GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

EXECUTIVE ORDER

Executive Order 2020-51

Arizona: Open for Learning

WHEREAS, on March 11, 2020, pursuant to A.R.S. §§ 26-303 and 36-787, a declaration of Public Health State of Emergency was issued due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19; and

WHEREAS, on March 30, 2020, the Director of the Arizona Department of Health Services (ADHS), based on an epidemiological assessment of Arizona specific data and in alignment with the Centers for Disease Control and Prevention (CDC) guidance, recommended that the State implement enhanced mitigation strategies, which are continuing; and

WHEREAS, on June 24, 2020, Executive Order 2020-41, *2020-2021 School Year*, was issued to offer flexibility and funding certainty to schools to ensure that Arizona students and families would have educational consistency during these unprecedented times; and

WHEREAS, on June 29, 2020, Executive Order 2020-44, *Protecting Public Health for Students and Teachers*, was issued to aid in the delivery of education for the 2020-2021 school year in a safe and effective manner while monitoring the impacts of mitigation efforts for COVID-19; and

WHEREAS, Article XI, Section 2, of the Arizona Constitution vests the State Board of Education with overseeing the general conduct and supervision of the public school system; and

WHEREAS, A.R.S. § 15-203(A)(1) directs the State Board of Education to "exercise general supervision over and regulate the conduct of the public school system and adopt any rules and policies it deems necessary to accomplish this purpose;" and

WHEREAS, A.R.S. § 15-182(E) directs the Arizona State Board for Charter Schools to "exercise general supervision over charter schools that are sponsored by the board" and to "adopt rules and policies that the board deem necessary;" and

WHEREAS, A.R.S. § 15-251(4) directs the Superintendent of Public Instruction to "[e]xecute, under the direction of the state board of education, the policies that have been decided on by the state board;" and

WHEREAS, in order for Arizona's public schools and their students to be successful, it is essential that schools retain personnel who have the proper training, credentials and experience to perform essential functions and job duties when schools resume in-person or other instructional operations during the 2020-2021 school year; and

WHEREAS, the ability for Arizona's schools to retain their current workforce is essential to reduce the significant costs associated with recruiting, hiring and training new staff; and

WHEREAS, the decision for students and staff to return to physical school buildings should be made at the local level, based on health data, the needs of the community and capacity to return with sufficient mitigation strategies; and

WHEREAS, the American Academy of Pediatrics has noted that in-person learning is critical to both a child's education, and to their developmental, behavioral and emotional well-being; and

WHEREAS, the focus for this school year must be on ensuring that Arizona students have a successful academic year even though it may look different than ever before given the ongoing pandemic.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, in consultation with the Director of the Arizona Department of Health Services, by virtue of the authority vested in me by the Constitution and laws of the State, including but not limited to A.R.S. §§ 26-303 and 36-787 do hereby order:

1. The Arizona Department of Health Services shall develop public health benchmarks for the safe return of in-person, teacher-led classroom instruction, and make them available no later than August 7, 2020. These recommendations shall be informed by the Centers for Disease Control and Prevention guidance, and may be revised as necessary to reflect the most current public health standards.
    a. Each school district and charter school shall consider these recommendations, guidance from county health officials, community needs and available resources to determine when in-person, teacher-led classroom instruction can safely be made available.
    b. School districts and charter schools shall refer to mitigation strategies as outlined by the Centers for Disease Control and Prevention to adopt a mitigation plan prior to opening a school building for on-site support services or in-person instruction.

2. Each school district and charter school shall begin teacher-led distance learning instruction by the first day of the school district or charter school's instructional calendar submitted to the Arizona Department of Education.
    a. The school district or charter school shall submit its distance learning plan to the Arizona Department of Education or the Arizona State Board for Charter Schools no later than the start date of distance learning instruction or August 14, 2020, whichever is earlier, as required under Executive Order 2020-41.
    b. To the greatest extent possible, schools should offer synchronous learning where a teacher provides instruction in real-time.
    c. Instruction provided via distance learning shall count toward the minimum instructional days or an equivalent number of hours required by A.R.S. §§ 15-341.01 and 15-901.
    d. Consistent with Executive Order 2020-41, the state funding for students receiving instruction via distance learning on either a full-time or part-time basis shall be

treated as a student receiving instruction via Arizona online instruction as prescribed in A.R.S. § 15-808. School districts and charter schools that comply with the provisions of Executive Order 2020-41, Executive Order 2020-44, and this Executive Order will be eligible to receive grant funding from the Enrollment Stability Grant Program to address any potential funding shortfall that might occur.

