GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

EXECUTIVE ORDER

Executive Order 2020-39
Assisting Arizona Families with Child Care

WHEREAS, on March 11, 2020, a Public Health Emergency was declared in Arizona to prepare for, prevent, respond to, and mitigate the spread of COVID-19; and

WHEREAS, child care services are essential to many Arizona families that require safe and secure environments for their children while parents are working, which is a vital component to help Arizona return stronger; and

WHEREAS, a child care facility is defined in Arizona Revised Statutes (A.R.S.) § 36-881(3) as any facility in which child care is regularly provided for compensation for five or more children not related to the proprietor; and

WHEREAS, child care is defined in A.R.S. § 36-881(2) as the care, supervision and guidance of a child or children, unaccompanied by a parent, guardian or custodian, on a regular basis, for periods of less than twenty-four hours per day, in a place other than the child's or the children's own home or homes; and

WHEREAS, A.R.S. § 36-882 provides that a child care facility shall not receive any child for care, supervision or training unless the facility is licensed by the Arizona Department of Health Services; and

WHEREAS, A.R.S. § 36-884(3) provides that if a public school provides child care other than during the school's regular hours or for children who are not regularly enrolled in kindergarten programs or grades one through twelve, that portion of the school that provides child care is subject to standards of care prescribed pursuant to A.R.S. § 36-883.04; and

WHEREAS, A.R.S. §§ 36-883 and 36-883.04 provide that the Arizona Department of Health Services shall prescribe rules regarding the health, safety and well-being of the children to be cared for in a child care facility, including public school child care programs; and

WHEREAS, many child care facilities have greatly reduced their hours and operations due to regulatory requirements that they are not able to meet as a result of the COVID-19 outbreak such as staffing ratios; and

WHEREAS, A.R.S. § 26-303(E)(1) provides that, "[t]he governor shall have complete authority over all agencies of the state government…" during a declared emergency; and

WHEREAS, the Governor of the State of Arizona, in response to the COVID-19 pandemic issued Executive Order 2020-17, *Continuity of Work*, in which all government agencies of the State of Arizona were directed to identify ways to assist Arizonans in getting through these difficult times during this Public Health State of Emergency.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of this State, including but not limited to A.R.S. § 26-303, hereby order as follows:

1. The following regulations are temporarily waived for child care facilities that provide child care to a "school-age child" as defined in A.A.C. R9-5-101, provided that the facility ensures adequate staffing levels to protect the health, safety and well-being of the children in the care of the facility:
    a. R9-5-404
    b. R9-5-517(C)

2. This order shall include those child care facilities operating in public schools, whether during the school year or during school breaks.

3. The Arizona Department of Health Services shall establish a process for child care facilities to request and receive a temporary waiver from a child care facility regulation found in A.A.C. Title 9, Chapter 5, for the purposes of operating during the COVID-19 Public Health Emergency. The process for approval of any waiver shall include a determination by the Arizona Department of Health Services that the specified regulation for which the waiver is requested can not reasonably be met by the requesting child care facility during the COVID-19 Public Health Emergency in Arizona.

4. Any waiver approved by the Arizona Department of Health Services may stay in effect for no longer than ninety days unless extended by the department.

5. The Arizona Department of Health Services shall post on its child care facility webpage all approved temporary waivers and the child care facilities that have received such approval.

6. The Arizona Department of Health Services shall continue to conduct regular on-site surveys of child care facilities, investigate complaints and take corrective action if a facility is found to put any child's health or safety in danger. Notwithstanding the waiver provided in this order or any waiver approved by the Arizona Department of Health Services pursuant to this order, if the department becomes aware of actions taken by a child care facility that jeopardize the health, safety or well-being of the children being

cared for in the facility, the Arizona Department of Health Services may take action as provided by law to protect the health, safety and well-being of the children.

7. This order shall expire on December 31, 2020, unless extended, superceded or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Douglas A. Ducey

GOVERNOR

DONE at the Capitol in Phoenix on this twenty-eighth day of May in the year Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fourth.

ATTEST:

Secretary of State