State of Delaware

Executive Department
Dover

SIXTEENTH MODIFICATION OF THE DECLARATION OF A STATE OF EMERGENCY FOR THE STATE OF DELAWARE DUE TO A PUBLIC HEALTH THREAT

WHEREAS, the Centers for Disease Control and Prevention ("CDC") has determined that a novel coronavirus ("COVID-19") presents a serious public health threat, and has advised the public that asymptomatic individuals may be carriers of the COVID-19 virus and may unknowingly spread the virus to other individuals in close proximity, and therefore, social distancing is required to help mitigate the individual exposure to (and community spread of) the COVID-19 virus; and

WHEREAS, it is in the best interests of the State to protect its citizens from a public health emergency that could threaten the lives of those who live and work here; and

WHEREAS, on March 12, 2020 at 3:00 p.m. E.D.T., I issued a State of Emergency due to the public health threat of COVID-19, which became effective as of 8:00 a.m. E.D.T. on March 13, 2020 (the "COVID-19 State of Emergency"); and

WHEREAS, on March 16, 2020 at 2:00 p.m. E.D.T., I issued the First Modification to the COVID-19 State of Emergency declaration to advise that the CDC issued new guidance for large

events and mass gatherings, recommending that organizers halt gatherings of 50 people or more for the next eight weeks due to the public health threat of COVID-19, including conferences, social events, concerts and other types of assemblies; and

WHEREAS, on March 18, 2020 at 2:00 p.m. E.D.T., I issued the Second Modification to the COVID-19 State of Emergency declaration that modified the limitations on public gatherings of 50 or more people and, among other things, placed certain restrictions on the operation of certain businesses and facilities in the State of Delaware; and

WHEREAS, on March 21, 2020 at 12:00 p.m. E.D.T., I issued the Third Modification to the COVID-19 State of Emergency declaration to close all Delaware beaches, except to persons using the beaches for exercise or to walk their dogs, subject to certain precautions recommended by the CDC on COVID-19, which became effective as of 5:00 p.m. E.D.T.; and

WHEREAS, on March 23, 2020 at 4:00 p.m. E.D.T. and 4:02 p.m. E.D.T., respectively, I issued the Fourth and Fifth Modifications to the COVID-19 State of Emergency declaration to close all non-essential businesses in Delaware, except those that can offer goods and services on the Internet, and to order a Shelter in Place for Delaware residents; and

WHEREAS, on March 24, 2020 at 4:00 p.m. E.D.T. I issued the Sixth Modification to the COVID-19 State of Emergency declaration to provide a moratorium on evictions and foreclosure proceedings to enable Delawareans to shelter in place safely, extended the presidential primary, provided for absentee balloting during the COVID-19 crisis, provided for a modified state procurement process, and placed a moratorium on cancellation of insurance policies for delay in premium payments caused by the economic uncertainty; and

WHEREAS, on March 29, 2020 at 4:30 p.m. E.D.T., I issued the Seventh Modification to the COVID-19 State of Emergency declaration to provide for the self-quarantine of travelers from areas severely impacted by COVID-19 outside the State of Delaware into the State; and

WHEREAS, on March 30, 2020 at 5:00 p.m. E.D.T., I issued the Eighth Modification to the State of Emergency declaration to permit a comprehensive approach to the provision of childcare in the State of Delaware during the State of Emergency to support essential workers; and

WHEREAS, on April 1, 2020 at 3:00 p.m. E.D.T., I issued the Ninth Modification to the COVID-19 State of Emergency declaration to permit a comprehensive approach to the provision of childcare in the State of Delaware during the State of Emergency to support essential workers; and

WHEREAS, on April 6, 2020 at 6:00 p.m. E.D.T., I issued the Tenth Modification to the COVID-19 State of Emergency declaration to further restrict the operation of non-essential businesses to limit the spread of COVID-19; and

WHEREAS, on April 10, 2020 at 3:30 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration, as modified; and

WHEREAS, on April 15, 2020 at 9:00 a.m. E.D.T., I issued the Eleventh Modification to the COVID-19 State of Emergency declaration to provide increased guidance and support to long-term care facilities to protect our most vulnerable populations and permit remote notarization under limited circumstances; and

WHEREAS, on April 23, 2020 at 4:15 p.m. E.D.T., I issued the Twelfth Modification to the COVID-19 State of Emergency declaration to allow the Public Health Authority to activate more out-of-state health care workers to assist in Delaware's fight against COVID-19; and

WHEREAS, on April 25, 2020 at 4:00 p.m. E.D.T., I issued the Thirteenth Modification to the COVID-19 State of Emergency declaration to require the use of cloth face coverings in public settings where other social distancing measures are difficult to maintain, including in grocery stores and pharmacies, especially in areas of significant community-based transmission; and

WHEREAS, on April 29, 2020 at 6:00 p.m. E.D.T., I issued the Fourteenth Modification to the COVID-19 State of Emergency declaration limiting the rent that may be charged to holdover tenants and preventing landlords from charging holdover tenants with losses not covered by the expired rental agreement; and

