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CHARLES D. BAKER
GOVERNOR

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# ORDER AUTHORIZING CERTAIN PROGRAM ADJUSTMENTS TO SUPPORT FAMILIES WITH STUDENTS ENGAGED IN REMOTE LEARNING

COVID-19 Order No. 49

**WHEREAS,** on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19");

**WHEREAS,** on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

**WHEREAS,** the Federal Centers for Disease Control and Prevention ("CDC") have advised that COVID-19 is spread mainly by person-to-person contact and that the best means of slowing the spread of the virus is through practicing social distancing and by minimizing personal contact with large groups and with environments where this potentially deadly virus may be transmitted including, in particular, spaces that present enhanced risks because of the large number of persons present or passing through the area who may spread the virus through respiratory activity or surface contacts;

**WHEREAS,** kindergarten, elementary, and secondary schools normally provide both education and supervision of children during the hours of a traditional school day, a necessary support to the parents and workforce of the Commonwealth;

**WHEREAS,** because of the COVID-19 pandemic, many school districts intend to have students engage in remote learning in whole or in part, and this remote learning creates a need to develop alternative arrangements to provide for supervision and care for school-aged children during the school day;



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**WHEREAS,** in view of the absence of any existing oversight mechanism to authorize, oversee, or permit programs providing supervision and care of children who are enrolled in school, during the traditional school day, while they engage in remote learning, it is necessary to establish a framework to ensure that any new opportunities for such supervision and care meet minimum standards of health, safety, and security;

**WHEREAS,** sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over assemblages in order to protect the health and safety of persons, over educational facilities that are supported in whole or in part by public funds, and variance of the terms and conditions of licenses and permits issued by the Commonwealth or any of its agencies;

**NOW, THEREFORE,** I hereby Order the following:

1. **School-Aged Child Care Programs Currently Licensed by the Department of Early Education and Care**

The Department of Early Education and Care ("EEC"), acting through its Commissioner and subject to my approval, is hereby authorized to issue policies, procedures, requirements, rules, and guidance to permit school-aged child care programs currently licensed, funded, or authorized by EEC pursuant to General Laws Chapter 15D, to expand their hours of operation in order to provide supervision and education support during the regular school day for children who are enrolled in school and participating in remote learning. EEC, through its Commissioner and subject to my approval, is hereby further authorized to temporarily suspend or modify any existing EEC regulation to the extent necessary to permit licensed school-aged child care programs to expand their hours of operation or capacity to provide supervision during remote learning instruction.

2. **Remote Learning Enrichment Programs**

EEC is directed to provide for the creation of remote learning enrichment programs that will provide a supervised setting, during the school day, in which children who are enrolled in school can attend remote learning instruction. EEC, acting through its Commissioner and subject to my approval, is hereby authorized to issue policies, procedures, requirements, rules, and guidance to specify how a remote learning enrichment program may be deemed exempt from EEC licensing requirements in order to permit the operation of such programs.

For the purposes of this Order, a "remote learning enrichment program" shall mean a program or facility operated on a regular or drop-in basis which provides supervised group care for children not of common parentage who are enrolled in kindergarten and are of sufficient age

to enter first grade the following year, or an older child who is enrolled in school and not more than 14 years of age, or not more than 16 years of age if the child has special needs. Such programs may operate only while children are attending remote learning instruction and only during the hours of the regular school day.

EEC, acting through its Commissioner and subject to my approval, is hereby authorized to issue minimum standards for the operation of remote learning enrichment programs. The EEC minimum operating standards shall include, without limitation, provisions for staff background record checks, health and safety standards, facilities checks, and child-to-staff ratios. EEC, acting through its Commissioner and subject to my approval, is hereby further authorized to issue policies, procedures, requirements, rules, and guidance for ensuring that remote learning enrichment programs operate in compliance with any operating standards issued by EEC and within the scope of an exemption granted pursuant to this Order, for investigating any program as provided in G. L. c. 15D, and, when necessary, for taking enforcement action against a program, including issuing fines pursuant to G. L. c. 15D, § 15, or revoking an exemption from EEC licensing requirements.

A remote learning enrichment program must be approved by the municipality in which the program is located before EEC may grant an exemption. Municipal approval shall include, at a minimum:

(a) Verification by the municipality that the program complies with the minimum standards for operation of a remote learning enrichment program issued by EEC pursuant to this section; and

(b) Acknowledgement by the municipality that during the period in which the remote learning enrichment program is operating, the municipality will remain responsible for:

(1) regularly monitoring the program to determine whether the program is operating in compliance with the minimum standards for operation and within the scope of the EEC licensing exemption, including the limitation on hours of operation; and

(2) notifying EEC of any non-compliance with those minimum standards for operation or of activities exceeding that scope.

A municipality may impose standards for operation of a remote learning enrichment program that are more demanding than those issued by EEC. A municipality may investigate a remote learning enrichment program, and may revoke approval for a program, with notice to EEC, for a program's failure to comply with EEC's minimum standards for operation or the scope of EEC's licensing exemption, for a failure to comply with municipal standards for operation, or otherwise

on a determination that the program's operation presents a danger to public health, safety, or welfare.

3. **Remote Learning Parent Cooperatives**

EEC is directed to provide for the creation of remote learning parent cooperatives that will permit an organized plan among a group of families in which children who are enrolled in school are supervised by one of their parents or guardians during the hours of a school day while attending remote learning instruction. A remote learning parent cooperative may operate without applying to or obtaining a license, approval, or exemption from EEC, and is not subject to Section 2 of this Order.

For purposes of this Order, a "remote learning parent cooperative" shall mean an arrangement among parents or guardians to provide for supervision, care, and educational support services during the hours of the regular school day to children not of common parentage who are enrolled in kindergarten and are of sufficient age to enter first grade the following year, or children who are not more than 14 years of age, or not more than 16 years of age if the child has special needs, and who are enrolled in school and attending remote learning instruction. In addition, a remote learning parent cooperative:

(a) Must consist of no more than 5 families;

(b) Must have a parent or guardian of a participating child on-site at all times, and may employ a non-custodial individual to support remote learning but only during the hours of a regular school day and in addition to the presence of a parent or guardian on-site at all times; and

(c) Must not compensate any parent or guardian for that person's time caring for children or supporting education, and any exchange of funds among parents or guardians may only occur if directly related to materials or supplies, including food, necessary to support remote learning.

An arrangement among parents or guardians to provide for supervision of children not of common parentage that does not meet the definition of a remote learning parent cooperative is subject to EEC licensing and exemption.

EEC, acting through its Commissioner and subject to my approval, is hereby authorized to issue policies, procedures, requirements, rules, and guidance as necessary to provide for the creation of remote learning parent cooperatives. A remote learning parent cooperative shall be subject to the limitation on gatherings established in COVID-19 Order No. 46 or any subsequent, superseding executive order regulating gatherings in the Commonwealth.

This Order is effective immediately and shall remain in effect until rescinded or until the state of emergency is ended, whichever occurs first.

Given in Boston at 10:30 AM/PM this 28th day of August, two thousand and twenty

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts