EXECUTIVE ORDER NO. 20-29

READY SCHOOLS, SAFE LEARNERS: K-12 INSTRUCTIONAL ACTIVITIES AND THE PROVISION OF SCHOOL-BASED SERVICES DURING 2020-2021 ACADEMIC YEAR IN THE FACE OF THE ONGOING CORONAVIRUS (COVID-19) OUTBREAK

Since January 2020, the State of Oregon has been engaged in responding to the public health threat posed by the novel infectious coronavirus (COVID-19). As the threat escalated, the State's response elevated to meet the threat. On March 8, 2020, I declared a state of emergency pursuant to ORS 401.165 *et seq.*, and directed certain immediate response actions. Thereafter, the World Health Organization declared that the COVID-19 outbreak is a global pandemic, and the President of the United States declared the COVID-19 outbreak a national emergency.

During March and April 2020, as the coronavirus continued to spread around the world, I took a series of actions aimed at slowing the spread of COVID-19 in Oregon, and to mitigate the public health and economic impacts of the pandemic. These actions included but were not limited to limitations on gatherings; closing schools; taking steps to protect those in congregate living situations; declaring an abnormal market disruption; banning on-site consumption of food and drink at food establishments statewide; suspending in-person instructional activities at higher education institutions; ordering the postponement of non-urgent health care procedures in order to conserve personal protective equipment (PPE) and hospital beds; and imposing a temporary moratorium on residential and commercial evictions. On March 23, 2020, I ordered Oregonians to "Stay Home, Save Lives," directing individuals to stay home to the greatest extent possible, ordering the closure of specified retail businesses, requiring physical distancing measures for other public and private facilities, and imposing requirements for outdoor areas and licensed childcare.

Those actions helped prevent and control the spread of COVID-19 in Oregon. Accordingly, in late April and early May 2020, I began to take steps to ease the restrictions mentioned above, including allowing for the gradual resumption of non-urgent health care procedures, reopening certain outdoor recreation opportunities, allowing small gatherings, and easing restrictions around childcare and certain retail businesses. I also signed executive orders directing the State to

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begin a phased, data-driven, and regionally tailored approach to reopening social, economic, and other activities in Oregon.

Although physical distancing, the "Stay Home, Save Lives" order, and the other essential actions mentioned above have helped slow the spread of COVID-19 in Oregon, State and local public health officials advise that the virus is continuing to circulate in the community and expect the number of cases to increase as restrictions are lifted. Even in counties that have had low numbers of cases to date, the risk of spread remains. This virus remains very dangerous, and the global spread of the novel coronavirus continues to seriously threaten the lives and health of Oregonians. As of today, there are at least 7,274 cases and 192 deaths in Oregon, with more than 120,000 deaths from COVID-19 nationwide. Cases of COVID-19 have been detected in all corners of the state, as the virus knows no boundaries. Supply chains for testing and PPE remain critical, and Oregon's capacity to test, contact-trace, and isolate new cases needs continued improvement. Given that risk for a resurgence of COVID-19 remains if protective measures are not maintained here in Oregon, we must maintain preparedness as we continue to ease these restrictions over time. Put simply, the difficult work of controlling the statewide spread of this virus must continue.

The success of Oregon's emergency response efforts and phased reopening will depend in large part on the ability of employers, employees, and each and every member of the public to adhere to public health, safety, and physical distancing measures. Preventing and controlling outbreaks and limiting the spread of COVID-19 is the only way to avoid future business and social disruption, and to allow Oregon's economic and social life to continue.

As Oregonians, we share a fundamental obligation and responsibility to ensure equitable access to a high-quality education for every child. Oregon's K-12 schools guide students in learning critical knowledge and skills, help them to develop their social and emotional competencies, and offer care and connection in supporting the well-being and resilience of students and their families. As we work together to safeguard our communities and people and meet the challenges of the COVID-19 pandemic, fulfilling the core mission of our educational system

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remains urgent. Clear standards for protecting the health and safety of students, educators, support staff and the public provide our schools a means for resumption of in-person instruction in a manner responsive to community health and safety.

NOW THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

Pursuant to my powers as Superintendent of Public Instruction, and my emergency powers under ORS 433.441, ORS 401.168, ORS 401.175, ORS 401.188, and ORS 401.192, I am issuing the following directives:

1. Definitions. As used in this Executive Order:

   a. "Public schools" means a public school district, educational service district, or public charter, as defined in ORS 330.003(2), ORS 330.005(2), ORS 334.003(2), and ORS 338.005(2). "Public schools" also includes Juvenile Corrections Education Programs and Youth Detention Education Programs, as defined by ORS 326.695; the Oregon School for the Deaf, as defined by ORS 346.010; and Long Term Care and Treatment Programs, as defined by ORS 343.961.

   b. "Private schools" include private or parochial schools providing courses of study usually taught in kindergarten through grade 12 in the public schools and in attendance for a period equivalent to that required of children attending public schools, as defined in ORS 339.030(1)(a).