3. Each school district and charter school shall begin offering free on-site learning opportunities and support services for students who need a place to go during the day as required by Executive Order 2020-41 and shall begin August 17, 2020, as prescribed in Executive Order 2020-44.
    a. A school district or charter school that has not returned to physical buildings for teacher-led classroom instruction in accordance with paragraph 1 of this Executive Order, is still obligated to provide on-site learning opportunities and support services under Executive Order 2020-41.
    b. On-site learning required by Executive Order 2020-41(3)(b) includes in-person support services such as student supervision and strategic support for students in need during standard school hours, which may include teacher-led or paraprofessional support for students with distance learning instruction.
    c. A school district or charter school may adopt procedures to ensure that the number of students present for free on-site support services does not exceed the maximum number of students who can be present in a facility while maintaining appropriate physical distancing or other mitigation strategies as outlined by the Centers for Disease Control and Prevention. These procedures shall not limit the availability of, or result in a refusal to provide, free on-site support services.
    d. A school district or charter school may apply to the Arizona Department of Education for a waiver of the requirement under Executive Order 2020-41 to provide free on-site learning if a county health department, in conjunction with the Arizona Department of Health Services, advises closing an entire school district or charter school due to an outbreak of the virus, or a tribal sovereign nation issues a "stay-at-home" order impacting a school district or charter school on or adjacent to a reservation.

4. Each school district and charter school shall take the following steps to ensure parents and guardians are notified of school operations:
    a. Post its distance learning plan on the school district or charter school's website by the first day of distance learning instruction;
    b. Notify parents and guardians of the requirements of A.R.S. § 15-802 and the minimum level of contact required to maintain enrollment as indicated in the distance learning plan;
    c. Post its mitigation plan on the school district or charter school's website prior to opening the school building for on-site support services or in-person instruction;
    d. Post on the school district or charter school's website the details of their plan to provide free, on-site llearning opportunities and support services, and:
        i. Notify all parents of the availability of this opportunity;

ii. Make direct contact with families of children enrolled in the free or reduced priced lunch meal program, students with disabilities, English language learners and those in the care of the Arizona Department of Child Safety, including foster care, to notify them.

5. All school districts and charter schools shall develop and implement a policy to require face coverings, such as face masks or face shields, for all staff and students over the age of five until the Arizona Department of Health Services determines that face coverings are no longer necessary or recommended to contain the spread of the virus.
    a. Policies shall include exceptions for instances when students can socially distance or are outside in playground settings with distancing, and shall allow breaks for students to take their face covering off in a safe environment.
    b. Schools shall incorporate other restrictions and exceptions consistent with guidance from the Centers for Disease Control and Prevention.
    c. Cloth face coverings should not be worn by children under the age of 2 or anyone who has trouble breathing, is unconscious, incapacitated, or otherwise unable to remove the mask without assistance.

6. As a direct benefit to the State, its public schools and Arizona families, and in furtherance of the public purpose of ensuring that properly trained, qualified and experienced personnel continue to be available when in-person classes resume, Arizona's public schools may continue to pay their employees or classes of employees, including hourly employees, during periods of school building closure, so long as:
    a. The public school determines that such payments are necessary to preserve a properly trained, qualified and experienced workforce, it serves the public purpose of protecting the public schools' investment in its workforce and the public school has sufficient revenues to continue such payments due to school building closures, as determined by the governing boards of each public school; and
    b. To be eligible for payment, the employee remains committed and available to work during the employee's normal work hours or during periods of school building closures, whether the work is to be performed in-person or remotely, or the employee is given an alternative work assignment for which they are qualified to perform.

7. Notwithstanding the provisions of this Order, Executive Order 2020-41, and Executive Order 2020-44, developmental preschools, which provide services to children with disabilities, may provide services in-person, consistent with CDC and ADHS public health recommendations.

8. The Arizona Department of Education in collaboration with the State Board of Education and the Arizona State Board for Charter Schools may develop guidance to assist school districts and charter schools consistent with this Executive Order.

9. The Arizona Department of Education and the Arizona State Board for Charter Schools shall monitor compliance to the provisions of subsection 4 of this Executive Order when evaluating implementation of Distance Learning Plans as prescribed in Executive Order 2020-41.

10. Any provisions of this Executive Order that conflict with Executive Order 2020-41, *2020-2021 School Year: Prioritizing Kids and Schools During COVID-19,* or Executive Order 2020-44, *Protecting Public Health and for Students and Teachers*, govern.

11. If any provision of this Executive Order and Executive Orders 2020-41 and 2020-44, which are incorporated herein, or their application to any person or circumstance is held invalid by any court of competent jurisdictions, this invalidity does not affect any other provision or application of these Executive Orders, which can be given without the invalid provision or application. To achieve this purpose, the provisions of these Executive Orders are declared to be severable.

12. This order shall remain in place for the duration of the 2020-2021 school year that ends on June 30, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

GOVERNOR

DONE at the Capitol in Phoenix on this twenty-third day of July in the year Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fifth.

ATTEST:

Secretary of State