

# Title 13A

## STATE BOARD OF EDUCATION

### Subtitle 06 SUPPORTING PROGRAMS

#### 13A.06.07 Student Transportation

Authority: Education Article, §§2-205, 5-205, and 8-410, Annotated Code of Maryland

#### Notice of Proposed Action

[21-189-P]

The Maryland State Board of Education proposes to amend Regulations .01, .03, .07, and .08, adopt new Regulation .09, recodify existing Regulations .09 and .12—.21 to be Regulations .10 and .13—.22, and amend and recodify existing Regulations .10 and .11 to be Regulations .11 and .12 under **COMAR 13A.06.07 Student Transportation**.

This action was considered by the State Board of Education at their August 24, 2021 meeting.

#### Statement of Purpose

The purpose of this action is to allow local boards of education to provide transportation for certain groups of students in vehicles that are not Type I or Type II school vehicles as defined under Transportation Article, §§11-173 and 11-174, Annotated Code of Maryland.

#### Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

#### Estimate of Economic Impact

**I. Summary of Economic Impact.** The proposed regulations will have an economic impact on local school systems. School systems will now be purchasing non-school bus vehicles to transport students. This may cause a reduction in school buses being purchased. Additionally, safety equipment must be purchased in order to bring the vehicles in line with the regulation. Backup alarms, which typically cost \$150, will be required on all vehicles.

<b>II. Types of Economic Impact.</b>	Revenue (R+/R-)	Expenditure (E+/E-)	Magnitude
A. On issuing agency:	NONE		
B. On other State agencies:	NONE		
C. On local governments:	(E+)		Minimal
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	Benefit (+)	Cost (-)	Magnitude
D. On regulated industries or trade groups:	(-)		Minimal
E. On other industries or trade groups:	(+)		Minimal
F. Direct and indirect effects on public:	(+)		Minimal

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

C. Concerning the suggested change in COMAR 13A.06.07.12, there should be little economic impact as safety equipment, decals, and back up alarms may cost the counties around \$200 per vehicle. If school systems wish to expand their fleet with new non-school vehicles, cost could range between \$20,000 and \$40,000 per vehicle. The required training for alternative school vehicle drivers should have no economic impact as they are required to be employees or under contract with a local school system.

D. Taxi companies may see a decrease in service with local school systems regarding transportation of students with special needs, dealing with homelessness, or foster care. School bus dealers may see a slight decrease in school bus sales while they might also see a slight increase in multifunction school activity bus sales.

E. Local companies that contract transportation services with local school system may see an increase in revenue as local school systems can now contract their service for the transportation of students.

F. Students that have not been able to be serviced by school buses or have had excessive ride times may now be serviced according to their needs.

#### **Economic Impact on Small Businesses**

The proposed action has a meaningful economic impact on small businesses. An analysis of this economic impact follows.

The proposed regulation may have a meaningful impact to small business as contractors and vendors will now be able to use their non-school vehicles and drivers to transport students to and from school. School systems may rely less on taxi companies and instead contract services with a transportation company.

#### **Impact on Individuals with Disabilities**

The proposed action has an impact on individuals with disabilities as follows:

Students with disabilities may benefit from shorter ride times and more accommodations for their disabilities by utilizing smaller vehicles.

#### **Opportunity for Public Comment**

Comments may be sent to Gabriel D. Rose, Director of Pupil Transportation/Emergency Management, Maryland State Department of Education, 200 West Baltimore Street, Baltimore, MD 21201, or call 410-767-0209 (TTY 410-333-6442), or email to gabriel.rose1@maryland.gov, or fax to 410-333-2232. Comments will be accepted through December 20, 2021. A public hearing has not been scheduled.

#### **Open Meeting**

Final action on the proposal will be considered by the State Board of Education during a public meeting to be held on January 25, 2022, at 9 a.m., at 200 West Baltimore Street, Baltimore, MD 21201.

#### **.01 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1)—(2) (text unchanged)

(3) *“Alternative school vehicle” means a vehicle that is used to transport pupils from home to school or school to home as well as to and from school related activities that is neither a Type I nor a Type II school vehicle as stated in Transportation Article, §11-154, Annotated Code of Maryland.*

(4) *“Alternative school vehicle driver” means a driver who is seeking or has been exclusively certified at the local level to operate an alternative school vehicle.*

[(3)] (5)—[(14)] (16) (text unchanged)

(17) *Multifunction School Activity Bus (MFSAB).*

(a) *“Multifunction School Activity Bus (MFSAB)” means an alternative school vehicle that meets school bus construction standards.*

(b) *“Multifunction School Activity Bus (MFSAB)” does not include a bus:*

(i) *Used to transport students to and from home or school bus stops;*

(ii) *That has traffic control equipment; or*

(iii) *That is painted school bus yellow.*

[(15)] (18)—[(33)] (36) (text unchanged)

(37) *“Taxicab” has the meaning stated in COMAR 20.90.02.04*

[(34)] (38)—[(37)] (41) (text unchanged)

#### **.03 Program.**

A. This chapter applies to the local school systems and a public residential education program under Education Article, §8-701, Annotated Code of Maryland, that provide transportation services for public school students, students with disabilities for whom transportation is provided under Education Article, §8-410, Annotated Code of Maryland, in a public school, a school maintained by a State agency, and a nonpublic school.