WHEREAS, on May 7, 2020 at 10:00 a.m. E.D.T., I issued the Fifteenth Modification to permit minimum operations by certain small businesses to begin a gradual process toward businesses reopening, and to extend deadlines for statewide, municipal, and school district elections due to the ongoing public health concerns caused by COVID-19; and

WHEREAS, on May 8, 2020 at 12:30 p.m. E.D.T., I extended the State of Emergency a second time; and

WHEREAS, as part of the collaborative decision that included school district superintendents and charter school leaders to close public school buildings through the rest of the 2019-2020 school year, each local education agency, has committed to supporting the remote instruction of Delaware students; and

WHEREAS, the closing of Delaware public school buildings has disrupted much of the normal in-person testing and evaluation cycles for Delaware school administrators, educators, prospective teachers, educational specialists, and students; and

WHEREAS, commercial anchored gill net fishers have requested that the season closing date for anchored gill net fishing under 7 Del. C. § 923 be extended for the 2020 season from May 10, 2020, to June 1, 2020, in order to mitigate the extreme hardships and several weeks of lost fishing time caused by the COVID-19 Pandemic's effects on the fresh seafood market.

NOW, THEREFORE, I, JOHN C. CARNEY, pursuant to Title 20, Chapter 31 of the Delaware Code, to control and prevent the spread of COVID-19 within the State of Delaware, do hereby order that the COVID-19 State of Emergency declaration, as modified by the First through Fifteenth Modifications and extended on April 10, 2020 and on May 8, 2020, shall remain in effect until further notice, with the following modifications and additions:

A. Education

1. Any regulation, policy, or statute mandating an applicant, educator, or employee submit official school transcripts for any purpose, including a salary increment, license or certificate application, or job application shall be suspended until 90 days after the State of Emergency is terminated.
2. The attendance requirements of 14 *Del. C.* § 1049(a)(1) mandating all school districts provide for school attendance of at least 1060 hours for grades Kindergarten through 11 and 1032 hours for Grade 12 shall be suspended for the 2019-20 academic year with the following conditions:
    a. All public and charter schools will continue to offer remote learning through the date indicated on their respective remote learning plans. Districts and charter schools should continue to make every reasonable effort to promote and monitor student attendance as fully as possible in the continued educational opportunities outlined in each district and charter school's remote learning plan.

b. The Department of Education will use school district information to calculate a student's attendance records for the 2019-20 school year from the first day of school until school buildings were closed on March 13, 2020.

3. The requirements of 14 Del. C. § 1305(e)(1-3) mandating 10-month employees work for a total of 188 full work days, including 180 days or equivalent hours devoted to actual school sessions for pupils, two days devoted to start-up/closing, and six days devoted solely to professional development, shall be suspended so long as all public and charter schools educators continue to offer remote learning through the date indicated on their respective remote learning plans.
4. The content-readiness exam or performance assessment requirements of 14 *Del. C.* § 1210(a); 14 *Del. Admin*. Code §§ 1510.3.3.2 and 1510.7.1; 14 *Del. C.* §§ 1262(c)(3) and 1262(c)(4); and 14 *Del. C.* § 1280(d) and 14 *Del. Admin*. Code §§ 290.3.4.1.1 and 290.3.4.1.2.1 shall be suspended until six months after the State of Emergency is terminated.
5. The mentoring requirements found in 14 *Del. Admin*. Code §§ 1503.4.2, 1503.5.2, 1503.6.2, 1503.7.1, and 1503.8.2 shall be suspended for the 2019-20 academic year.
6. The licensure requirements in 14 *Del. C.* § 1211(b) and14 *Del. Admin*. Code § 1511 Tier Two Continuing Licensure shall be suspended for the 2019-20 academic year.
    a. Novice teachers and specialists will advance to the next year of their initial license regardless of whether they have a completed observation or evaluation for the 2019-2020 school year. Pursuant to 14 *Del. C.* § 1211(b), upon application, the Department of Education shall issue a continuing license to a teacher or specialist holding an initial license if the teacher or specialist has successfully completed the requirements of 14 *Del. C.* § 1210 and has not received more than one unsatisfactory annual

evaluation, as defined by the State of Delaware approved educator performance system, during the period of initial licensure.

