver qualification at the outset of employment, move on to in-service monitoring activities, and end with activities associated with untoward events such as the crash that occurred in November 1, 2016.

SBC cites, in several portions of this audit, that BCPS is still non-compliant in the area of ensuring qualifications, specifically as it relates to medical examinations. This was identified as recently as November 1, 2017, fully a year after the incident that was the catalyst for this audit. Without going into further detail (as covered in the Audit Results section that follows), the audit team discovered that two taxicab drivers had medical issues that were not discovered on their last examination by the medical examiner or the BCPS Certification Team.

BCPS has identified one BCPS employee who is now responsible for monitoring the Criminal Justice Information System (CJIS) for current and active bus drivers. This employee checks twice daily for any alerts and was trained to respond immediately, or as appropriate. This is the same process that was in place when alerts were mishandled in regards to the November 1, 2016 incident, as identified within the NTSB¹⁰ report. Additionally, alerts from MVA are being monitored daily. The certification team inspects the documents as they come in from different sources, and place them in the qualifications/personnel file for incoming drivers.

⁹ See also Best Practice Recommendations following the Audit Results section on BCPS Policies and Procedures compliance.

¹⁰ NTSB Baltimore Review Final Report, pages 2 and 3.

One of the requirements within the file is that the driver has been checked in the MSDE database of disqualified drivers to assure the incoming driver has not been disqualified elsewhere within the State of Maryland. The actions of the responsible employees for this, and the other important roles just identified cannot be anything but thorough and correct, as the initial intake and then regular monitoring of driver records is of utmost importance. Fundamentally, it is here where the process failed. The responsible driver in the November 1, 2016 crash, over several years of driving a school bus, continued to deceive all of the BCPS contractors for whom he worked. The contracted employer and BCPS failed to fully understand his medical conditions or to disqualify him from transporting BCPS students. It is apparent that at several points in time, contracted operators and BCPS simply failed in their duty to find errors in this driver's documentation.

Systemic concerns remain, with evidence provided in this audit, that BCPS continues to be out of compliance with this particular element of disqualifying drivers with medical conditions. SOP 3.0, "Pre-Service Certification of School Bus Personnel," and section 5.0 of that SOP, "Responsibility," clearly states that BCPS shall maintain all documentation related to school bus personnel, such as medical examinations. "Maintain" implies more than just the storage of information. Rather, there is an explicit, as well as an implicit management accountability for knowing and ensuring that the documents and contents are correct, and that decisive actions are taken to ensure adherence to the underlying requirements.

SBC understands that even under the best of circumstances, incidents do occur. Setting aside the absence of compliance for the purpose of this discussion, when incidents do occur, the processes for managing the incident, including the handling of all relatable and important information post-incident, is critical to the subsequent diagnosis and correction of any enabling errors. SBC's investigation of incident response processes therefore focused on the steps that BCPS takes to ensure student safety, but also the standard operating procedures that are in place to comply with federal and state regulations. Not only are all post-incident related processes under strict regulation regarding the protocol for driver condition, crash-costing, drug and alcohol testing, training, and the disqualification of drivers when applicable, SBC experience indicates that it is also just as important to track and utilize data that relates to reasons leading up to or immediately following a crash, accident, or general incident.

During inquiry, observation, and investigation of accident and personnel files with BCPS staff and at contractor locations, it was found that while there are SOPs in place that establish standards and set expectations for the dissemination of information, it did not appear to be highly enforced or entirely relevant in all cases. The standard organization of accident files, what is desired to be stored other than what is mandated for contractors by federal and state law, crash costs, total appreciable damage per accident and per driver, total frequency of accidents, total number of preventable versus non-preventable by driver, or by contractor, and any applicable training that occurred post-accident are all highly important and relevant elements of information that must be captured and stored in a manner that will yield post-accident value to the organization. Each location SBC visited had a different style or process of keeping, storing, transferring data, collecting information, reporting information to any higher management division, and for upkeep of files. This is also true for paper versus electronic file keeping, post-accident picture storage, cost-keeping, drug and alcohol receipts, among other elements. It is incumbent on BCPS to be the single authority, and to define acceptable standards for the collection, maintenance and storage of this information as a single stream that is the same for one contractor as for any other and for BCPS itself.

SBC also focused on the process followed when an accident/incident occurs. SBC does not criticize the operational response within the city's emergency services or school safety officer and safety team response to accidents. One item to highlight however, is that during our discovery stage, much attention was brought to the length of time it takes police and or school safety officers to arrive to the scene of a crash or incident. However, SBC was not provided with any documentation as to what constituted long arrival times and therefore cannot provide further comment. During discussions with the Baltimore City Public Schools Police Department personnel, it was stated that they respond to every accident for which they have been called, provide some type of accident report for every accident where they are called regardless of the amount of damage that occurred, and take photographs of all damages resulting from that particular accident, which they will send to BCPS transportation if requested. Safety staff stated that they report to their own (i.e., BCPS vehicle) accidents when injuries are declared and will also report to a contracted operation accident if there are declared injuries. As necessary, Safety team staff will also report to a hospital if a BCPS student has to be taken to the hospital. If students are on board then the safety staff is always notified.

A key component of incident response also includes post-accident drug testing. Shortly after the November 1, 2016 incident, BCPS made a decision to test every vehicle operator whether it is a BCPS employee or a contracted employee. This became effective on or about January 1, 2017. This process is guided by SOP 6.2.7 which states that negative test results are noted in the database and then placed in the file of the given contracted employee by the Safety Team Officer Assistant. The chain of custody for post-accident testing form appears to be complete in terms of the information captured. However, SBC did hear of some confusion about procedures that contractors are supposed to follow regarding this form. For example, it clearly lists a reason for the drug test, but with an improperly trained employee on either the department side or contractor side, it has been noted that some post-accident reports have been marked as random instead of post-accident. SBC recommends that BCPS staff more closely screen the chain of custody drug testing forms before they leave BCPS and also provide attention, and training if needed, to this concern for both BCPS and contracted operations.

Properly documenting the results of an accident or incident is also important. It does not appear to SBC that picture taking after crashes, accidents, or incidents was uniform across the organization and contracted service companies. SBC observed that some companies had paper photographs in accident files, while some were electronic, some for major damage, some for minimal damage, and some locations had zero photographs. When asked about the importance of picture taking following an accident, management explained that current practice and process is as follows:

- Members of BCPS report to take pictures of accidents involving BCPS drivers (non-vendor) or what is classified as a severe accident (either BCPS or vendor driver).
- Pictures are maintained in the driver certification folder.
- The contractor's safety team (or owner) reports to take pictures of an accident and submits to the Office of Pupil Transportation, along with the accident form.

SBC finds this procedure to be inadequate as to the practice of only taking pictures under certain and different conditions. Digital pictures can provide for a significant difference for purposes such as appreciable damage results and possible driver disqualification.

Monthly, a member of the BCPS Safety and Training Team hosts post-accident meetings with contracted service providers. The purpose of the meetings is to discuss all at-fault accidents, as pre-determined by the team, as to what a driver could have done to prevent the accident. SBC's experience with school bus accidents is that most are preventable. These meetings do yield post-accident training for the driver to help the driver understand what options they had to prevent the accident in the first place, which is consistent with best practices.

For contractor-employed drivers, SBC found during inquiry and observation of both accident files and interviews with contractor staff that each individual contractor had their own set of procedural requirements post-accident and their own standard for driver training to learn these requirements. Additionally, these procedural requirements varied in steps relating to who, when, what, and how post-accident information transfers to BCPS in a timely and accurate fashion. There were a handful that appeared effective and representative of a best practice process, and others that did not appear to abide by what BCPS standards reflect. For example, two of the larger contracted operators, which are backed by corporate standards of operation, had the staff and resources necessary to make sure all accident-related information was provided to BCPS timely and accurately. Meanwhile, some smaller contractors did not appear to work from forms, or follow any direct procedure other than what the requirement in SOP 3.6 section 5.1 requires. Inquiry into the process for contractors resulted with BCPS management confirming the finding that each individual contractor handles their own accidents, and then reports information to BCPS as soon as possible or practicable, but with no mention of form or process.

Some contracted organizations have a clear division of responsibility and dedicated staff to perform required post-accident reporting or dissemination of information, but some have just a handful of employees to handle all matters (with one contractor being a one bus operation). Some of the BCPS owned and operated fleet, as well as many contracted vehicles are equipped with a radio, GPS unit, or video monitor to aid dispatch or administrative staff with the gathering of information. Others are not. Inquiry into the reasoning behind such a variance in fleet capability did not result in enough evidence to support a finding of cause. However, it was determined that some contractors have the financial capability to add technology, while others do not. This extends to not even having a radio to call for help, in some instances, and instead use their personal cell phone.

Returning to the explicit and implied responsibilities of the overarching management entity, BCPS transportation, SBC discerns a failure to define and implement a consistent process for initially collecting information surrounding an accident, as well as the assessment of cause and training that is provided surrounding expectations of post-accident behavior. The absence of consistency, and the absence of attention to post-accident treatment of contracted drivers, exacerbated the initial failure to identify the driver's medical disqualification. This driver was involved in several prior incidents, none of which resulted in a critical feedback loop; none of which resulted in a reinvestigation of the driver's basic qualifications to be operating the vehicle.

Key Findings

Within the context of this generalized assessment, as described previously, SBC summarizes our key findings as follows:

1. Shortcomings related to organization design and process, not strictly compliance related, are associated with the November 1, 2016 incident.

A process was in place when the crash that is the subject of this audit occurred. However, the process failed when the gatekeeper(s) failed to perform their duties by strictly monitoring the requirements, driver qualifications relative to those requirements, and then acting accordingly. The contractors where the driver worked also failed to follow up on several accidents or even report them, and nobody involved appeared to be knowledgeable of the medical certification requirements explicitly, nor did they express an implicit understanding of the severe potential consequences of compliance failure in this area.

2. The absence of a clear organizational focus on contracting and contract management contribute significantly to these shortcomings.

Contract management has been discussed previously within this section, and a brief synopsis is provided for how such a program might be structured. SBC believes the development of such a program is a key to success for the future, and the absence of such is a key contributor to the failure of process that led to the November 1, 2016 incident. BCPS should be regularly on site and reviewing the records of the contracted operations. A review of all records that are new since the last scheduled visit should have occurred, and verification that all required documentation is present and in the qualifications file should be routine. Regular verification that it has been provided to BCPS should also have occurred for Safety and Training Team scrutiny and record-keeping.

Key Recommendations

One of the themes that has emerged as a result of this audit has been about the failure of process. There are local standard operating procedures, state law and federal rules and regulations that are there for a very purposeful reason: to keep the public safe. Whether it be a train engineer and his passengers or a school bus driver and his passengers, the understanding of, and action versus reaction to all of these requirements, is to have passengers be safe and free from worry over the possibility of failure. BCPS and some contracted operations failed to pass this most basic test. This audit has also shown that, thus far, the system has not been fixed. As identified primarily within this section, the most concerning parts of this review are related to the processes surrounding driver staffing, together with the associated record keeping, information collection, medical certifications and accident management processes. The audit also takes issue with current internal procedures, and especially when there is no information as to how to fulfill a duty or task. We also take issue with the absence of established processes, and with staff lacking knowledge of how to properly follow procedures that are documented. We offer the following recommendations for improvement:

1. BCPS staffing and training:

Multiple interviews indicated that employees of the Office of Pupil Transportation are inadequately trained in their duties. Our recommendation is that that BCPS continue to move forward with their reviews of the staffing within the department (reported as underway), review and align the current staffing with their tasks as assigned, determine where additional assistance is required in the near-term, who can provide that assistance, and assign the resources to ensure that staff is up to the task of implementing all corrective actions as identified within this report.

2. Immediately establish standards for records maintenance and information collection¹¹:

Conduct a survey of existing processes in use by all contractors. Design a set of regulatory-compliant standards that all contractors and the BCPS, regardless of size or capability, can adhere to, and implement the same. Conduct workshop-based training for all parties that have responsibility in the process to ensure consistency and understanding. Review all files against the revised standard and take corrective action as required. Incorporate the revised standards within a comprehensive contract compliance monitoring and performance management program, as recommended elsewhere within this report.

3. Develop and implement a formal contract compliance monitoring program¹²:

The school bus driver in the November 1, 2016 crash was employed by a contractor to the BCPS, but this cannot relieve the BCPS of its accountabilities to ensure the safety of its transportation operation. A key component of this must be a robust, comprehensive, formal, documented methodology for ensuring compliance to the terms and conditions of each contract it has with independent providers of service. This program should utilize current contracts and current methodologies as a starting point, but quickly evolve and expand in both scope and formality. Its staffing and resourcing should be considered as a critical part of the reorganization and redocumentation process recommended previously.

¹¹ See also Best Practice Recommendations following Audit Results section on COMAR compliance.

¹² See also Best Practice Recommendation following Audit Results section on BCPS procedural compliance.

Audit Results

Summary of Approach

In the conduct of the audit described in this section, SBC followed the guidelines and practices issued by the United States Government Accountability Office as the “Government Auditing Standards”, more commonly referred to as the “Yellow Book” or “Generally Accepted Government Auditing Standards (GAGAS)”. SBC classified our work as a GAGAS performance audit and followed all the associated requirements in a stepwise process. We focused our efforts in this process on assessing compliance with the specified regulatory requirements, as well as the internal procedures of the BCPS transportation operation as currently documented.

SBC created a written audit plan on October 25, 2017 that was submitted to the Contract Monitor at the Maryland State Department of Education (MSDE). This included SBC’s overall audit strategy and plan, a timeline, audit objectives, and how those objectives directly relate to the scope and methodology of the project. The project plan was modified and adapted several times throughout the auditing process as needed. This was due to changes in stakeholder schedules, shifts in objectives due to findings, delays in receiving critical information, and the extension in time provided by the MSDE, at the request of SBC, for completion of this report. Additional adjustments were discussed with the Contract Monitor during weekly communication meetings.

