



COMMONWEALTH of VIRGINIA
Department of Education

DATE: April 27, 2018
TO: Division Superintendents
FROM: Steven M. Constantino, Ed.D., Acting Superintendent of Public Instruction
SUBJECT: **Clarification of Requirements for Drivers of Type “A” Multifunction School Activity Buses (MFSAB), Capacity of Less than 16 Passengers (11-15 passengers)**

During the Virginia Department of Education's (VDOE) annual review of the Virginia School Bus Specifications with school divisions, it was determined that clarification was needed regarding the requirements governing school division use of Type “A” Multifunction School Activity Buses (MFSAB) with a capacity of less than 16 passengers for student transportation and the driver qualifications required to operate this passenger capacity activity bus. Because various state and federal laws and regulations govern operation of such buses, the Virginia Office of the Attorney General was consulted for clarifying guidance.

The Virginia Office of the Attorney General (OAG) has advised that the MFSAB qualifies as a school bus, thus triggering associated requirements. Drivers of an MFSAB with a capacity of less than 16 passengers (11-15 passengers) must obtain an “S” (school bus) endorsement on their standard Virginia license; a commercial driver's license (CDL) is not required to operate this type bus. The OAG has also advised that the driver of an MFSAB with a capacity of less than 16 passengers (11-15 passengers) qualifies as a school bus driver, and thus must comply with Virginia Board of Education administrative codes *8VAC20-70-280. Requirements for School Bus Drivers Both for Employment and Continued Employment* and *8VAC20-70-350. Training*, with one exception noted in the next paragraph.

Please note that Section 6 of *8VAC20-70-280* (drug and alcohol testing) only applies to drivers that possess a commercial driver's license (CDL) and not to those holding the “S” license endorsement. However, school divisions have the authority under *Code of Virginia* § 22.1-178 to require any school bus driver hired after July 1, 1994, to agree to submit to alcohol and drug testing as a condition of employment.

The Virginia Office of the Attorney General recommends that school divisions consult their school board's legal counsel to determine their potential liability if school division employees who do not meet the employment prerequisites and training requirements in *8VAC20-70-280* and *8VAC20-70-350* are transporting students in Type “A” MFSAB 11-15 passenger buses, and determine whether these drivers will be subject to alcohol and drug testing under local school board policies.

The Virginia Board of Education administrative codes can be reviewed at <http://law.lis.virginia.gov/admincode/title8/agency20/chapter70/> ➡.

For questions related to this memo, please contact Vijay Ramnarain, Director, Office of Support Services, at (804)-225-2037 or Vijay.Ramnarain@doe.virginia.gov ✉, or Kerry Miller, Associate Director, Pupil Transportation Services, at (804) 225-2772 or Kerry.Miller@doe.virginia.gov ✉.

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