# STATE OF MINNESOTA
Executive Department

Governor Tim Walz

## Emergency Executive Order 20-57

## Authorizing and Directing the Commissioner of Education to Allow for a Safe and Effective Summer Learning Environment for Minnesota's Students

**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. 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. After notifying the Legislature, on April 13, 2020 and again on May 13, 2020, I issued Executive Orders extending the peacetime emergency declared in Executive Order 20-01.

On March 15, 2020, I issued Executive Order 20-02, directing schools to close to students and to engage in a planning period ("Closure Period"). On March 25, 2020, I issued Executive Order 20-19, directing the Commissioner of Education ("Commissioner") to implement a distance learning period beginning on March 30, 2020 through May 4, 2020 ("Distance Learning Period"). On April 23, 2020, I issued Executive Order 20-41, directing the Commissioner to extend the Distance Learning Period until the end of the 2019-2020 school year ("Extended Distance Learning Period"). The Distance Learning Period and Extended Distance Learning Period allowed school staff to provide continuity of education while also preserving the health, safety, and lives of students, their families, school staff, and the public. All Minnesota public school facilities have remained closed for typical in-school instruction but remain open to provide meals to children. Schools also provide onsite care to school-aged children of certain workers in critical sectors ("Eligible Children") as defined by the Minnesota Department of Education ("MDE") guidance. Additionally, in Executive Order 20-41, I authorized the Commissioner, in consultation with the Minnesota Department of Health ("MDH"), to identify specific activities that could be conducted at school facilities in compliance with public health guidelines on masking, social distancing, personal hygiene, screening, and cleaning practices ("Public Health Guidelines").

Due to our efforts to slow the spread of COVID-19, support health care capacity, and promote collective health, we are able to slowly allow some activities and businesses to resume with adherence to public health best practices and directives. Given education's critical importance to

our students, families, and economy, our safe and gradual reopening should also include our schools. While the Extended Distance Learning Period remains in effect, we must prepare for the possibility of in-school learning during the summer months, subject to Public Health Guidelines to keep our students, staff, and communities safe. Robust community dialogue and engagement have shown that our school communities and in-school learning play an incredibly important role for many students and families. Schools are particularly important to communities challenged by a lack of technology and broadband access, connection and engagement opportunities, and mental and physical health supports. Following Public Health Guidelines opens the possibility of providing in-school learning safely and meaningfully.

In collaboration with MDH and the Centers for Disease Control and Prevention ("CDC") and pursuant to directives in Executive Order 20-41, MDE has determined that a school district or charter school may safely open its building for a hybrid model of in-school learning and distance learning this summer for students eligible for summer learning or extended learning year services. To preserve the health, safety and lives of students, their families, school staff, and the public, and to provide continuity of education during the COVID-19 pandemic, most school districts and charter schools providing summer learning opportunities need to implement hybrid models with alternating schedules between distance learning and in-school learning. This allows all participating students access to both experiences in a safe and meaningful manner. Under certain circumstances, a school district or charter school may continue summer learning and extended learning year services wholly through a distance learning model.

Reaching all children equitably must continue to be a priority, especially children of color, indigenous children, immigrant children, low-income families and communities, and people who have disabilities. Access to mental health services and support, hands-on student education and support, broadband and devices, and consistent instructional expectations continue to be concerns for many students. Responding to these challenges will take innovation and public-private collaboration. Our educators stand ready to meet this need. Opportunities for in-school learning and other activities will provide the engagement, support, and access lacking for many of our communities through the distance learning model.

We continue to extend our deepest gratitude to all our school staff for their dedication to students, especially during these challenging Distance Learning and Extended Distance Learning Periods. Their continued innovation and direct outreach to students will be integral to providing summer learning opportunities in safe and meaningful ways.

Care for Eligible Children has been crucial for our workers in critical sectors to confront this pandemic. I am grateful that school districts and charter schools have provided this care during the Closure Period, Distance Learning Period, and Extended Distance Learning Period. I encourage school districts and charter schools, to the extent possible, to continue to provide this care during the summer period. In consultation with the Minnesota Children's Cabinet, MDE will continue to provide guidance regarding child care, enrichment, and learning during the summer period. All programs serving children must follow Public Health Guidelines.