Communication with the Contract Monitor occurred twice per week during the length of the audit. A teleconference was held every Tuesday morning, structured as an open discussion forum to converse about what was accomplished the week prior, and what was on the forthcoming agenda. Any concerns about evidence, findings, or conditions of the program were discussed. The Contract Monitor was encouraged to ask questions and offer insights into discovery based on his general understanding of the program. The Contract Monitor was also provided a written summary of Tuesday meeting minutes, as well as a summary of the week’s events, delivered electronically by email on Friday afternoons.

SBC followed GAGAS, but also infused the process with our own internal processes of discovery and assessment that are based on many years of providing similar studies for numerous school transportation clients. SBC therefore focused not only on the required scope of work and methodology, but also expanded on the requirements with the objective to identify steps required for the BCPS to become a world-class provider of service. Recommendations we provide therefore stem from either direct non-compliance with federal, state, local, or internal regulations, or from SBC’s experience with current best practices in the industry.

SBC began the audit process with a kickoff interview with the Contract Monitor, as well as initial meetings with key staff members within the BCPS Office of Pupil Transportation (BCPS transportation). Our objective was to obtain introductory information for a general understanding of the nature and size of the program, the stakeholders involved, and to set forth a general understanding of the SBC process of discovery. The progression of our discovery commenced in October of 2017 and began with an audit of contracted vendor accident and personnel files. SBC visited nine (9) yellow bus contractor sites in addition to the BCPS internal operation, and four (4) taxicab sites over the course of four (4) months. The discovery process was completed on January 19, 2018.

At each vendor site, SBC performed an audit of available crash, accident, and/or incident files or reports. Vendors were notified in advance of our scheduled audit visits. In most instances, the staff and/or owner-operators had paper files or reports ready for investigation. Without prior knowledge of how many or the condition of files before arrival, SBC attempted to accomplish a sampling of the available population of both post-accident files and personnel files that were provided for review at contractor location sites. Internally, BCPS provided both crash, accident, and incident files that were audited on-site, as well as five (5) years of accident logs that were sent to SBC for investigation via email. The accident logs were provided in spreadsheet form and were separated by fiscal year (2012-2017).

The sampling methodology resulted in 131 total personnel files and 97 accident files included as evidence for compliance findings. It is important to highlight that SBC, along with GAGAS guidelines, believes that having a large volume of audit evidence does not compensate for lack of relevance, validity, or reliability. SBC therefore made sure to audit only those files or records which directly correlated with the scope of work, or were necessary to ensure that audit objectives are fully met. Any evidence that is provided and discussed within the contents of this report was found to be relevant, valid, and reliable.

In addition to assessing compliance against specific regulatory requirements, SBC was also tasked with evaluating any deficiencies in the transportation program directly related to weaknesses in internal controls. Using Yellow Book standards as a guide, our assessment gauged whether the lack of sufficient and appropriate evidence was due to direct internal management deficiencies or more closely related to other correlated program weaknesses. It was then SBC's responsibility to decide whether the lack of evidence could, in turn, be a basis for a conclusion into an audit finding. These results are detailed in the prior General Assessment section of this report.

When assessing the total amount of evidence received throughout the auditing process, SBC decided the relevance and validity of evidence regarding findings, and then evaluated the expected significance of this evidence in direct relation to the audit objectives, and conclusions stemming from such evidence. Again, using Yellow Book standards, evidence was considered relevant, sufficient, and appropriate when it provided a reasonable basis for supporting conclusions. Evidence was not considered sufficient when it carried an unacceptably high risk that it could have lead SBC to reach an incorrect or improper conclusion. SBC in no way interfered with current investigations or legal proceedings into the November 1, 2016 accident that spurred this investigation and remained an independent party throughout the process.

The remainder of this report will follow the agreed upon MSDE scope of work, separated into categories of requirements. These include: The Federal Motor Carrier Safety Administration Regulation CFR Part 40, Subpart B; applicable Code of Maryland (COMAR) regulations; and BCPS internal policies and procedures. Evidence will be provided in tables, separated by topic, with explanatory discussion to follow each table. Within each individual table, each regulation will be assigned a compliant or noncompliant conclusion. Given the dual responsibility of BCPS as both an operator, and a contracting party with oversight responsibility over contracted service providers, we considered it true to find BCPS in noncompliance for actions of contracted vendors. Nevertheless, SBC still felt it necessary to show the variance in compliance between entities (BCPS versus contractors) within our findings.

Federal Motor Carrier Safety Administration Requirements

General Requirement 8 of the scope of work for this audit required SBC to determine and evaluate if the BCPS Pupil Transportation Program is in compliance with Federal Motor Carrier Safety Administration regulations 49 CFR Part 40 Subpart B. This particular regulation defines procedures for transportation workplace drug and alcohol testing programs. Subpart B refers specifically to employer responsibilities, and contains 11 sections.

Regulatory Requirement	Compliance Assessment		
	BCPS	Contractors	Notes
49 CFR Part 40 Sub-Part B – Employer Responsibilities			
§ 40.11 What are the general responsibilities of employers under this regulation?	No	No	1
§ 40.13 How do DOT drug and alcohol tests relate to non-DOT tests?	No	No	2
§ 40.14 What collection information must employers provide to collectors?	Yes	Yes	
§ 40.15 May an employer use a service agent to meet DOT drug and alcohol testing requirements?	Yes	Yes	
§ 40.17 Is an employer responsible for obtaining information from its service agents?	Yes	Yes	
§ 40.21 May an employer stand down an employee before the MRO has completed the verification process?	No	Yes	3
§ 40.23 What actions do employers take after receiving verified test results?	Yes	Yes	
§ 40.25 Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?	Yes	Yes	
§ 40.26 What form must an employer use to report Management Information System data to a DOT agency?	Yes	Yes	4
§ 40.27 May an employer require an employee to sign a consent or release in connection with the DOT drug and alcohol testing program?	Yes	Yes	
§ 40.29 Where is other information on employer responsibilities found within this regulation?	N/A	N/A	5

1. The audit team, based on 49 CFR Part 40 Subpart B and interviews with BCPS staff, have determined that BCPS is in compliance and understands the sub-sections as noted in the table above. However, we find that non-compliance with any of the subsequent requirements must yield a non-compliance finding here as well. Examples of such non-compliance are seen in §40.13 and §40.21 as noted.
2. Interviews with BCPS staff and contracted vendors indicated that post-accident drug testing is conducted on every accident that a BCPS school vehicle is involved, regardless of the damage involved, citations issued to a driver or not, and even if a vehicle is not removed from the scene of the accident due to damage from the accident itself. Interviews indicated that the “test for all accidents” initiative began on or about January 1, 2017, two months after the fatal crash. This action is in violation of 49 CFR 382.303 which, in general, states that a USDOT drug test under this requirement must meet specific thresholds in order for the USDOT forms to be used for post-accident drug and alcohol testing. If the

thresholds are not met then the employer must use a non-DOT chain of custody form. The thresholds are related to events just after the crash as noted above.