7. Educators holding a continuing license with a renewal date in 2020 who have not completed the 90-hour minimum professional development requirement of 14 *Del. C.* § 1212 shall have six months from the date the State of Emergency is terminated to complete the requirement.
8. The requirement under 14 *Del. C.* §§ 1218(r) and 1218A(b) and 14 *Del. Admin*. Code § 1514.7.1.1 that communications be sent by certified mail shall be suspended.
9. The Praxis Subject Assessment or content area requirements of 14 *Del. C.* §§ 1220(a) and 14 *Del. Admin*. Code §§ 1520-22, 1531-34, 1539-45, 1549-51, 1553, 1565, 1570-75, 1580-84, and 1591-94 shall be suspended until six months after the State of Emergency is terminated.
10. The provisions of 14 *Del. C.* § 1262(c)(1)-(4) and 14 *Del. Admin*. Code §§ 290.1, 290.8.2.4, and 290.9.1.2 requiring an ARTC program participant to complete the ARTC program, attain two satisfactory summative evaluations, pass a content readiness exam, and an approved performance assessment within the first two years of teaching shall be suspended for the 2019-20 academic year, such that the 2019-2020 academic year shall not count as one of the first two years of teaching.
11. The requirements under 14 *Del. C.* § 1270(a) and 14 *Del. Admin*. Code §§ 106A and 107A mandating teachers and specialists holding an initial license (novice educator) receive a Delaware Performance Appraisal System II (DPAS II) evaluation during the 2019-20 academic year and teachers and specialists holding a continuing license or an advanced license (experienced educators) receive a DPAS II evaluation at least every 2 academic years shall be suspended for the 2019-20 academic year.

a. Experienced and Novice teachers and specialists will not receive summative evaluation ratings for the 2019-2020 school year but rather will continue into the 2020-2021 school year with the current cycle. Any observations completed for the 2019-2020 school in addition to the required annual observations for the 2020-2021 school year may be considered as evidence towards the overall criteria and component summative evaluation ratings.

b. Novice teachers and specialists will advance to the next year of their initial license regardless of whether they have a completed observation or evaluation for the 2019-2020 school year. Pursuant to 14 *Del. C.* § 1211(b), upon application, the Department of Education shall issue a continuing license to a teacher or specialist holding an initial license if the teacher or specialist has successfully completed the requirements of 14 *Del. C.* § 1210 and has not received more than one (1) unsatisfactory annual evaluation, as defined by the State of Delaware approved educator performance system, during the period of initial licensure.

12. The requirement of 14 *Del. Admin*. Code § 108A mandating administrators receive a Delaware Performance Appraisal System II (DPAS II) evaluation during the 2019-20 academic year shall be suspended.

13. An educator acting as a mentor or lead mentor during the 2019-2020 academic school year who was unable to complete all mentoring components set forth in 14 *Del. Admin*. Code §§ 1503.9.1 – 9.1.2.4.2 shall still be eligible for a base salary supplement pursuant to 14 *Del. C.* § 1305.

14. The Delaware System of Student Assessment found in 14 *Del. C.* § 151 and 14 *Del. Admin*. Code § 101 and Delaware Comprehensive Assessment System in 14 *Del. Admin*. Code § 103 shall be suspended for the 2019-20 academic year.
15. The Student Success Planning progress reports deadline 14 *Del. Admin*. Code § 507.5.1 shall be suspended and changed to August 15, 2020.
16. The requirement that districts conduct four hours of in-service training for school bus drivers by June 30 pursuant 14 *Del. Admin*. Code § 1150.7.5 shall be suspended, extended to ninety days after the State of Emergency is terminated, and expanded to include remote training of school bus drivers. The district must share with DDOE the material provided and certify each individual has completed the distance learning material to receive funding.
17. The contract allowance provisions of 14 *Del. Admin*. Code § 1150.17.6 mandating school bus contractor and Local Education District payments for Emergency Days shall be suspended.
18. The clinical residency requirement of 14 *Del. C.* § 1280(c)(1), and 14 *Del. Admin*. Code § 290.3.2 shall be suspended for the 2019-20 academic year.
19. The requirement under 14 *Del. C.* § 1280(e) and 14 *Del. Admin*. Code § 290.6 to report data on the performance and effectiveness of educator preparation program graduates shall be suspended for the 2019-20 academic year.

B. Department of Natural Resources and Environmental Control

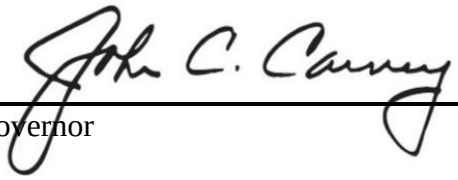
1. Due to the extreme hardships that commercial anchored gill net fishers have faced due to the COVID-19 pandemic, the season closing date and all applicable date provisions prescribed in 7 *Del. C.* § 923 for use of anchored gill nets is hereby extended for calendar year 2020 from midnight on May 10, 2020 to midnight on June 1, 2020. All other provisions of 7 *Del. C.* § 923 remain in full force and effect. The season closing date and

all applicable date provisions for use of anchored gill nets shall revert to the dates prescribed in 7 *Del. C.* § 923 following the close of the 2020 season on June 1, 2020.

C. MISCELLANEOUS:

1. This Order has the force and effect of law. Any failure to comply with the provisions contained in a Declaration of a State of Emergency or any modification to a Declaration of the State of Emergency constitutes a criminal offense. 20 Del. C. §§ 3115 (b); 3116 (9); 3122; 3125. State and local law enforcement agencies are authorized to enforce the provisions of any Declaration of a State of Emergency.

APPROVED this 10th day of May 2020 at 1:15 p.m.



Governor