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EXECUTIVE ORDER

Temporarily Suspending Statute to Facilitate Learning Pods Due to the Presence of COVID-19 in the State of Colorado

Pursuant to the authority vested in the Governor of the State of Colorado and, in particular, pursuant to Article IV, Section 2 of the Colorado Constitution and the relevant portions of the Colorado Disaster Emergency Act, C.R.S. § 24-33.5-701, *et seq*., I, Jared Polis, Governor of the State of Colorado, hereby issue this Executive Order temporarily suspending statute to facilitate learning pods due to the presence of coronavirus disease 2019 (COVID-19) in Colorado.

I. Background and Purpose

On March 5, 2020, the Colorado Department of Public Health and Environment's (CDPHE) public health laboratory confirmed the first presumptive positive COVID-19 test result in Colorado. Since then, the number of confirmed cases has continued to climb, and we have evidence of widespread community spread throughout the State. I verbally declared a disaster emergency on March 10, 2020, and on March 11, 2020, I issued the corresponding Executive Order D 2020 003, as amended by Executive Orders D 2020 018, D 2020 032, D 2020 058, D 2020 076, D 2020 109, D 2020 125, D 2020 152, and D 2020 176. On March 25, 2020, I requested that the President of the United States declare a Major Disaster for the State of Colorado, pursuant to the Stafford Act. The President approved that request on March 28, 2020.

My administration, along with other State, local, and federal authorities, has taken a wide array of actions to mitigate the effects of the pandemic, prevent further spread, and protect against overwhelming our health care resources.

In light of COVID-19, many school districts across the State are utilizing remote instruction in place of, or in conjunction with, in-person learning. In response, some families are forming groups to facilitate child supervision and remote learning during the school day ("learning pods").

State child care licensing law generally requires licensing for anyone regularly caring for or supervising more than four (4) unrelated children. To allow for more school-age children to be served in licensed child care, I encourage the Colorado Department of Human Services (CDHS) to grant waivers of sections 7.707, 7.702, and 7.712 under 12 CCR 2509-8 to allow licensed family child care homes to care for one (1) additional school-age child, and to allow child care centers and school-age child care centers to care for two (2) additional school-age children. I also

encourage CDHS to grant waivers of section 7.707.22 to allow licensed family child care homes of all license types to exclude their own school-age children from counting toward the maximum number of children allowed by their license type. I encourage CDHS to promote the availability of these waivers to licensed child care programs throughout the State.

This Executive Order temporarily suspends statute to facilitate learning pods due to the presence of COVID-19 in Colorado, and to balance health and safety with needed flexibility for supervision and care of children who are learning remotely during this pandemic.

II. Directives

A. I temporarily suspend C.R.S. § 26-6-104(1)(a) (requiring an agency or facility license from the Colorado Department of Human Services) as it applies to an individual or facility solely providing less than twenty-four (24) hour care to support learning pods in those instances when: 1) all children in care are ten (10) years of age or older; 2) no more than eight (8) children are in care at one time; and 3) the parent, guardian, or other person having legal custody of such child gives consent to such care.

B. I temporarily suspend C.R.S. § 26-6-104(1)(a) (requiring an agency or facility license from the Colorado Department of Human Services) as it applies to an individual or facility solely providing less than twenty-four (24) hour care to support learning pods in those instances when: 1) all children in care are between six (6) years of age and nine (9) years of age; 2) no more than five (5) children are in care at one time; and 3) the parent, guardian, or other person having legal custody of such child gives consent to such care.

III. Duration

This Executive Order shall expire thirty (30) days from September 10, 2020, unless extended further by Executive Order.

GIVEN under my hand and the Executive Seal of the State of Colorado, this tenth day of September, 2020.

Jared Polis
Governor