

TO: Directors of Non-public Schools  
FROM: Dr. Penny Schwinn, Commissioner, Department of Education Commissioner; Jeff Long, Commissioner, Department of Safety and Homeland Security; Dr. Sara H. Morrison, Executive Director, State Board of Education  
DATE: May 1, 2023  
SUBJECT: **Student Transportation Vehicles and Licensure Requirements for Non-public Schools**

The purpose of this memo is to provide clarity for non-public schools on applicable federal and state requirements for student transportation. Non-public schools<sup>1</sup> are not required to provide transportation for students. If a non-public school chooses to transport students to and from school, to school related or non-school related activities, it is essential that non-public schools understand and follow the laws, rules, and regulations on student transportation and driver licensure.

There are two types of school buses: traditional school buses and Multifunction School Activity Buses (MFSAB).<sup>2</sup> Non-public schools' drivers must obtain and maintain a Tennessee Commercial Driver's License (CDL) when operating a vehicle that is designed as a traditional school bus or MFSAB. The type of additional endorsements needed for a CDL license will be dependent on the vehicle's design and use. School bus drivers may be required to obtain school bus (S) and/or passenger (P) endorsements, depending on the design, size, and function of the vehicle they are driving.

It is important to note that a vehicle may be defined as a school bus, independent of its color, physical appearance, or aftermarket modifications to seating. Users should consider the definitions and examples provided below in determining appropriate licensure for drivers of the vehicle, depending on the vehicle's design and intention for use.

#### TYPES OF BUSES/VANS

**School bus:** The Code of Federal Regulations defines a school bus as: *A Commercial Motor Vehicle (C.M.V.) used to transport pre-primary, primary or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include operations of a for-hire motor carrier. (49 C.F.R. 383.5)*

The Tennessee Department of Safety and Homeland Security (TDOS) similarly defines a school bus in [Rule 1340-01-13-.02\(45\)](#) as: *every motor vehicle designed to pick up or discharge children on highways<sup>3</sup> in order to transport them to or from school or school-related activities<sup>4</sup>, and which vehicle operated for compensation.*

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<sup>1</sup> According to [State Board of Education Rules 0520-07-02](#), Non-public schools include Category I, II, III, IV, and V private or church-related schools and independent home schools.

<sup>2</sup> The general term "school bus" will be used throughout this memo to refer to both of these types of school buses, unless otherwise stated.

<sup>3</sup> Highway is defined as "the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel." ([TDOS Rule 1340-01-13.02\(28\)](#)).

<sup>4</sup> A school activity is defined as related to field trips, ball trips, athletic events, band camps, and other non-regular route use. ([TDOS Rule 1340-03-03-.07\(d\)\(1\)](#)).

The National Congress on School Transportation's [National School Transportation Specifications and Procedures, 2015 Revised Edition](#) further clarifies:

1. The bus can be owned, leased, contracted to or operated by a school;
2. Does not include charter or transit buses; and,
3. A school bus must meet all applicable Federal Motor Vehicle Safety Standards (FMVSS) and is readily identified by alternately flashing lamps, National School Bus Yellow (NSBY) paint, and the legend "School Bus".

**MFSAB:** A MFSAB is a **sub-category of school bus** whose purposes **do not** include transporting students to and from home or school bus stops. ([49 C.F.R. 571.3](#)) This type of school bus must meet all FMVSS for school buses **except** the traffic control requirements (alternately flashing signal and stop arm) and color (does not have to be NSBY). The National Highway Traffic Safety Administration (NHTSA) issued a Final Rule<sup>5</sup> pursuant to 49 C.F.R. 571 that established the MFSAB as an alternative option for schools and other institutions in lieu of a 15-passenger van, providing a safer transportation alternative for school children.