3. Currently, BCPS indicated they will remove an employee from a safety sensitive position if the employee is “at risk” to continue to drive while waiting for the results of a post-accident drug/alcohol test. An “at-risk” driver is, as described by the BCPS Director of Transportation, a driver with one preventable, appreciable accident. Under regulation §40.21, an employee in a safety sensitive position may not be stood down while waiting for a confirmed test result from the Medical Review Officer (MRO). There is an exception as noted in the corrective actions section below.
4. The form is Appendix H to Part 40 – DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form.
5. This is not actually deemed to be a rated compliance element. This part of the CFR simply directs the reader to other linked sections within other subparts under 49 CFR, for example subpart A, C, D, etc. for additional information on employer responsibilities.

Corrective Actions Required

General responsibilities of the BCPS – Should BCPS continue to test school vehicle drivers for every crash regardless of the guidelines, the testing program must be redesigned to better separate DOT required testing from BCPS desired testing. A note from the FMCSA website indicates “DOT does not prohibit motor carrier employers from instituting a company authority testing program that is in addition to, and distinct from, the required DOT testing program.” Under such non-DOT programs, employers could test for other drugs. DOT also does not prohibit employers from using tests of non-urine specimens under a non-DOT program. DOT regulations at §382.601 provide that employer materials supplied to drivers may include information on additional employer policies with respect to the use of alcohol or controlled substances, including any consequences for a driver found to have a specified alcohol or controlled substances level that are based on the employer's authority independent of this part. Any such additional policies or consequences must be clearly and obviously described as being based on the employer's independent authority¹³. The employer must also use a non-DOT drug testing form.

Standing down employees during the process – The regulation states¹⁴ that “as an employer, you are prohibited from standing employees down, except consistent with a waiver a DOT agency grants under this section.” It also states that “You may make a request to the concerned DOT agency for a waiver from the prohibition of paragraph (a) of this section. Such a waiver, if granted, permits you to stand an employee down following the MRO's receipt of a laboratory report of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test pertaining to the employee.” There is additional information in this section that is required of the employer to have an employee stand down that can be found at §40.21(a) through (e) that needs to be reviewed by the employer (in this case BCPS) and take appropriate action with a DOT agency. In this event, BCPS must contact their DOT agency and make a request for a waiver if they want to stand down an employee and be compliant with this requirement.

¹³ <https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing/which-substances-are-tested>

¹⁴ https://www.transportation.gov/odapc/part40/40_21

Best Practice Observations & Recommendations

Title 49 of the Code of Federal Regulations provides the national regulatory framework governing transportation as a whole. The audit results described above (Part 40 – Procedures for Transportation Workplace Drug and Alcohol Testing Programs; Subpart B – Employer Responsibilities) covers only a very small part of the overall requirements as established. Achieving a thorough comprehension of all requirements, and establishing a process for their correct application, is a critical functional responsibility for any and all operators of commercial transportation services. The BCPS is a mixed operation whereby it both contracts for these services while also providing some services via district-owned and operated vehicles. This presents yet more complexity in that BCPS must retain this expertise and their associated processes themselves while also having a robust mechanism to ensure their contracted vendors are also each meeting the requirements. In our overall assessment, SBC finds neither to be adequately in place.

In the experience of SBC, many larger school districts employ legal staff that typically would guide the transportation department on these issues. However, not having this assistance available cannot be an excuse for non-compliance. The requirements are readily accessible on the FMCSA and USDOT websites. Therefore, in addition to the specific corrective actions noted previously, SBC recommends the following.

- SBC recommends that BCPS immediately conduct a broader assessment of their current compliance with the requirements as stated, and of their staffing and processes to ensure future compliance. We return to this recommendation in the subsequent section covering BCPS internal policies and procedures.
- It is recommended that BCPS hire or reassign a staff member to a regulatory oversight position. This person must be highly knowledgeable of the rules and regulations of the FMCSA, USDOT and COMAR. This staff member would become the resident expert for the department in all areas just noted, and those to follow. This position should work closely with the BCPS Director of Transportation, the Safety and Training Team, the certification team, and the districts' legal department to make sure BCPS is always in compliance. This can also be a suitable position to include the contract performance management plan tasks, as discussed in other areas of the review, as well. This position should answer directly to the Director and supervise the Safety and Training Team as well as the certification team to relieve the Director of those responsibilities. This position should be considered within the general reorganization and redrafting of positions and standard operating procedures, as recommended in the General Assessment section of this report.

Code of Maryland Requirements

General Requirements 5, 9, 10, 14, and 15 of the scope of work for this audit in full or in part required SBC to assess compliance with sections of the Code of Maryland. For this performance audit, two (2) transportation specific titles were included as criteria for compliance:

- Title 13A – State Board of Education, Subtitle 06 Supporting Programs, Chapter 07: Student Transportation. Effective: October 8th, 2007¹⁵.
- Title 11 – Department of Transportation, Subtitle 19 Motor Vehicle Administration, School Vehicles, Chapter 11.19.05.01: School Vehicle Drivers. Effective: January 1981 and Revised: July 2002¹⁶.

For Title 13A, Subtitle 6, Chapter 7 of the Code of Maryland (Student Transportation), the sections to be assessed included:

- School Vehicle Driver Trainee and School Vehicle Driver Qualifications: Chapter 13A.06.07.06
- School Vehicle Driver Disqualifying Conditions and Termination: Chapter 13A.06.07.07
- Alcohol and Controlled Substances Use and Testing: Chapter 13A.06.07.10
- Taxicab Drivers Transporting Students with Disabilities: Chapter 13A.06.07.17

For Title 11, Subtitle 19, Chapter 05 of the Code of Maryland (School Vehicle Drivers), the sections to be assessed included:

- Physical Examination of School Vehicle Drivers: Chapter 11.19.05.01

We begin the assessment of compliance with Chapter 6 – School Vehicle Driver Trainee and School Vehicle Driver Qualifications, which includes three sections:

Regulatory Requirement	Compliance Assessment		
	BCPS	Contractors	Notes
COMAR 13A.06.07.06 (driver qualifications)			
A. School Vehicle Driver Trainee Qualifications	No	No	1,2,3,4,5,
B. School Vehicle Driver Qualifications	No	No	3, 5
C. School Vehicle Driver Evaluations	Yes	Yes	6

1. During the audit, SBC discovered two instances of drivers currently in service that do not meet conditions for being medically qualified. These, and other findings of non-compliance are discussed further in subsequent notes.
2. Contractors' new hires may have up to two points on their MVA record, as established within this section of COMAR. BCPS employed drivers require zero points through certification. BCPS employed drivers can accumulate two (2) points during their tenure,

¹⁵http://archives.marylandpublicschools.org/NR/rdonlyres/22229886-3940-448A-8F0F-1A8DFEF3AB9E/22927/COMAR13A0607_StudentTransportation.pdf

¹⁶<http://mdrules.elaws.us/comar/11.19.05.01>

but three (3) points may call for immediately disqualification depending on the offense committed.