2. In-person Classroom Instruction. It is ordered that the conduct of in-person instruction at public schools and private schools shall be subject to restrictions, effective July 1, 2020. Namely, in-person instruction may only take place if it complies with the guidance described in paragraph 3 of this Executive Order, as well as such administrative rules as may be promulgated by the State Board of Education and the Teacher Standards and Practices Commission pursuant to paragraph 8 of this Executive Order, and the directives of this Executive Order.

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3. Guidance for In-person Classroom Instruction. The Oregon Health Authority (OHA) and Oregon Department of Education (ODE) shall, individually or jointly, publish guidance relating to the conduct of in-person instructional activities at public schools and private schools. Such guidance may include, but is not limited to, requirements for face coverings, physical distancing, sanitization, monitoring, and isolation procedures, as well as standards for the continuity of high-quality education. Such guidance may be supplemented or amended by OHA, or ODE, or both, from time to time.

4. Written Plan. Not later than August 15, 2020, or prior to the beginning of the 2020-2021 school year, whichever is earlier, public schools and private schools must develop a written plan describing how they will comply with the guidance described in paragraph 3 of this Executive Order. Public schools and private schools shall develop such plans in consultation with local public health authorities and are encouraged to consult with representatives of other interested parties, including but not limited to administrators, teachers, classified staff, students and families. Public schools and private schools are required to submit such plans to their governing bodies and are also required to submit their plans to ODE.

5. Use of School Facilities for Other Activities. Other public school and private school functions beyond in-person instruction (including but not limited to childcare, youth camps, and athletics) must comply with the guidance described in paragraph 3 of this Executive Order, with other applicable Executive Orders and OHA guidance, and with directives and guidance regarding gathering sizes and physical distancing.

6. State School Fund Allocations. Public schools shall continue to receive allocations from the State School Fund provided that they comply with the provisions of this Executive Order and guidance from OHA and ODE, as well as other applicable laws, including but not limited to ORS 659.850.

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7. Continuity of Educational Services. In order to receive allocations from the State School Fund, public schools shall:

   a. Provide all students equitable access to high quality continuous education pursuant to guidance provided by OHA and ODE. Public schools may use transportation grant funds from the State School Fund for the purposes of providing student access to distance learning and educational materials, as may be necessary.

   b. Provide for the sustained, equitable delivery of critical services to students and families, including but not limited to, food services, and social, emotional and mental health support consistent with ODE and OHA guidance. To the extent practical, these plans shall be developed in partnership with social service agencies, and community-based and culturally-specific organizations.

   c. Provide school meals, consistent with requirements provided by ODE, OHA and the U.S. Department of Agriculture. Transportation grant funds from the State School Fund may be used by public schools for delivery of meals using school district transportation services.

   d. Public school employees shall fulfill duties as may be assigned by their public school employers, consistent with the provisions of this Executive Order and guidance from ODE and OHA.

   e. To the extent any modifications or reductions in a public school workforce during the effective dates of this Executive Order are necessary, any such actions should consider the goals of the Educator Equity Act, ORS 342.437.

8. Rulemaking. The Oregon State Board of Education and the Teachers Standards and Practices Commission, in collaboration with the ODE, shall promulgate rules necessary to facilitate the directives in this Executive Order, and the ability of public schools to respond to the ongoing emergency.

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9. Enforcement. The directives in this Executive Order and any guidance issued by OHA, ODE, or other state agency to implement this Executive Order are effective statewide, unless otherwise specified. This Executive Order and any guidance issued by OHA to implement this Executive Order are public health laws, as defined in ORS 431A.005, and may be enforced as permitted under ORS 431A.010. In addition to any other penalty that may be imposed under applicable laws, any person, business, or entity found to be in violation of this Executive Order or any guidance issued by OHA, ODE, or other state agencies to implement this Executive Order is subject to the penalties described in ORS 401.990.

10. Discretion; No Right of Action. Any decision made by the Governor pursuant to this Executive Order is made at her sole discretion. This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of Oregon, its agencies, departments, or any officers, employees, or agents thereof.

11. Severability. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Executive Order is for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Order.

12. Effective Date. This Executive Order is effective July 1, 2020, and remains in effect until terminated by the Governor. Also as of July 1, 2020, Executive Order 20-20 is rescinded, and replaced by the directives in this Executive Order.

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This Executive Order is issued under the authority conferred to the Governor as Superintendent of Public Instruction, and by ORS 401.165 to 401.236. Pursuant to ORS 401.192(1), the directives set forth in this Executive Order shall have the full force and effect of law, and any existing laws, ordinances, rules and orders shall be inoperative to the extent they are inconsistent with this exercise of the Governor's emergency powers.

Done at Salem, Oregon, this 24th day of June, 2020.

Kate Brown
GOVERNOR

ATTEST:

Bev Clarno
SECRETARY OF STATE

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