**Fifteen passenger van:** [State Board of Education Rule 0520-01-05.02\(1\)\(a\)](#) prohibits use of a 15 passenger van, defined as a vehicle that seats 10-14 passengers, not including the driver, for any type of public school transportation. While this rule does not apply to non-public schools, fifteen passenger vans are not recommended as research has shown that fifteen passenger vans pose specific safety risks.<sup>6</sup>

### CDL

Operators of larger or more complex vehicles will need to apply for a CDL. These licenses include Class A, B, and C depending upon the Gross Combination Weight Rating (GCWR) or gross combination weight, Gross Vehicle Weight Rating (GVWR) or gross vehicle weight, and/or what is being transported. If the vehicle is designed to transport 16 or more passengers including the driver, or if the vehicle is designed and used as a school bus, a CDL would also be required, regardless of the weight of the vehicle. [TDOS Rule 1340-01-13-.02](#) provides the following definitions:

- (9): **Commercial motor vehicle:** used in commerce to transport passengers or property if the motor vehicle is: (b) designed to transport **more than** 15 passengers, including the driver. ... or (d) **used as a school bus.**
- (19)(c): **Class C license:** (Commercial Driver's License or CDL) This class applies to vehicles which are required to be placarded for hazardous materials, designed to transport more than 15 passengers including the driver, **or used as school buses.**

### ENDORSEMENTS

There may be additional endorsements required for CDL drivers transporting passengers or operating school buses. [TDOS Rule 1340-01-13-.04](#) outlines these requirements:

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<sup>5</sup> Federal Motor Vehicle Safety Standards; Definition of Multifunction School Activity Bus, [68 Fed. Reg. 44892](#) (July 31, 2003).

<sup>6</sup> [15-Passenger Van Safety](#), January 2009, Tennessee Department of Safety Research and Planning Division, Office of Research, Statistics, and Analysis

- (e): **P endorsement** is required for operation of a commercial motor vehicle designed to transport **more than 15** passengers including the driver.
- (f): **S endorsement** is required for operation of a commercial motor vehicle designed to pick up or discharge children on a highway in order to transport them to or from school or school-related activities and operated for compensation.

Drivers transporting any students from home to school, from school to home or to and from school sponsored events in a school bus are required to have both the P and S endorsements. Only a P endorsement is required by mechanics and any other driver operating an empty school bus or by drivers transporting students and/or adults to and from events that are not sponsored by the school.

### FREQUENTLY ASKED QUESTIONS

#### 1) **What is the difference between an MFSAB and other types of large vans or buses?**

A MFSAB is designed as a school bus and meets all FMVSS with the exception of color and traffic control requirements. MFSABs require a CDL with a P and S endorsement. Other buses do not meet FMVSS for a school bus design but still require CDL with P endorsement, if designed to transport 16 or more passengers, including the driver. When purchasing a vehicle to transport children, schools should inquire if the bus is an MFSAB.



MFSAB CDL with P/S required



13-14 passenger Shuttle Bus- no CDL required



9 passenger van- no CDL required



26 passenger bus- CDL with P required

#### 2) **What type of driver's license does someone who operates a MFSAB for a non-public school need if the bus is used only to transport students to and from school related activities such**

**as sporting events or field trips, or to pick up and drop off students before/after school in parking lots?**

A MFSAB that is utilized to pick up and drop off students in parking lots before or after school or utilized to transport students to/from school related activities such as field trips or athletic activities must be driven by someone who possesses a CDL with a P endorsement and a S endorsement. This is required by both TDOS rules noted above as well as NHTSA rules contained in 49 C.F.R. 383.5. If the bus is not a MFSAB but is designed to transport 16 or more passengers, including the driver, then a CDL with a P endorsement is required. If the bus is not an MFSAB but is designed to transport 15 or less passengers, including the driver, then a CDL is not required.

**3) If a non-public school utilizes a school bus/MFSAB that has been modified to seat less than 16 passengers including the driver, do the requirements for a CDL with a P and S endorsement still apply?**

Yes. The requirements for a CDL with a P and S endorsement for a MFSAB still apply regardless of any modifications. The requirements are based upon how the bus was originally designed by the manufacturer.

Please contact [Private.Schools@tn.gov](mailto:Private.Schools@tn.gov) with any additional questions.

Dr. Penny  
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Dr. Penny Schwinn, Commissioner  
Department of Education

Jeff Long-JW

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Date: 2023.05.03 07:47:30  
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Jeff Long, Commissioner  
Department of Safety and Homeland Security

Sara H. Morrison

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Morrison  
Date: 2023.05.03 13:11:33 -05'00'

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Dr. Sara H. Morrison, Executive Director  
State Board of Education