3. There are obvious and glaring concerns with the medical clearances and qualifications in this section. Just 14 months after a driver was involved in the fatal crash of November 1, 2016, SBC discovered two more instances at Independent Taxicab Company of taxi drivers that had non-compliant medical examinations for school vehicle drivers regarding this regulation. One was hypertension; the Medical Examiner had noted on his medical certification the need for a recheck for high blood pressure within three (3) months. There was no recheck documentation discovered in the personnel file. The other had a clear medical exam but was checked on the certification as positive for monocular vision, which is not allowed under MVA physical requirements for school bus drivers of which taxi drivers must meet. The monocular vision condition needs to be brought to the attention of medical examiners as this should have been caught at the time of the examination. The importance of making all medical evaluations compliant has not occurred.
4. A proposed amendment to this section states “adding the term “Trainee” to the title of .07 School Vehicle Driver and Trainee Disqualifying Conditions and Termination. This addition would also include the term “trainee” following any reference to “school vehicle driver” under .06 and .07 by replacing terms such as “individual,” “employee,” or “applicant” with the term “school vehicle driver and/or trainee” to allow for consistency throughout COMAR 13A.06.07.06-.10.
5. SBC found evidence of what is to be completed for compliance within this regulation via investigation of BCPS SOP 3.0 which states that the Office of Pupil Transportation is responsible to ensure that all school bus personnel and taxicab drivers are certified prior to being placed in service. However, this evidence is only that the SOP exists, and that it includes defining information on what to complete. Neither BCPS nor its contractors are in compliance. The discovery of medically-disqualified drivers as a result of this audit confirms non-compliance.
6. SBC found evidence that BCPS holds annual in-service training for both BCPS employees as well as contracted employees. There is also evidence that BCPS conducts on-board observation or close proximity observations (may follow the bus in district vehicles to observe) of drivers every two years.

We next move on to assess Chapter 13A.06.07.07 – School Vehicle Driver Disqualifying Conditions and Termination, which includes six sections:

Regulatory Requirement	Compliance Assessment		
	BCPS	Contractors	Notes
COMAR 13A.06.06.07 (disqualifying conditions)			
A. General (introduction)	Yes	Yes	
B. Disqualification for Driving Record	Yes	Yes	1, 7
C. Disqualification for Criminal Conduct	Yes	Yes	1, 2, 3, 7
D. Disqualification for Unsafe Actions	Yes	Yes	4
E. Disqualification for Accidents	No	No	5, 6, 7

Regulatory Requirement	Compliance Assessment		
	BCPS	Contractors	Notes
COMAR 13A.06.06.07 (disqualifying conditions)			
F. Disqualified Driver Database	No	No	7

1. For BCPS employees, the department has the benefit of additional hiring assistance via the BCPS Human Capital (HC) team. Applicants are pre-screened initially, which includes an MVA check by HC, then interviewed by the transportation department from a list provided by HC. From there, a desired list of employees is sent to the HC team for criminal conduct checks via the Criminal Justice Information System (CJIS), the National Crime Information Center (NCIC), and the Maryland State Department of Education (MSDE) disqualified driver database.
2. Of note is that on August 22, 2017, there was a call to action to the Members of the State Board of Education to request permission to publish proposed amendments to COMAR 13A.06.07.01-.10, Student Transportation, in which amending the reference to “a crime of violence” Criminal Law Article §14-101 to allow for consistency throughout COMAR 13A.06.07; and proposing that “assault in the second degree” be included and referenced to Criminal Law Article §3-203; and, requiring local school systems to disqualify a school vehicle driver or trainee if the school vehicle driver or trainee has been convicted of a crime or if charges are pending that would meet the disqualification standards found under COMAR 13A.06.07.07(C)(1). Once this is statutorily changed, BCPS should make sure that all training documents for both internal staff and drivers comply with the new wording and make sure that all vendors understand the variance in wording.
3. BCPS transportation has the benefit of a Human Capital (Resources) department for the administrative requirements associated with the disqualification of drivers and therefore the release of the employee of their responsibilities. However, when working with thirteen outside contractors, this process is not clear. Evidence was provided via training documents for driver in-service that expectations of BCPS employees and contractor employees is discussed. SBC is not convinced that the Director of Transportation could possibly be aware of all driver interaction with students and parents that could possibly affect safety, but this does not provide sufficient evidence for an assessment of non-compliance.
4. This process would benefit from additional layers of audit relative to frequent contract management as well as providing for additional road supervision to observe school vehicle drivers while on routes, and for arrival and departures of school loading zones.
5. “As soon as practicable” should be defined as within a time period. Inquiries into the post-accident process from the current Director of Transportation, SBC learned that BCPS expects post-accident forms to be turned in from both BCPS and contracted drivers the same day the accident occurs, however the SOP 6.2.3 states a 24-hour window. These discrepancies need to be clarified and corrected within the SOP. SBC understands this is for the initial report of the crash as follow up information could take significantly longer to be completed for input into the report file while collecting information to determine if accident damages rise to the level of appreciable damage.
6. SBC believes that for an accident involving an incapacitating or fatal injury, this regulation is now met. However, based on observation and inquiry into the process for filing information post-accident, it cannot be confirmed that appreciable damage is tracked for

liquidated damages and/or if the time frequency is tracked. SBC found evidence that some vendors are performing some variation of this for their own employees, but saw no such evidence of any letters from the Director of Transportation or any type of correspondence of the transfer of this information to the BCPS Office of Pupil Transportation.

7. Post-hire, and continual monitoring of CJIS alerts for criminal violations and MVA for motor vehicle violations are critical functions that must be performed daily to identify employee non-compliance and their placement on the disqualified list.

We next move on to assess Chapter 13A.06.07.10 – Alcohol and Controlled Substances Use and Testing which includes six sections:

Regulatory Requirement	Compliance Assessment		
	BCPS	Contractors	Notes
COMAR 13A.06.07.10 – Controlled substances			
A. Testing Program Required	No	No	1, 2
B. Disqualification of Drivers	Yes	Yes	
C. Reporting Disqualified Drivers	Yes	Yes	
D. Return to Service of Disqualified Drivers	Yes	Yes	
E. Local Authority	Yes	Yes	
F. Access to Records	Yes	Yes	

1. SBC found BCPS in compliance regarding employed and contracted drivers. However, SBC learned during an interview with one of the contractors, that it was a common occurrence for the first box of the chain of custody form marked “pre-employment”, to be checked even though the testing may be required for a random test or even post-accident. SBC could not determine any reason for the actual drug testing personnel to question whether the correct box was checked or not. This could have had an adverse effect on the number of tests by category as the employer must have a certain percentage for random tests, and would draw other incorrect totals by category of tests annually.
2. At the time of this report, information had not been provided by BCPS regarding any level of training that any employees receive relative to the completion of the chain of custody form prior to drivers being sent to the testing facility. In this instance, it appears that reliance on owner-operators to “do the right thing” applies. This leaves a gray area of acceptance and compliance for this regulation.

We next move on to assess Chapter 13A.06.07.17 – Taxicab Drivers Transporting Students with Disabilities which includes three sections:

Regulatory Requirement	Compliance Assessment		
	BCPS	Contractors	Notes
COMAR 13A.06.07.17 – Taxicab drivers			
A. Taxicab drivers involved in transporting students with disabilities to nonpublic special education facilities shall...	No	No	1

Regulatory Requirement	Compliance Assessment		
	BCPS	Contractors	Notes
COMAR 13A.06.07.17 – Taxicab drivers			
B. A local school system shall maintain a file for each taxicab driver regularly engaged in handling and transporting students with disabilities. The file shall contain the following documents...	No	No	1
C. Preservice and in-service instruction for taxicab drivers shall...	Yes	Yes	

1. One taxi company was found to have two drivers with medical issues that should have not allowed them to be cleared for service of transporting BCPS students. This was missed by both the medical examiner and BCPS records certification. There were several instances where up to date copies of documents were not in the personnel files on site at the taxi companies. This non-compliance concern is also addressed in an earlier section.

