GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

EXECUTIVE ORDER

Executive Order 2020-41

2020-2021 School Year
Prioritizing Kids and Schools During COVID-19

WHEREAS, on March 11, 2020, pursuant to A.R.S. §§ 26-303 and 36-787, a declaration of Public Health State of Emergency was issued due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19; and

WHEREAS, on March 30, 2020, the Director of the Arizona Department of Health Services (ADHS), based on an epidemiological assessment of Arizona specific data and in alignment with the Centers for Disease Control and Prevention (CDC) guidance, recommended the State implement enhanced mitigation strategies which are continuing; and

WHEREAS, on May 12, 2020, Executive Order 2020-36, *Stay Healthy, Return Smarter, Return Stronger,* was issued outlining requirements for businesses to assist in mitigating the spread of COVID-19 as they reopened and mandated that businesses adopt policies consistent with guidance from the CDC and the ADHS; and

WHEREAS, schools serve a valuable public health purpose by providing students with nutrition, physical exercise, social and emotional development, and are mandatory reporters in cases of child abuse and neglect; and

WHEREAS, in order to operate during the COVID-19 pandemic, schools must adapt to the dynamic needs of students, families, teachers and staff who must work in changing environments and learning styles as they navigate the reopening of schools; and

WHEREAS, Article XI, Section 2, of the Arizona Constitution vests the State Board of Education with overseeing the general conduct and supervision of the public school system; and

WHEREAS, A.R.S. § 15-203(A)(1) directs the State Board of Education to "exercise general supervision over and regulate the conduct of the public school system and adopt any rules and policies it deems necessary to accomplish this purpose;" and

WHEREAS, A.R.S. § 15-182(E), directs the Arizona State Board for Charter Schools to "exercise general supervision over charter schools that are sponsored by the board" and to "adopt rules and policies that the board deems necessary;" and

WHEREAS, A.R.S. § 15-251(4) directs the Superintendent of Public Instruction to "[e]xecute, under the direction of the state board of education, the policies that have been decided on by the state board;" and

WHEREAS, due to the ongoing threat of COVID-19 for at least the majority of the 2020-2021 school year, action must be taken to ensure the continuing education of Arizona's children for now and the future; and

WHEREAS, the State is committed to ensuring the delivery of education in a safe and effective manner while monitoring the impacts of mitigation efforts.

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 the State, including but not limited to A.R.S. § 26-303 do hereby order:

1. The State Board of Education and the Arizona State Board for Charter Schools shall allow school districts and charter schools to offer distance learning options for students without an approved Arizona Online Instruction (AOI) program for the 2020-2021 school year subject to the following requirements and based on the need to limit class size and provide options for students whose parents determine it is in the best interest of their child not to attend in person:
    a. Prior to implementation of distance learning, school districts shall submit a distance learning plan to the Arizona Department of Education and charter schools shall submit a plan to the Arizona State Board for Charter Schools. Each plan shall include:
        i. Attendance tracking procedures for all students attending remotely, whether full time or intermittently.
        ii. Detailed expectations of teachers and other staff working virtually and commitments on delivery of employee support services including, but not limited to, human resource policies and support for employees, professional development opportunities and regular communication from the administration. This section shall include implementable action steps.
        iii. Detailed plans and examples of how the school district or charter school will provide substantive distance learning such as a description of modes of instruction, methods of content delivery, and a process for monitoring learning. This section shall also include plans to support every student, teacher and staff member in accessing a device and internet connectivity if the plan relies on online learning.
        iv. Detailed plans and examples of how the school district or charter school will ensure access and meet the needs of special education and English language learners.
        v. Detailed plans and examples of how the school district or charter school will provide social and emotional learning support to students, including counseling services.
        vi. Detailed plans and examples of how the school district or charter school will require students to demonstrate ongoing competency or mastery in grade level or advanced grade level content.

vii. Detailed plans on how the school district or charter will conduct benchmark testing within the first six weeks of the school year in math and english/language arts for all students in kindergarten programs and grades one (1) through twelve (12).

b. Schools that demonstrate compliance with these requirements relating to distance learning may consider these distance learning students as enrolled in an Arizona Online Instructional program, as defined in A.R.S. § 15-808.
c. District and Charter schools may begin operating their distance learning plans upon submission of the plan.
d. The Arizona Department of Education and the Arizona State Board for Charter Schools will review all applications for completeness, and may require additional information or revisions consistent with the objectives of this Order.
e. No later than November 30, 2020, the Arizona Department of Education and the Arizona State Board for Charter Schools shall evaluate implementation of a sample of distance learning plans that were submitted to them to ensure distance learning is being delivered in a manner consistent with the plan. Additional evaluations may be conducted throughout the 2020-2021 school year as determined by a schedule adopted by September 1, 2020 by the State Board of Education and the Arizona State Board for Charter Schools. Evaluations may include review of written and electronic documentation and on-site observations to collect evidence of implementation of the written plan.
f. School districts and charters may make revisions to improve their plans at any time, but must submit those changes in writing to the Arizona Department of Education or Arizona State Board for Charter Schools within 10 days of any substantive revision.
g. The Arizona Department of Education shall forward any negative evaluation findings to the State Board of Education. The State Board of Education and the Arizona State Board for Charter Schools shall review all negative evaluation findings submitted to them, and if either Board finds in its review of negative evaluation findings that a district or charter has egregiously failed to deliver what they committed to in their plan, to the detriment of the students being served, the board may require an emergency remediation plan be developed, submitted and followed. The State Board of Education and the Arizona State Board for Charter Schools shall require all districts and charters to:
h. Report to the Arizona Department of Education their day one (1) attendance figures and continue to provide updated information on a monthly basis. Schools may count a student participating in distance learning as in attendance within the first 10 days of school.
i. Submit a distance learning plan to the Arizona Department of Education or Arizona State Board for Charter Schools detailing how they will record attendance for distance learning students and the efforts that will be made to ensure all enrolled students are contacted and in communication on a regular basis.

2. Pursuant to Arizona Administrative Code R7-2-1055, the COVID-19 pandemic is classified as an "emergency condition" for the purposes of rules related to Emergency Procurements, adopted by the state board of education, for purchases made to address a need arising from the threat to public health, welfare or safety of staff and students directly related to the COVID-19 pandemic. For those Charter schools that do not currently hold an exemption

pursuant to A.A.C. R7-5-303(D), a limited exemption is granted from state procurement rules for the purchases made to address a need arising from the threat to public health, welfare or safety of staff and students directly related to the COVID-19 pandemic. A school district or charter school that uses these exemptions shall include a written determination that describes the nature of the purchase, the method in which the vendor was selected and the signature of the school district's superintendent or charter school administrator indicating approval of the purchase, which shall all be presented to the school district governing board or Arizona State Board for Charter Schools, as appropriate, at its next scheduled public meeting.

3. Continued eligibility for any of the flexibility options proposed above shall be contingent on the school district or charter school maintaining compliance with all state and federal financial transparency requirements by October 1, 2020 and the following:
    a. Each school district or charter school shall conduct benchmark testing within the first six weeks of the school year in math and english/language arts for all students in kindergarten programs and grades one (1) through twelve (12). The results of this testing shall be made available to the Arizona Department of Education or Arizona State Board for Charter Schools upon request.
    b. Except as otherwise provided herein, each school district or charter school shall operate for the required 180 days of instruction and shall be physically open at least the same number of days per week for the 2020-2021 school year as the 2019-2020 school year. For schools that offer a hybrid model for the 2020-2021 school year which includes distance learning with students learning in the classroom on some days, and from home on other days, the school district or charter school shall be considered to meet the eligibility criteria provided that they offer free onsite learning for students who need a place to go during the day. This option shall be made available for the same number of days per week and shall be open during the same hours offered during the prior school year before the COVID-19 closure took effect. An exception to this requirement may be granted by the Arizona Department of Education or the Arizona State Board for Charter Schools, if the school intended to switch to a different schedule for the 2020-2021 school year.
    c. If due to a COVID-19 outbreak and pursuant to A.R.S. § 36-787, the Arizona Department of Health Services directs a school to close temporarily in order to appropriately sanitize the facility, this section may be temporarily waived.

4. Career and Technical Education Districts (CTED) may participate in distance learning options, as outlined in the executive order. A plan shall be submitted to the Arizona Department of Education detailing those requirements outlined in this order and shall also include details on how the CTED will execute remote training in lieu of requirements outlined in A.R.S. § 15-391(4)(d) when distance learning is being provided. Requirements outlined in A.R.S. § 15-391(4)(d) may be waived for the 2020-2021 school year.

5. School districts and charter schools may contract with Attendance and Dropout Recovery Services to ensure students are enrolled in school and to provide remediation services as agreed. However, these services shall be limited to the percentage of the student body identified as having been unenrolled or disengaged at the end of the 2019-2020 school year or who disengage at any time during the 2020-2021 school year. Schools shall not replace their instructional program with a dropout recovery program.

6. The Arizona Department of Education in collaboration with the State Board of Education and the Arizona State Board for Charter Schools shall develop guidance to assist school districts and charters in compliance with this Executive Order.

7. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

8. This order shall remain in place for the duration of the 2020-2021 school year that ends on June 30, 2021.

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

GOVERNOR

DONE at the Capitol in Phoenix on this twenty-fourth day of June 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