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.

Under Minnesota Statutes 2019, section 12.21, subdivision 3(11), the Governor may authorize the Commissioner "to alter school schedules, curtail school activities, or order schools closed." Pursuant to subdivision 3(1) of the same section, the Governor may also "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. Nothing in this Executive Order should be construed to encourage or require Minnesotans in at-risk categories to act inconsistently with public health recommendations or the advice of their doctors. All Minnesotans should continue to regularly check and follow the advice on MDH's COVID-19 website (https://www.health.state.mn.us/diseases/coronavirus/).

2. Pursuant to Minnesota Statutes 2019, section 12.21, subdivision 3(11), and paragraph 19 of Executive Order 20-41, I authorize and direct the Commissioner, in consultation with the Commissioner of Health, to allow school districts and charter schools to offer summer programs and extended school year services through either a distance learning model or a hybrid model that employs both distance learning and in-school learning. For the purposes of this Executive Order, the period covering these distance learning or hybrid models set forth in this paragraph is referred to as the "Summer Learning Period." The Summer Learning Period begins after the end of each school district's and charter school's respective 2019-2020 school year calendars and ends before their respective 2020-2021 school year calendars.

3. Executive Order 20-19 and Executive Order 20-41 remain in full effect except as explicitly modified by this Executive Order.

4. School districts and charter schools must provide at least two days for staff planning before their respective Summer Learning Period.

5. Pursuant to paragraph 20 of Executive Order 20-41, I direct the Commissioner, in consultation with the Commissioner of Health, to continue to update guidance for distance learning and a hybrid model during the Summer Learning Period ("MDE Guidance").

6. School districts and charter schools must comply with Public Health Guidelines, MDE Guidance, and paragraphs 1, 8, and 9 of this Executive Order.

7. If a school district or charter school adopts a hybrid model, it must provide students, teachers, and staff with a teaching and learning environment that complies with Public Health Guidelines.

8. To the extent possible, a school district or charter school must provide accommodations for staff to work remotely when in-person instruction or service is not required. If staff must report to their respective buildings during this Summer Learning Period, activities must be performed in accordance with MDE Guidance and Public Health Guidelines.

9. Consistent with applicable labor agreements, school districts and charter schools are encouraged to negotiate resources for contracted staff supporting summer learning, including, but not limited to, wages, benefits, work schedules, access to appropriate personal protective equipment, and public health protocols for safe and healthy teaching and learning conditions.

10. During the Summer Learning Period, all public schools providing summer programs and extended school year services for students must do so according to the plans developed during the planning period and pursuant to applicable federal and state statutes.

11. During the Summer Learning Period, all public schools must provide access to meals during the school day. If a school district or charter school is unable to directly provide meals to students, it must provide information and resources to families that would allow them to access meals.

12. School districts and charter schools must notify MDE of their choice between the distance learning or hybrid model no later than one week before the beginning of their respective Summer Learning Period.

13. School districts and charter schools that conclude their respective 2019-2020 school year before the originally planned date must report that change to MDE by May 29, 2020.

14. School districts and charter schools must make all reasonable efforts to provide reports to MDE on the provision of care to Eligible Children, meal delivery and nutrition services, and access to internet and devices.

15. School districts and charter schools must electronically post their respective Summer Learning Period plans and communicate them to students and their families no later than one week before the beginning of their respective Summer Learning Period. School districts and charter schools must make all attempts to provide such communications orally and written in languages spoken in their respective school district or charter school. The Summer Learning Period plans must address, but not be limited to, communication pathways with students and families, community input on student and family needs, and other outreach opportunities. This is in addition to core instruction, supports for all student groups, nutrition, school-age care, technology

needs, and effective delivery of educational models to students in a distance learning or hybrid model setting.

16. This order applies to all schools as set forth in Minnesota Statutes 2019, section 12.21, subdivision 3(11). I continue to encourage tribal and nonpublic schools to fulfill the spirit and directives of this Executive Order.