Corrective Actions Required

Safety stand down assessment and retraining – The fact that many of the non-compliance issues resulting in the November 1, 2016 crash have yet to be corrected points to the immediate need for an organization-wide effort to acknowledge these shortcomings and immediately address the areas of non-compliance. Consistent with the recommendation provided for corrective action in the General Assessment section of this report, the objective is for the relevant parts of the organization to better understand the requirements of COMAR and how they directly relate to internal processes for compliance. An immediate modification of the associated SOP documentation must follow, together with a cohesive and deliberate training program to ensure that all staff and contractors become compliant. The resultant SOP modifications and re-training that occurs on each of these areas will serve to provide near-term stability in the safety program, and reassurance to stakeholders in the system. The Director of Transportation should then hold sessions with all school bus and taxicab company personnel who work with records and compliance. This is to ensure they understand the issues brought forward in this audit regarding medical certification of taxi drivers and such other issues as raised by this audit, and to introduce and ensure compliance with the modified procedures. Finally, BCPS must (through proper channels) ensure that any Medical Examiner providing medical certification for school vehicle drivers that work for Baltimore City Public Schools understands and complies with all requirements.

Cost documentation – The follow up on crashes as to cost documentation leaves much to be desired within both BCPS and contracted operations. Nowhere did SBC find accident files that contained any summary of costs that led us to believe there was compliance as to requirements. Crash costs must be determined as a factor for whether a driver has been involved in an accident involving appreciable damage, and where specific dollar amounts need to be met. This is particularly important when the appreciable damage can disqualify a driver from service. Neither the organization nor the driver are being well served when failing to maintain these actual, documented costs. A driver needs to be removed from service if not in compliance. The BCPS and contractors alike are putting themselves and student riders at risk by failing to comply with the law.

Taxicab drivers – The Medical Examiners, BCPS Certification Team members, and all contracted companies need to have a better understanding that taxicab drivers must meet the same physical requirements as school bus drivers. It is quite clear that taxi cab drivers must “pass the annual physical examination required by the Motor Vehicle Administration for school vehicle drivers¹⁷”. While not excusing the miss on the Medical Examiners’ part, it needs to be stated to those who provide medical exams for BCPS and all contracted drivers that every school vehicle driver transporting students for BCPS must pass the same physical requirements as the yellow school bus driver. Taxi cab companies must be reminded of the requirements of the documentation that is to be in personnel files to be compliant with this section. The companies also need to be aware of the additional medical information to look for on the medical certification form that will disqualify the driver to transport BCPS students.

Best Practice Observations & Recommendations

The standardization of recordkeeping with assigned, knowledgeable personnel and appropriate supporting systems is a must for all transportation providers. The stakes associated with allowing unqualified vehicle operators are too high for anything else. The challenge for BCPS is magnified given the scale and structure of the operation. Having BCPS staff plus staff at multiple contractors of varying organizational capability demands strong and consistent oversight on the part of the Office of Pupil Transportation. Standardization of recordkeeping facilitates efficient processes, such as for when different portions of the records that require regularly scheduled updates. It greatly reduces the chance of error and missed information, such as resulted in the November 1, 2016 incident. In this regard, SBC recommends:

- BCPS should aggressively begin to determine and implement an electronic method of keeping driver records on file as well as when updates to records are required. This process should be started immediately. BCPS should work with their technology department first to determine if the district already owns capable software within the district and the requirements to store and backup the information. If it does, discuss and plan the best path forward to capture all past records while maintaining the current files and time/date stamped reminders. If it does not, immediately explore outside systems and conduct an acquisition process.
- Once in place, train the keepers of records on the electronic system and how to operate an electronic time/date stamped program. Continual in-service training for the personnel in the transportation department who maintain records as well as training drivers is as important as the drivers. These are the people who need to be well trained also because they are the keepers of the records who are checking for compliance to keep students safe.
- Through the recommended addition of a staff expert on regulatory requirements (see FMCSA section above), provide for further training for BCPS record-keeping staff concerning FMCSA regulations, USDOT drug and alcohol testing, and Code of Maryland requirements. It is further recommended that this training be extended to the people who work for contractors with these same statutes and regulations that work with the BCPS staff to keep records in order. This should be in a workshop type session having all pertinent personnel hearing the same information at the same time. This will promote

¹⁷ COMAR 13A.06.07.17. A. (2) Pass the annual physical examination required by the Motor Vehicle Administration for school vehicle drivers.

discussion and avoid the possibility that someone understood something differently than intended.

Baltimore City Public Schools Policies and Procedures

The final layer of investigation for SBC's audit of the BCPS Office of Pupil Transportation operation are current internal policies and Standard Operating Procedures (SOPs). The general requirements for our scope of work required SBC to identify and evaluate current practices for efficiency and effectiveness overall, but also how these practices directly influence the compliance of operations with federal and state requirements. As described previously, SBC determined to focus our specific audit objectives on the management and execution of current BCPS Standard Operating Procedures (SOP) that relate directly to the federal and state regulatory requirements under investigation. This, in turn, complements the more general evaluation of BCPS operational protocols included in an earlier section of this report. As described there, the BCPS does not currently have any School Board policies related to the delivery of transportation services. Instead, all internal documentary guidance is provided via the Standard Operating Procedures of the BCPS Office of Pupil Transportation. We therefore focus on this set of documents alone.

The entirety of the current SOP manual as provided to SBC on request consists of 18 unique procedure statements. Of these, SBC found that many have requirements relating directly to the federal and state standards covered under this audit. We consolidate, summarize, and cross-reference these as follows¹⁸.

Standard operating procedures covering certification and monitoring of school vehicle drivers' qualifications, which directly relate to the following COMAR subsections:

- School Vehicle Driver Trainee and School Vehicle Driver Qualifications, 13A.06.07.06
- Alcohol and Controlled Substance Testing, 13A.06.07.10
- Taxicab Drivers Transporting Students with Disabilities, 13A.06.07.17
- Physical Examination of School Vehicle Drivers, 11.19.05.01
- School Vehicle Driver Evaluations, 13A.06.07.06 and 13A.06.07.07

Standard operating procedures covering accident response processes, which relate to the following FMCSA and COMAR subsections:

- FMCSA 49 CFR Part 40 Subpart B
- School Vehicle Driver Disqualifying Conditions and Termination, 13A,06.07.07
- Alcohol and Controlled Substances Use and Testing, 13A,06.07.10

Standard operating procedures covering random drug and alcohol testing, which relate to the following FMCSA and COMAR subsections:

- FMCSA 49 CFR Part 40 Subpart B
- School Vehicle Driver Trainee and School Vehicle Driver Qualifications, 13A.06.07.06

¹⁸ In whole or in part, the audit evaluation that follows addresses General Requirements 3-15 of the Scope of Work for this audit.

