STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-52

Authorizing Students in Critical Sectors to Return to Safe Higher Education Institutions for Completion of a Postsecondary Credential

I, Tim Walz, Governor of the State of Minnesota, by the authority vested in me by the Constitution and applicable statutes, issue the following Executive Order:

The COVID-19 pandemic presents an unprecedented challenge to our State. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. On March 13, 2020, I issued Executive Order 20-01 and declared a peacetime emergency because this pandemic, an act of nature, threatens the lives of Minnesotans, and local resources are inadequate to address the threat. In Executive Order 20-01, I directed all state agencies to submit proposed orders and rules to protect and preserve public health and safety. On April 13, 2020, after notifying the Legislature, I issued Executive Order 20-35, extending the peacetime emergency declared in Executive Order 20-01.

Previous Executive Orders have required the closure of higher education institutions and other places of public accommodation and directed Minnesotans to stay at home except for certain exempted activities and Critical Sector work. Executive Orders 20-20, 20-33, and 20-48 permitted work in Critical Sectors based on guidance from the U.S. Department of Homeland Security. That Guidance has since been updated and revised. This order adopts and relies on the April 17, 2020 Guidance on the Essential Critical Infrastructure Workforce: Ensuring Community and National Resilience in COVID-19 Response, Version 3.0 ("CISA Guidance (version 3.0)"—attached to Executive Order 20-48 and incorporated into this Executive Order). The CISA Guidance (version 3.0) identifies "Critical Sectors" that are essential to continued critical infrastructure viability.

To preserve the health, safety, and lives of Minnesotans, it is necessary to adapt that guidance to the post-secondary institutions ("higher education institutions") that prepare students to enter Critical Sectors. Higher education institutions across Minnesota have implemented a distance learning model that has allowed staff at institutions to provide continuity of education while also preserving the health, safety, and lives of students, their families, institution staff, and the public. Nonetheless, some program licensing and completion requirements for students preparing to enter Critical Sectors must be fulfilled with in-person or on-site activities. Delaying entry into

Critical Sector jobs exacerbates workforce shortages in these sectors. As cases of COVID-19 continue to rise in Minnesota, some Critical Sectors are already facing workforce shortages. To protect public health and safety it is necessary to take available measures to keep our Critical Sector workforce strong.

Delaying entry into Critical Sector jobs also exacerbates workforce equity issues. Many of the programs that require in-person or on-site activities are certificate and associate degree programs, which enroll a greater number of low-income students and students of color. Additionally, many of these students may be more likely to go on to work in underserved and vulnerable communities, including those in greater Minnesota, that are most negatively impacted by the COVID-19 pandemic.

Higher education institutions have the opportunity to resume limited activities through preparation and planning that will allow for compliance with the Minnesota Occupational Safety and Health Act of 1973, Minnesota Statutes 2019, Chapter 182 ("Minnesota OSHA Standards"), in addition to guidelines related to COVID-19 set forth by the Minnesota Department of Health and the Centers for Disease Control and Prevention ("MDH and CDC Guidelines").

Consistent with the MDH and CDC Guidelines on masking, social distancing, personal hygiene, screening, and cleaning practices, higher education institutions may determine that it is possible to safely reopen facilities for specific instructional programming necessary for a student to complete a degree, diploma, certificate, credential, or licensure in a Critical Sector.

In Minnesota Statutes 2019, section 12.02, the Minnesota Legislature recognized the "existing and increasing possibility of the occurrence of natural and other disasters of major size and destructiveness" and conferred upon the Governor the emergency and disaster powers provided in Chapter 12 to "ensure the preparations of this state will be adequate to deal with disasters," to "generally protect the public peace, health, and safety," and to "preserve the lives and property of the people of the state." Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 1, the Governor has general authority to control the State's emergency management as well as carry out the provisions of Minnesota's Emergency Management Act. Pursuant to subdivision 3 of that same section, the Governor may "make, amend, and rescind the necessary orders and rules to carry out the provisions" of Minnesota Statutes 2019, Chapter 12. When approved by the Executive Council and filed in the Office of the Secretary of State, such orders and rules have the force and effect of law during the pendency of a peacetime emergency. Any inconsistent rules or ordinances of any agency or political subdivision of the State are suspended during the pendency of the emergency.

For these reasons, I order as follows:

1. I authorize higher education institutions, in consultation with their governing boards, the Commissioner of the Office of Higher Education, and the Commissioner of Health, to expand in-person or on-site activities and programming that are necessary for the completion of a degree, diploma, certificate, credential, or licensure in a Critical Sector that can be operationalized in compliance with MDH and CDC Guidelines.

2. Notwithstanding the requirement to stay at home in Executive Order 20-48, beginning no sooner than May 11, 2020 at 11:59 pm, students in their final term may return to the institution's facilities for the in-person or on-site activities necessary for the student to complete a degree, diploma, certificate, credential, or licensure in a Critical Sector upon the institution's completion of the requirements set forth in this order.

3. To preserve the health and safety of students, their families, institutions' staff, and the public, and to provide continuity of education during the COVID-19 pandemic, higher education institutions must continue to operate in a distance learning model with regard to students who are not in their final term, and any courses not in a Critical Sector as defined in sections 5(b) and 7 of this Executive Order.

4. As with the Critical Sector worker exemptions set forth in Executive Order 20-48, the exemptions created for students in their final term and institutional staff and instructors in this Executive Order apply only to travel to and from an individual's home or residence and the institution and activities that cannot be done at their home or residence. Travel may include transportation to and from child care or school settings as necessary to ensure the safe care of children.

5. **Definitions.**

    a. For the purposes of this Executive Order, "students in their final term" includes any person enrolled at a higher education institution who has completed all required credits except for the courses the person is currently taking.

    b. As used in this Executive Order, "Critical Sectors" is defined to include the categories found in the CISA Guidance (version 3.0) and the additional categories listed below in paragraph 7.

    c. For the purposes of this Executive Order, "higher education institution" includes all post-secondary institutions with a physical campus in the State.

    d. As used in this Executive Order, "staff and instructors" includes all employees, contractors, and volunteers of a higher education institution, including but not limited to janitorial and cleaning professionals, secretarial and administrative professionals, instructors, instructor assistants, faculty, and administrators.

6. **Requirements for higher education institutions.** Before students may return to a higher education institution for in-person or on-site activities, the institution must establish and implement a COVID-19 Preparedness Plan ("Plan"). Each Plan must provide for implementation of Minnesota OSHA Standards and MDH and CDC Guidelines in classrooms, labs, or other areas that students and staff may visit. These requirements are set forth in guidance published by the Minnesota Department of Employment and Economic Development and the Minnesota Department of Labor and Industry ("Plan Guidance") and available at https://mn.gov/deed/safework/, adaptable to higher education institutions.

a. **Required Plan content.** As set forth in the Plan Guidance, at a minimum, each Plan must adequately address the following areas:

   i. **Require distance learning wherever possible.** All Plans must ensure that distance learning continues for all students not in their final term, students in courses that are not in a Critical Sector, and when possible for students in their final term and Critical Sector courses.

   ii. **Ensure that sick students and institution staff and instructors stay home.** All Plans must establish policies and procedures, including health screenings, that prevent sick students or institution staff and instructors from entering the institution for in-person or on-site activities.

   iii. **Social distancing.** All Plans must establish social distancing policies and procedures set forth by the CDC and MDH.

   iv. **Cleaning and disinfection protocols.** All Plans must establish cleaning and disinfection protocols for areas within the institution where students and staff and instructors may visit.

b. **Certification and signature.** Institutional leadership responsible for implementing the Plan must sign and certify the Plan, affirming their commitment to implement and follow the Plan.

