State of Delaware

Executive Department
Dover

TWENTY-FIFTH 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 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 1, 2020 at 3:00 p.m. E.D.T., I issued the Ninth Modification to the COVID-19 State of Emergency declaration to prohibit gatherings of ten (10) or more people and increase safety precautions for businesses and their visitors; 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 the COVID-19 State of Emergency declaration 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 COVID-19 State of Emergency declaration a second time; and

WHEREAS, on May 10, 2020 at 1:15 p.m. E.D.T., I issued the Sixteenth Modification to the COVID-19 State of Emergency declaration to suspend end-of-year evaluations for educators,

professional development requirements and assessments due to the suspension of the school year caused by COVID-19; and

WHEREAS, on May 14, 2020 at 5:00 p.m. E.D.T., I issued the Seventeenth Modification to the COVID-19 State of Emergency declaration to reopen Delaware beaches, boardwalks, certain on-premise businesses, and swimming facilities, subject to precautions needed to protect public health; and

WHEREAS, on May 18, 2020 at 12:30 p.m. E.D.T., I issued the Eighteenth Modification to the COVID-19 State of Emergency declaration encouraging virtual services but expanding the ability of houses of worship and places of religious expression to conduct in-person services with safety precautions; and

WHEREAS, on May 22, 2020 at 4:00 p.m. E.D.T., I issued the Nineteenth Modification to the COVID-19 State of Emergency declaration to allow restaurants to expand outdoor seating capacity and provide the parameters of the Phase 1 Reopen Plan; and

WHEREAS, on May 31, 2020 at 3:30 p.m. E.D.T., I issued the Twentieth Modification to the COVID-19 State of Emergency declaration to expand and clarify the Phase 1 Reopen Plan; and

WHEREAS, on June 6, 2020 at 12:30 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration a third time; and

WHEREAS, on June 14, 2020 at 5:00 p.m. E.D.T., I issued the Twenty-First Modification to the COVID-19 State of Emergency declaration to set forth the parameters for the Phase 2 Reopen Plan; and

WHEREAS, on June 19, 2020 at 3:30 p.m. E.D.T., I issued the Twenty-Second Modification to the COVID-19 State of Emergency declaration to expand and clarify the Phase 2 Reopen Plan; and

WHEREAS, on June 30, 2020 at 4:00 p.m. E.D.T., I issued the Twenty-Third Modification to the COVID-19 State of Emergency declaration to close drinking establishments in certain zip codes experiencing an outbreak and to modify restrictions contained in the Sixth Modification to the COVID-19 State of Emergency declaration relating to insurance, evictions, foreclosures and utilities; and

WHEREAS, on July 6, 2020 at 1:30 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration a Fourth Time; and

WHEREAS, on July 24, 2020 at 3:45 p.m. E.D.T., I issued the Twenty-Fourth Modification to the COVID-19 State of Emergency declaration allowing driver education services to resume immediately, with safety measures in place to prevent transmission of COVID-19; and

WHEREAS, on August 5, 2020 at 12:00 p.m. E.D.T., I extended the COVID-19 State of Emergency declaration a Fifth Time; and

WHEREAS, COVID-19 can spread between people interacting in close proximity even if those people are not exhibiting symptoms; and

WHEREAS, the CDC recommends wearing face coverings in public settings where other social distancing measures are difficult to maintain, including in grocery stores and pharmacies, and especially in areas of significant community-based transmission; and

WHEREAS, Delaware youth will soon return to school for the 2020-21 academic year, requiring students and staff to follow guidance provided by public health officials to ensure that the core principle of controlling the spread of COVID-19 is considered.

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 Twenty-Fourth Modifications and extended on April 10, 2020, May 8, 2020, June 6, 2020, July 6, 2020 and August 5, 2020, shall remain in effect until further notice, with the following modifications and additions effective August 27th 2020 at 8:00 a.m. E.D.T.:

A. SCHOOL REOPENING: LEAs will follow the school reopening instructions provided by the Delaware Department of Education (DDOE) on its website at https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/599/DECV_COVID_School%20Reopening%20Information_1230PM_08042020.pdf.