17. Upon recommendation from the Commissioner of Health, school districts and charter schools may begin their 2020-2021 school year based on their respectively approved school calendars. I direct the Commissioner, in consultation with the Commissioner of Health, to develop an educational model that balances in-school and distance learning methods if a typical, in-building school year is not possible due to the COVID-19 pandemic and the need to protect the health and safety of students, their families, school staff, or the public.

18. School districts and charter schools may provide care to all children but must continue to prioritize onsite care for Eligible Children. School districts and charter schools may provide such care through community education programs and other program options and may charge fees in line with their normal sliding fee scale.

19. Upon approval by the Executive Council, during the Summer Learning Period and until August 15, 2020, school districts and charters must allow 2019-2020 graduating seniors to complete any testing required to attain a state bilingual or multilingual seal under Minnesota Statutes 2019, section 120B.022, subdivision 1b.

20. I encourage school districts and charter schools to allow students, during the Summer Learning Period, to retain any technology provided to them before, during, or after the Distance Learning Period and the Extended Distance Learning Period. I also encourage school districts and charter schools to continue to provide maintenance for this technology during the Summer Learning Period.

21. I encourage school districts and charter schools to target their Elementary and Secondary School Emergency Relief funds provided under the Coronavirus Aid, Relief, and Economic Security Act toward enhanced technology and internet access, summer programs, and ongoing mental health supports for students.

22. Upon approval by the Executive Council, the following payments received by Minnesotans as the result of the COVID-19 pandemic must not be counted as income when determining eligibility for the early learning scholarships program, pursuant to Minnesota Statutes 2019, section 124D.165, administered by MDE:

    a. Federal CARES Act payments of up to $1,200 per adult and $500 per child.

    b. State government payments issued to individuals to relieve the adverse economic impact caused by the COVID-19 pandemic.

    c. Local government payments issued to individuals to relieve the adverse economic impact caused by the COVID-19 pandemic.

d. Tribal government payments issued to tribal members to relieve the adverse economic impact caused by the COVID-19 pandemic.

23. Upon approval by the Executive Council, when determining eligibility for the programs administered by MDE, the above payments will not be counted as assets, personal property, or resources.

24. Upon approval by the Executive Council, school districts and charter schools are authorized to transfer operating funds from certain programs that are not already assigned to or encumbered by staff salary and benefits, or otherwise encumbered by federal law, for the following purposes:

    a. To provide care to Eligible Children during the school day and the Summer Learning Period.

    b. To pay additional transportation costs incurred between March 30, 2020 and the end of the 2019-2020 school year, and during the Summer Learning Period, needed to implement this Executive Order in providing distance learning instruction and meal delivery.

    c. To pay for additional costs related to technology needed to provide distance learning instruction.

    d. To pay the portion of staff salary and benefits of employees paid through the community service fund normally funded by fees that were refunded, waived, or otherwise not paid during the Closure Period, Distance Learning, Extended Distance Learning, and Summer Learning periods.

    e. To pay the portion of food service fund staff salary and benefits normally funded by meal reimbursement revenue during the Closure Period, Distance Learning, Extended Distance Learning, and Summer Learning periods.

    f. A fund transfer is allowed if the transfer does not increase state aid obligations to the school district or charter school or result in additional property tax authority for the school district. A transfer is limited to the operating funds of a school district or charter school. A school board must approve a fund transfer by the fiscal year reporting deadline. A school district or charter school must maintain accounting records for the purpose of this Executive Order that are sufficient to document both the specific funds transferred and use of those funds. Such accounting records are subject to auditor review. Any execution of this flexibility must not interfere with or jeopardize funding per federal requirements. Any transfer must not interfere with the delivery of distance learning or social distancing models for all students and school staff. The Commissioner must provide guidance on the fund balance transfers that are allowable for the purposes outlined above.

Pursuant to Minnesota Statutes 2019, section 4.035, subdivision 2, and section 12.32, this Executive Order is effective immediately 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 14, 2020.

**Tim Walz**
Governor

Filed According to Law:

**Steve Simon**
Secretary of State

Approved by the Executive Council on May 15, 2020:

**Alice Roberts-Davis**
Secretary, Executive Council