- School Vehicle Driver Disqualifying Conditions and Termination, 13A,06.07.07
- Alcohol and Controlled Substances Use and Testing, 13A,06.07.10

Standard operating procedures covering pre-trip orientation and inspection of buses, which relates to federal regulations of:

- FMCSA, 49 CFR Part 40 Subpart B § 396.13: Driver inspection

In this audit portion of our assessment, we focus on compliance only¹⁹. In this context, we assess compliance of operations against the stated SOP's, with clarifying remarks, and documentation of required corrective actions. This is followed by a separate set of best practice recommendations that are consistent with SBC experience, but not strictly compliance related.

Procedural Requirement	Compliance Assessment		
	BCPS	Contractors	Notes
Certification and monitoring of school vehicle drivers			
SOP 3.0 Pre-Service Certification for School Bus Personnel	No	No	1, 2
SOP 3.1 Training of School Bus Personnel & Annual Medical Examination of School Bus Drivers	No	No	2
SOP 3.7 Accounting for and Controlling Certification Documents	Yes	Yes	2, 3
SOP 3.9 Biennial Driver Evaluations	No	No	4

1. SBC found that while current operational practices surrounding pre-certification of school vehicle drivers follow and comply with the requirements of SOP 3.0, there have been additional findings in the process including overlapping and potentially confusing job descriptions, no standardized format for the outline of personnel files, omitted language of actual procedure in the SOP, and are generally outdated and leave room for error.
2. Although SBC found only minor non-compliance regarding SOP 3.1 and the actual process of enforcing annual medical examinations of school vehicle drivers, our investigation did result in finding two taxicab drivers that were medically disqualified from driving a school vehicle. Therefore, this SOP receives a non-compliant finding due to BCPS's deficiency in internal controls to manage taxicab contracted drivers and their medical conditions. This is also covered in the Audit report subsection on COMAR requirements.
3. SOP 3.7's objective is to account for and control certification documents for prospective bus drivers, bus attendants, or taxicab drivers seeking employment with City School's contractors. SBC can determine that certification documents for these drivers are controlled per the SOP itself, however, several corrective actions are needed to improve upon the intake, handling, filing, and control of the information the documents contain.
4. SBC determined a noncompliant finding for SOP 3.9 solely due to lack of information as provided by the BCPS. Discovery for this audit was completed on January 18, 2018 and

¹⁹ A generalized assessment of the BCPS Office of Pupil Transportation that provides an evaluative, as opposed to an audit-based focus, was provided in the previous report section "General Assessment of BCPS Transportation", and includes additional remarks on standard operating procedure content and approach.

inquiries by email from the investigation team to management for exact processes and procedures were not answered by the time of report creation. We cannot determine a finding based on lack of sufficient and appropriate evidence.

Procedural Requirement	Compliance Assessment		
	BCPS	Contractors	Notes
Accident response processes			
SOP 3.4 Accident Notification and Post-Accident Drug and Alcohol Testing	Yes	Yes	1,2
SOP 3.6 Accident Notification Intake and Response Processes	Yes	Yes	3

1. SBC found that while the current policies and procedures surrounding accident notification and post-accident drug and alcohol testing comply with established SOP 3.4., the document language itself, and general process appears outdated and does not include any deliberate improvements post-accident of November 1, 2016. There are gaps in clarity, unnecessary drug testing post-accident per FMCSA and COMAR regulations, no standard and formalized process for contractors to follow, and a confusion chain of command and no determined set of time for information intake.
2. It does not appear that BCPS has current problems with refusal to test or timely response for testing, however the actual process surrounding the timeliness of results, the disjointed process in variance of help from The Office of Human Capital and contracted companies and the ability to retrieve results of tests versus receipts appears to be deficient. The SOP should better clarify where documents are to be maintained and why, and the purpose when documentation for any employee is in more than one location. This can only aide BCPS employees, contracted entities and later auditors, in knowing where to find documentation needed for regular maintenance and any future audits.
3. Again, while operations are determined to be compliant with the SOP as written, investigation into accident related information intake processes and procedural SOP's appeared outdated, does not provide a direct line of responsibility, and is unclear as to what determines what is standard. Interviews and observation determined that contractors and BCPS are doing and saying different things. Logs that were provided to SBC for investigation were incomplete and not in a useable format for analysis of trends or statistical measures.

Procedural Requirement	Compliance Assessment		
	BCPS	Contractors	Notes
Random drug and alcohol testing			
SOP 3.2 Random Drug and Alcohol Testing for School Bus Drivers and Other City Schools Employees Approved to Operate City Schools Vehicles	Yes	Yes	1
SOP 3.3 Random Drug and Alcohol Testing for School Bus Drivers and Other Covered Individuals Employed by City Schools Contractors	Yes	Yes	2

1. Like the complications surrounding post-accident drug testing results shown above, the same applies for random drug testing results. While compliant with the SOP as written,

interviews with key staff members at contracted locations revealed that there are complications with the chain of custody form at intake, as well as trying to get results to remain in compliance with federal and COMAR regulations that require records be in a secure location and readily accessible within two days for any federal or other authorized personnel. These results are allowed to be kept in personnel files provided they are in secure and accessible location.

2. A similar situation occurs here whereby we find an assessment of compliance, but with lack of clarity and consistency applies for contracted drivers following a random drug test. There have been incidents where Contractors have difficulty with:
 - The Chain of Custody form and ensuring that the correct box for 'random' is checked, though this has been noted as an historical event not indicative of current process.
 - For federal and state compliance, results are required to be filed post-test. However, with contractors performing their own random drugs tests, as well as their employees being in the BCPS pool, all results from a BCPS initiated test are posted on a secured website. The BCPS Safety and Training team is required to logon and ensure a negative result for both their own employees, as well as contracted ones. However, at the center of the confusion is where the test results are filed. The audit team found that contracted employees test results from BCPS testing are maintained by BCPS in the existing qualifications/personnel file at transportation, in a secured location. For BCPS employees that are tested, the results stay with the Human Capital files for all BCPS employees required to be tested. This is why results were not always found in employee files during SBC investigation to complete the audit, because they are not all stored at one location, nor do they have to. Regardless, a positive or negative result is posted, and verified by The Safety and Training Manager, per current SOP.

Corrective Actions Required

As described in the General Assessment of BCPS Transportation section of this report, this is an organization with high turnover and significant vacancies. Following the November 1, 2016 incident there have been reported initiatives to improve the scope, content and clarity of the Standard Operating Procedures. However, at the time of this report no such evidence was provided.

We have limited this assessment to one of strict compliance with internal operating guidance, in this case the existing Standard Operating Procedures. This begins with the entire absence of Policy, as discussed in the General Assessment, extends to the need for a complete redesign of the organization as it operates today, and a concomitant restructuring of its associated Standard Operating Procedures. For consistency, however, here we relate only specific corrective actions to bring these documents better in line with the intent of state and federal requirements that correlate to minimization of safety concerns and risks.