B. SCHOOL NOTIFICATION FOR COVID-19 POSITIVE CASES: Effective immediately, all Local Education Agencies (LEAs) must notify parents/guardians and students aged eighteen (18) and up if the school becomes aware that a person who tested positive was in the school building at the same time as students. The manner and content of the notification is up to each school and must be consistent with applicable state and federal law. The Division of Public Health (DPH) will work with schools on their responses to reports of positive test results and on ensuring that any descriptions of those actions in their letters are accurate.

C. FACE COVERINGS FOR CHILDREN KINDERGARTEN TO 18 YEARS OF AGE. The Thirteenth Modification to the COVID-19 State of Emergency governing the wearing of face coverings, and amendments related thereto in the Seventeenth, Twentieth, Twenty-First, Twenty-

Third and Twenty-Fourth Modifications, to the COVID-19 State of Emergency declaration, are hereby modified to include the following new requirements:

1. **IN CHILD CARE AND SCHOOLS:**

    i. Students in Kindergarten and above shall wear face coverings while inside child care homes and centers and at schools at all times except for meals, naps, or when doing so would inhibit the child's health. If outside at a child care home or center or at a school, face coverings shall be worn by students (Kindergarten and above) if social distancing cannot be maintained.

    ii. Any child under two (2) years of age must not wear a face covering because of the risk of suffocation. Children two (2) years of age through pre-Kindergarten are strongly encouraged to wear face coverings if they can do so reliably in compliance with CDC guidance on How to Wear Cloth Face Coverings while inside child care homes and centers or elementary schools at all times, except for meals, naps, or when doing so would inhibit the child's health, and outside, if social distancing cannot be maintained.

    iii. Child care homes and centers and schools shall develop written procedures to respond to individual requests for reasonable accommodations or modifications to their face covering policy to allow a child or student who cannot wear a face covering because of their health or a disability to participate in, or benefit from, the programs offered or services that are provided by the child care home or center or school.

iv. Caregivers at child care homes and centers, and educators at schools, must supervise use of face coverings by children to avoid misuse and monitor compliance.

2. **OUTSIDE OF CHILD CARE AND SCHOOLS**: Any child under the age of two (2) must not wear a face covering because of the risk of suffocation. Any child aged Kindergarten to eighteen (18) years of age shall wear a face covering following the rules and requirements for adults contained in the COVID-19 State of Emergency and its modifications except when doing so would inhibit the individual's health. This Order does not require that any child who has not reached Kindergarten wear a face covering. Parents and caregivers must supervise use of face coverings by children to avoid misuse.

D. IN PERSON EDUCATION

1. Child care homes and centers and schools must provide students and staff with access to handwashing facilities and supplies and hand sanitizer. Students and staff must be allowed time to wash hands frequently throughout the day.
2. Desks must be arranged so they are facing the same direction. If tables are used, students must be seated a minimum of 3' apart with face coverings, or the recommended 6' apart for social distancing, and facing the same direction.
3. Child care homes and centers and schools must discontinue off-site field trips.
4. Health status and monitoring:
    i. Students and staff must stay home if they are exhibiting any symptoms of COVID-19, have been confirmed to have COVID-19, or have been required by DPH to isolate or quarantine.

ii. Schools must identify an area or room separated from others where a student or staff member exhibiting any symptoms of COVID-19 can wait until he/she can be picked up, which should be arranged as soon as possible, or transported to a medical facility if necessary.

iii. Facilities: Schools must ensure enhanced cleaning and disinfection of high-touch surfaces (stair railings, doorknobs, bathrooms, etc.), cleaning between every fifteen (15) minutes to two (2) hours using EPA-approved cleaning and disinfecting solutions.