B.—D. (text unchanged)

#### **.07 School Vehicle Driver and Trainee Disqualifying Conditions and Termination.**

A.—E. (text unchanged)

F. Disqualified Driver Database.

(1)—(3) (text unchanged)

(4) *On the first business day of each month, the supervisor of transportation shall submit to the Department's Office of Pupil Transportation a current list of active school vehicle drivers. The list shall be in an electronic format prescribed by the Department.*

[(4)] (5) [Upon] *Within the first 4 business days after receipt of the current list of active school vehicle drivers, the Department's Office of Pupil Transportation shall match that list with the Department's confidential computer database established under this regulation and immediately notify the supervisor of transportation if an active school vehicle driver or trainee is listed on the Department's computer database. The supervisor of transportation shall respond in writing to the Department verifying receipt of notification and advise their next appropriate action.*

#### **.08 School Vehicle Attendant Qualifications and Disqualifications.**

A.—C. (text unchanged)

D. Disqualified Attendant Database.

(1)—(3) (text unchanged)

(4) *On the first business day of each month, the supervisor of transportation shall submit to the Department's Office of Pupil Transportation a current list of attendants. The list shall be in an electronic format prescribed by the Department.*

[(4)] (5) [Upon] *Within the first 4 business days after receipt of the current list of active attendants, the Department's Office of Pupil Transportation shall match that list with the Department's confidential computer database established under this regulation and immediately notify the*

supervisor of transportation if an attendant is listed on the Department's computer database. *The supervisor of transportation shall respond in writing to the Department verifying receipt of notification and advise their next appropriate action.*

**.09 Alternative School Vehicle Driver Qualifications and Disqualifications.**

A. An alternative school vehicle driver shall:

- (1) Meet all licensing requirements of the Motor Vehicle Administration for a Class A or Class M vehicle respectively;
- (2) Have not more than two current points on the individual's driving record and a satisfactory past driving record as determined by the local supervisor of transportation;
- (3) Be 21 years old or older;
- (4) Be in good health, mature, able to discharge the duties of the position, and able to command the respect of others;
- (5) Receive a negative controlled substance test result; and
- (6) As permitted, be included in the MVA Licensing Monitoring System.

B. Alternative School Vehicle Driver Training.

- (1) Alternative school vehicle drivers shall have 4 hours of preservice classroom instruction and 1 hour of behind the wheel instruction.
- (2) Alternative school vehicle drivers shall complete 2 hours of in-service training annually that shall include topics contained in the National Safety Council's Defensive Driving Course.

C. Disqualifications for Criminal Conduct.

(1) An individual may not serve as an alternative school vehicle driver if the individual has been convicted of a criminal charge or if a criminal charge is pending for a crime involving:

- (a) Child abuse or neglect;
- (b) Contributing to the delinquency of a minor;
- (c) Moral turpitude, if the offense bears directly on the individual's fitness to assist minors;
- (d) A crime of violence as set forth in Criminal Law Article, §14-101, Annotated Code of Maryland; or
- (e) Any conduct that may endanger the safety of students being transported.

(2) An individual who pled guilty or nolo contendere with respect to, is placed on probation before judgment with respect to, or is convicted of a crime under §C(1) of this regulation, is permanently disqualified from serving as an alternative school vehicle driver.

(3) An individual who pled guilty or nolo contendere with respect to, is placed on probation before judgment with respect to, or is convicted of a controlled substance offense as defined in federal or State law is disqualified from serving as an alternative school vehicle driver for a period of 10 years from the date of the action.

(4) An individual may not serve as an alternative school vehicle driver if the supervisor of transportation has evidence of criminal history, including second degree assault, which in the opinion of the supervisor makes the individual unfit for employment. Evidence of second degree assault is not deemed to be an automatic reason for disqualification.

D. Disqualification for Unsafe Actions. Misfeasance, incompetence, insubordination, or any act or omission that adversely affects transportation or safety may be grounds for disqualification and termination of the alternative school vehicle driver by the supervisor of transportation.

E. Disqualification for Driving Record. If an alternative school vehicle driver has three or more current points, they shall be disqualified and the driver may not operate an alternative school vehicle.

F. Disqualified Alternative School Vehicle Driver Database.

(1) The Department's Office of Pupil Transportation shall maintain a confidential computer database of alternative school vehicle drivers who have been disqualified by a local school system under §§C, D, and E of this regulation or for any other reason.