Pre-Certification of School Vehicle Drivers – Management of these internal controls requires an organizational change that will better facilitate compliance. As discussed in the General Assessment section of this report, there is overlap and confusion between job duties. The certification team should be responsible for upkeep on files, certification of drivers, and all

requirements of related COMAR and FMCSA chapters. The Safety and Training team, meanwhile, should focus on accident response and associated retraining requirements. Both teams should report to a single individual with overall responsibility for ensuring compliance. The department's Standard Operating Procedures should be redrafted accordingly, to include new checklists, maintained electronically, and broadly accessible, that work towards a common goal of ensuring absolute compliance for every new driver, whether contract-provided or BCPS-employed. Finally, a newly added layer of protection is required in this new procedure to ensure that all taxicab drivers are meeting regulatory standards.

Also, to be included in this newly drafted pre-certification SOP must be a regular program of record auditing with a feedback loop that drives improvement when errors are discovered. Part of the SOP must document how files are to be kept, in what order, and establish a regular program of audits at contractor sites as well as internally. When errors are discovered, the SOP must establish how that information is handled, and how corrective actions must be designed and implemented.

Accident Response Process – There are numerous important parts to the process that must occur post-accident. Significant changes to the associated procedural language are necessary to provide clarity for any new staff, and for process clarity generally. Clear expectations for vendors, contracted drivers, and internal staff need to be defined. Language such as “as soon as practical” currently appears throughout the document, and must be altered to provide more specificity.

Best Practice Observations & Recommendations

SBC here refers the reader back to the report section General Assessment of BCPS Transportation. SBC has done this because we believe therein lies the cornerstone of an overall, systemic improvement to the BCPS transportation organization. Within that section is a recommendation to establish a comprehensive program of contract compliance monitoring and performance measurement. Also, within that section are remarks concerning the organizational focus of the department relative to the primary service delivery model. BCPS contracts for the preponderance of its transportation service delivery, yet fails to maintain an organization focus on the importance of properly designed contracts, and the mechanisms required to ensure that its contracted vendors comply strictly with the terms and conditions of those contracts. SBC experience indicates that the best organized, safest, and most effective contracted operations have coherent, documented programs that do exactly this. SBC recommends that BCPS codify in Standard Operating Procedure the contract performance management program recommended in the General Assessment, and that it contain the following core elements:

- Standardized contract language across all vendors, to include mandatory participation in the compliance monitoring and performance management elements of the program, together with incorporation of all BCPS transportation Standard Operating Procedures by reference.
- A checklist-based Contract Compliance Monitoring Program that codifies, schedules, and enforces contract terms and conditions through regular information submittal requirements, and a regular schedule of auditing components to include onsite visits to contractor sites for record and process reviews, on-road audits of contractor operations, and other similar enforcement elements.

- A customizable performance measurement program that facilitates data capture to regularly measure ongoing contractor performance in a set of performance metrics targeted at specific areas of concern or interest, and that change periodically.
- An annual feedback reporting and overall contractor assessment process that provides periodic reports to the contractors regarding their overall performance, and an annual review and rating process that serves as a feedback mechanism, a cooperative continuous improvement tool, and reference material for contract continuation and periodic solicitation.

Audit Conclusions

Summary of Results

In its review of data and information, SBC found only a limited number of instances of strict non-compliance to the federal, state, and local requirements that are collectively designed to prevent this from happening. In the process, however, we also revealed the underlying dynamic that prevented the identification and disqualification of an individual who should not have been operating a school bus. It is in the systemic design of the organization, and the resultant deficiencies in internal controls, that the true concerns are identified. A granular focus on compliance with specific federal, state, and local requirements reveals only a limited viewpoint on the incident, and fails to properly identify why BCPS was unable to comply with the established requirements and expectations. The audit itself revealed only a few instances of strict non-compliance, and while even one is clearly too many, this can lead the reader to conclude that a minor patch here, or a minor fix there is all that is required. Nothing could be further from the truth. Short-term fixes to address non-compliance will establish a better foundation for safety, and for this reason must be the near-term focus for all concerned, but the system as currently established for the BCPS Office of Pupil Transportation clearly enables these exceptions. It is systemic change that is required to close the portal that allows these exceptions to occur.

As stated early in this report, the professionalism of BCPS staff and commitment to their responsibilities is not in question here. Rather, it is the system in which they are forced to operate where the deficiencies lie. There are likely to be many more exceptions to compliance thus far unidentified. SBC found some of these during its audit process. These represent a real and present threat to the safety of the BCPS transportation service. BCPS must therefore immediately pursue the corrective actions identified throughout this report, but the long-term fix will be found in a comprehensive path forward.

The Path Forward

The Principal Results section that begins this report outlines the leadership dynamic that must be in place for systemic change to occur. Here we summarize the specific actions that leadership must take, and the order in which they must occur, to begin the process of change:

1. Establish School Board policies related to the delivery of transportation services.

The Baltimore City Board of School Commissioners is the local governing authority for the Baltimore City Public Schools. In this role, this entity cannot escape its responsibility for establishing policy guidance as it relates to transportation services. The current policy manual is silent on this subject. At its very essence, governing policy must establish the parameters for the transportation service: what is to be provided, to whom, and under what circumstances. While much of this is covered within the current Standard Operating Procedures for the Office of Pupil Transportation, the notion that this organization can set its own governing guidance and then be expected to enforce the same flies in the face of practical experience, and leads to a situation where exception management becomes ever more prevalent, and erodes the ability of the organization to ensure proper internal controls.

2. Establish the manner in which the required services are to be delivered.

Only with policies as established by the governing authority in place can the process of determining the best manner of delivering the required services begin. The current mix of service delivery is largely, but not entirely, contracted to a mix of private vendors and the local public transit agency. Yet the organization as designed is not optimized to the unique requirements of contracted operations. Instead it is largely focused on the much smaller internally provided school bus service, with no stand-alone identity provided to the needs of contract management and oversight. The organization is neither here nor there, and the preliminary decision that must be made before undertaking a redesign is to determine how the BCPS can best deliver the required services.

3. Build an organization optimized to the requirements of the service approach.

With the policies and the service model determined, then and only then can a proper, functioning organization structure be designed with staff positions and responsibilities customized and optimized to the requirements. The current organization is both operating on a shoestring with staff vacancies, and operating outside of established and documented procedures due to their inadequacy to the task. Thus, in many ways, this step must occur before, but also in concert with the documentation of new operational protocols as recommended next.

4. Design and implement operational processes and protocols to execute safely, effectively, and efficiently; thoroughly document the same.

We know from our investigation that the existence of exceptions is systemic, but are not yet the rule. But it is here, at the end of this recommended chain of improvement, where the results will be achieved and the portal that allows exceptions to occur will be closed. A thorough, complete, rational, and workable set of Standard Operating Procedures that follow an appropriate organizational design, which in turn is structured in accordance with deliberate decisions as to how services are to be delivered in response to the requirements established by the School Board, must become the tool that ensures the elimination of compliance exceptions, and that maximizes the safety and effectiveness of pupil transportation services for the Baltimore City Public Schools.



SCHOOL BUS CONSULTANTS

Thomas W. Platt
e: tplatt@schoolbusconsultants.com
www.TransParGroup.com



PROUD PARTNER WITH THE
TRANSPAR GROUP OF COMPANIES

(888) 518-3377
www.transpargroup.com