c. **Dissemination and posting.** A higher education institution must provide its Plan to all students in their final term and staff and instructors who will be in the building. The Plan must be posted in all classrooms, labs, or other places where students or staff and instructors may visit. Where physical posting is impracticable, the Plan can be posted electronically, provided that the Plan is disseminated to all students in their final term and staff and instructors.

d. **Training.** Higher education institutions must ensure that training is provided to staff and instructors on the contents of their Plan and required procedures, so that all staff and instructors understand and are able to perform the precautions necessary to protect themselves and the students. This training should be easy to understand and available in the appropriate language and literacy level for all staff and instructors. Documentation demonstrating compliance with this training requirement must be maintained and made available to regulatory authorities and public safety officers, including the Office of Higher Education and Department of Health, upon request.

e. **Availability to regulatory authorities and public safety officers.** Higher education institutions do not need to submit their Plans for preapproval. Upon request, institutions must make their Plans available to regulatory authorities and public safety officers, including the Office of Higher Education and the Department of Health.

7. **Exemptions – Critical Sectors. Distance learning models must continue to be implemented.** Students in their final term and staff and instructors may attend in-person or on-site activities necessary for the student's completion of a degree, certificate, credential, or licensure in the Critical Sectors listed below.

    a. Health programs, including but not limited to:

        i. Nursing (AD, BSN, Practical, and Nursing Assistant)

        ii. Respiratory Therapy

        iii. Medical Assistant

        iv. Medical Lab Scientist

        v. Emergency Medical Technician

        vi. Radiation Technology

        vii. Medical Lab Technician

        viii. Phlebotomy/Medical Lab Assistant

        ix. Surgical Technologist

        x. Dental Assistant

        xi. Dental Hygiene

    b. Other programs in the following Critical Sectors:

        i. Law Enforcement, Public Safety, and First Responders

            A. Homeland Security, Law Enforcement, Firefighting and Related Protective Services

            B. Military Science, Leadership, and Operational Art

            C. Military Technologies and Applied Sciences

        ii. Food and Agriculture

            A. Agriculture, Agricultural Operations, and Related Sciences

            B. Culinary Arts and Related Services

        iii. Energy

            A. Environmental Control Technologies/Technicians

iv. Water and Wastewater

A. Water, Wetlands, and Marine Resources Management

B. Natural Resources Management and Policy

C. Fishing and Fisheries Sciences and Management

v. Transportation and Logistics

A. Transportation and Materials Moving

vi. Public Works and Infrastructure Support Services

A. Engineering

B. Engineering Technologies and Engineering-Related Fields

vii. Communications and Information Technology

A. Communications Technologies/Technicians and Support Services

B. Computer and Information Sciences and Support Services

viii. Other Community-Based Government Operations and Essential Functions

A. Construction

B. Mechanic and Repair Technologies/Technicians

c. This list of Critical Sectors may be clarified, as deemed necessary by the Governor, to ensure the health, safety, and security of all Minnesotans. I delegate to the Commissioner of the Office of Higher Education the authority to clarify the list of Critical Sectors above. Clarifications are available for public review at: https://www.ohe.state.mn.us/EOclarifications/.

8. **Fiscal Impact.** Institutions of higher education or other organizations receiving state funds, state agencies, or students enrolled at institutions of higher education will not receive increased state aid as a result of this Executive Order.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective upon approval by the Executive Council. It remains in effect until the peacetime emergency declared in Executive Order 20-01 is terminated or until it is rescinded by proper authority.

A determination that any provision of this Executive Order is invalid will not affect the enforceability of any other provision of this Executive Order. Rather, the invalid provision will be modified to the extent necessary so that it is enforceable.

Signed on May 11, 2020.

Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on May 11, 2020:

Alice Roberts-Davis
Secretary, Executive Council

Filed on May 11, 2020
Office of Minnesota
Secretary of State
Steve Simon