5. LEAs shall direct entities providing bus service to and from school to do the following:

   i. Capacity must be limited by the number of students that can be seated three (3) or more feet apart on the school bus with face coverings (one student per row in staggered fashion, if possible). Students from the same family may sit together in one row, however. All staff and any students Kindergarten and above must wear face coverings. LEAs shall provide a reasonable accommodation for students who are unable to wear a face covering on a bus due to health reasons.

   ii. High-touch surfaces on buses (handrails, seat tops, particularly in first few rows) must be cleaned between every bus run with an EPA-approved solution.

6. Student attendance:

   i. The minimum annual school hours requirement of 14 Del. C. § 1049(a)(1), 14 Del. C. §§ 505(b) and 512, and 14 Del. Admin. Code 615 School Attendance shall be suspended for the 2020-21 academic year. LEAs (school districts and charter schools) will develop school schedules according to their model chosen for hybrid

or remote learning. Each LEA must develop an attendance policy that defines and describes the LEA's rules concerning attendance for students K-12.

1. LEAs shall provide on average three and a half (3.5) to five (5) hours daily of synchronous (delivered same time) or asynchronous (not delivered same time) programming. Attendance may be based on a combination of participation in, completion and/or submission of assignments as determined by the LEA.
2. LEAs shall continue to enter attendance in eSchool.
3. For the 2020-21 academic year, LEAs may amend their calendars without complying with the thirty- (30) day public notice requirement of 14 Del. C. § 1049(a)(1). For the 2020-21 academic year, LEAs may amend their calendars with a seven- (7) day public notice requirement. Any amended plan must provide for the completion of one-hundred and eighty-eight (188) teacher days and be immediately provided to the DDOE.
4. Schools' schedules must allow for the delivery of Delaware State Content Standards for students K-12.
5. LEAs shall develop a process to provide outreach and support when families are not participating.
6. Each LEA shall post the attendance policy on its website and notify a parent, guardian, or relative caregiver of each student in writing where this policy can be accessed. A hard copy shall be provided to a parent, guardian, or relative caregiver upon request.
7. Final attendance policies must be in place before the beginning of the school year and must be submitted to the Secretary of Education no later than October 2, 2020.

7. Educator Support:

i. The definition of Capstone Clinical Residency found in 14 Del. Admin. Code § 290.1 shall be modified to allow Programs to adjust the schedule and format of the

Clinical Capstone Residency to comply with embedded LEA vacation schedules, holidays, and unforeseen official school closures during the State of Emergency and six months after the State of Emergency is lifted.

ii. The Praxis Subject Assessment or content area requirements of 14 Del. C. § 1220(a) and 14 Del. Admin. Code §§ 1554-1562 shall be suspended until six (6) months after the State of Emergency is lifted.

iii. The Candidate Evaluations required as part of the Educator Preparation Programs under 14 Del. Admin. Code § 290.3.5.1 may be completed through in-person, virtual and/or a combination of in-person and virtual observation during the State of Emergency and six months after the State of Emergency is lifted.

iv. The requirement of 14 Del. C. § 1262(a)(2) to earn passing scores on an approved content-readiness exam prior to entering an Alternative Route to Certification (ARTC) program shall be suspended until six months after the State of Emergency is lifted.

v. 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 and shall remain suspended until six months after the State of Emergency is lifted.

8. Educator Licensing:

i. Educators holding a continuing license with a renewal date in 2020 who have not completed the ninety (90) hour minimum professional development requirement of 14 Del. C. § 1212 shall have until June 30, 2021 to complete the requirement with a request from the LEA.

ii. DPAS II shall be suspended until November 1, 2020. In the interim, the Department of Education and educators shall devise an alternate mechanism for tracking student growth, evaluating teacher performance, and monitoring student achievement for the remainder of the 2020-21 school year, given that this school year will be unlike previous years, and evaluations will need to account for the remote and hybrid learning environments.

iii. The creation of new alternative evaluation systems identified in 14 Del. C. § 1270(f) shall be suspended for the 2020-21 academic year.

9. SEED and Inspire:

i. The requirement of 14 Del. C. § 3404A, Delaware Student Excellence Equals Degree Act (SEED), that a student receiving SEED financial assistance earn a minimum of twenty-four (24) credit hours in each academic year shall be suspended until six (6) months after the State of Emergency is lifted.

ii. The requirement of 14 Del. C. § 3414A Delaware State Inspire Scholarship Program (Inspire), that a student receiving Inspire financial assistance earn a minimum of twenty-four (24) credit hours and complete ten (10) hours of community service in each academic year shall be suspended until six (6) months after the State of Emergency is lifted.

10. Substitute teachers: The forty-five (45) day work requirement for continuous employment found in 14 Del. Admin. Code § 745 and impacting substitute teachers and persons who have participated in a student teaching placement and who have fulfilled the requirements of 14 DE Admin. Code § 746 shall be suspended for the 2020-21 academic year, thus Criminal Background Checks for substitute teachers set to expire pursuant to 14 Del. Admin. Code § 745.5 shall be valid for the 2020-21 academic year.
11. Student Support:
    i. The vision and hearing screening, postural and gait screening, and lead screening requirements of 14 Del Admin. C. § 815.3 Health Examinations and Screenings shall be suspended during the State of Emergency. Schools should make every effort to reinstate and complete screenings for § 3.1.1 (vision and hearing screening for grades 2, 4, 7, and 9 or 10), § 3.1.1.1.1 (driver's education students), and § 3.2.1 (postural and gait screening for grades 5-9) during the 2020-2021 school year upon the lifting of the State of Emergency.
    ii. Lead screening for children entering kindergarten or first grade shall be required before the 2021-2022 school year in accordance with, 14 Del Admin. C. § 815.3.3.1.
    iii. The deadline to submit a counseling plan by August 15, per 14 Del. Admin. C. § 545.3, is extended to on or before September 15, 2020.
12. Educational Programs for English Learners: The initial English Learner screening requirement of 14 Del. Admin. Code § 920.2.2 shall be suspended for the 2020-21 academic year. For the 2020-21 academic year, any student for whom a language other

than English is reported on the home language survey, the school or district shall to the extent practicable follow Delaware's statewide entrance criteria as outlined in Delaware's approved ESSA Plan and further described in Delaware's English Learner Guidebook. An initial in-person screening or WIDA Remote Screening assessment of English language proficiency shall be conducted as soon as practicable, but not later than forty-five (45) school days after enrollment and shall be conducted by qualified personnel trained in the administration of the assessment instrument. Upon return to in-person instruction, any student screened with the WIDA Remote Screening assessment of English language proficiency must complete the in-person screening within twenty-five (25) days as outlined in Delaware's approved ESSA plan.

13. Chemical Inventory: The requirement of 14 Del. Admin. Code § 885.5.1 that each school district and charter school prepare a Chemical Inventory for each of its schools by September 15 of each year shall be suspended. Each school district and charter school must prepare a Chemical Inventory for each of its school by November 15, 2020.

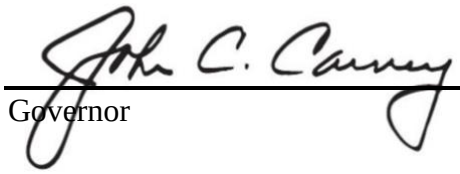
E. CHILD CARE

1. Effective September 1, 2020 group sizes in child care homes and centers may increase from fifteen (15) to twenty-five (25) for school age children (space permitting). All children and staff must follow the appropriate face covering requirements.
2. Recreational camps (usually called summer or youth camps) approved by the Division of Public Health may request limited or temporary continuation of the previous camp program through the end of October 2020. Such requests should be directed to the Department of Education, Office of Child Care Licensing, which shall review the requests and act as the administrator of any camps approved for continuing operation.

F. 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 may constitute 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 26th day of August 2020 at 9:00 a.m.



Governor