(2) The supervisor of transportation shall notify the Department's Office of Pupil Transportation of an alternative school vehicle driver disqualification within 30 days of the alternative school vehicle driver receipt of notification of the disqualification.

(3) The notification shall be in the format prescribed by the Department.

(4) On the first business day of each month, the supervisor of transportation shall submit to the Department's Office of Pupil Transportation a current list of active school vehicle drivers. The list shall be in an electronic format prescribed by the Department.

(5) Within the first 4 business days after receipt of the current list of active alternative school vehicle drivers, the Department's Office of Pupil Transportation shall match that list with the Department's confidential computer database established under this regulation and immediately notify the supervisor of transportation if an active alternative school vehicle driver is listed on the Department's computer database. The supervisor of transportation shall respond in writing to the Department verifying receipt of notification and advise of their next appropriate action.

**[.10] .11 Alcohol and Controlled Substances Use and Testing.**

A.—B. (text unchanged)

C. Reporting Disqualified Drivers.

(1)—(3) (text unchanged)

(4) On the first business day of each month, the supervisor of transportation shall submit to the Department's Office of Pupil Transportation a current list of active school vehicle drivers. The list shall be in an electronic format prescribed by the Department.

(5) [Upon receipt of all local school system current lists of active school vehicle drivers] *Within the first 4 business days of the start of the month*, the Department's Office of Pupil Transportation shall match that list with the Department's confidential computer database established under this regulation and immediately notify the supervisor of transportation if an active school vehicle driver or trainee is listed on the Department's computer database. *The supervisor of transportation shall respond in writing to the Department verifying receipt of notification and advise their next appropriate action.*

**[.11] .12 General Standards.**

A.—B. (text unchanged)

C. Vehicles other than Type I or Type II school vehicles and MFSAB vehicles may be used to transport students to and from school if:

[ (1) Special approval in writing has been given by the State Superintendent of Schools, consistent with the requirements of Transportation Article, §11-154(b)(2), Annotated Code of Maryland; ]

[(2)] (1)—[(4)] (3) (text unchanged)

(4) *A local board of education determines that it is necessary to own, operate, or contract the use of an alternative school vehicle for student transportation.*

*D. Alternative School Vehicles.*

(1) *Local boards of education that use alternative school vehicles shall:*

(a) *Develop written policies and procedures to utilize their alternative school vehicles;*

(b) *Require that the use of alternative school vehicles not expressly permitted by Education Article, §7-801(c), Annotated Code of Maryland and this chapter must be approved in writing by the local school board of education and must specify the length of time that the approved use of the vehicles will remain in effect;*

(c) *Carryout the requirements of Transportation Article, §11-154(b)(2), Annotated Code of Maryland;*

(d) *Require that three-point safety belts and other age-appropriate safety belts and equipment be worn by all passengers and students while in motion;*

(e) *Require that the designated areas for loading and unloading follow COMAR 11.19.06.05B; and*

(f) *Have insurance coverage be the same as for other school system-owned Class A and Class M vehicles.*

*E. Alternative School Vehicle Standards.*

(1) *Unless the vehicle is a MFSAB, the vehicle shall:*

(a) *Have a Gross Vehicle Weight rating of less than 10,000 lbs. and*

(b) *Have a seating capacity of no more than ten passengers not including the driver.*

(2) *Alternative school vehicles and MFSABs shall have the name of the school district, contractor's name, or other contact information lettered on each side of the body of the vehicle in letters of not less than 2 inches in height and not more than 4 inches in height. Decals are permitted.*

(3) *Alternative school vehicles and MFSABs may have the words "School Students" in black lettering at least 6 inches in height on a background of National School Bus Yellow located on both sides of the vehicle. Decals or magnetic signs are permitted. Lettering shall conform to Series B of Standard Alphabets for Highway Signs.*

(4) *Alternative school vehicles and MFSABs shall have an audible back up warning alarm, installed behind the rear axle, that meets the standard under COMAR 11.19.02.24*

(5) *Alternative school vehicles and MFSABs shall have a first aid kit, fluid clean up kit, and a fire extinguisher located in the storage area, all of which meets the standards under COMAR 11.19.02.25. The vehicle shall have a seat belt cutter that is accessible to the driver.*

(6) *Video cameras may be installed in alternative school vehicles and MFSABs in line with COMAR 11.19.02.39.*

*F. Alternative School Vehicle Inspections.*

(1) *Alternative school vehicles and MFSABs shall undergo two inspections each school year in line with COMAR 11.14.02.01—26. The two inspections shall be conducted more than 120 calendar days apart.*

(2) *Inspections shall be conducted by the local school system and records of each inspection shall be maintained in the transportation office of the local school system.*

(3) *Pre/post-trip inspections may be conducted and retained at the local level.*

[D.] G.—[J.] M. (text unchanged)