MIKE DEWINE
GOVERNOR
STATE OF OHIO

Executive Order 2020-41D

The Rescission of Executive Order 2020-36D and Emergency Adoption of Rules 3301-32-06.1 and 3301-37-03.1 of the Ohio Administrative Code by the State Board of Education and Ohio Department of Education

WHEREAS, COVID-19 is a respiratory disease that can result in serious illness or death, is caused by the SARS-CoV-2 virus, which is a new strain of coronavirus that had not been previously identified in humans and can easily spread from person to person. The virus is spread between individuals who are in close contact with each other (within about six feet) through respiratory droplets produced when an infected person coughs or sneezes. It may be possible that individuals can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or eyes; and

WHEREAS, on January 31, 2020, Health and Human Services Secretary, Alex M. Azar II, declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, on March 9, 2020, testing by the Department of Health confirmed that three (3) patients were positive for COVID-19 in the State of Ohio. This confirmed the presence of a potentially dangerous condition which may affect the health, safety, and welfare of citizens of Ohio; and

WHEREAS, on March 9, 2020, I declared a State of Emergency in Executive Order 2020-01D; and

WHEREAS, Section 3301.07 of the Ohio Revised Code authorizes the State Board of Education to adopt rules necessary for carrying out any function imposed on it by law; and

WHEREAS, Section 3301.53 of the Ohio Revised Code requires the State Board of Education, in consultation with the Director of Job and Family Services, to formulate and prescribe by rule adopted under Chapter 119 of the Revised Code minimum standards to be applied to preschool programs operated by school district boards of education, county boards of developmental disabilities, community schools, or eligible nonpublic schools. Further, Section 3301.53 of the Ohio Revised Code requires the State Board of Education, in consultation with the Director of Job and Family Services, to ensure that the rules adopted by the State Board of Education for preschool children and school-age children are consistent with and meet or exceed

the requirements of the rules adopted by the Ohio Department of Job and Family Services pursuant to Chapter 5104 of the Revised Code for child-care centers serving preschool children and school-age children; and

WHEREAS, on December 11, 2020, the Ohio Department of Job and Family Services adopted revised rules for licensed child-care centers; and

WHEREAS, on December 15, 2020, the State Board of Education approved the adoption of revised rules 3301-32-06.1 and 3301-37-03.1 of the Ohio Administrative Code in response to the revised rules for licensed child-care centers adopted by the Ohio Department of Job and Family Services on December 11, 2020; and

WHEREAS, Section 119.03(G) of the Ohio Revised Code authorizes the Governor, on the request of a State agency, to suspend the normal rule making procedures with respect to specific rules when an emergency exists necessitating the immediate adoption, amendment, or rescission of such rules. When such a determination is made, the agency may immediately adopt, amend, or rescind such rules, but the rules are only valid for one hundred and twenty (120) days; and

WHEREAS, the State Board of Education and Ohio Department of Education have requested a determination whether an emergency exists that requires the adoption of revised rules 3301-32-06.1 and 3301-37-03.1 on an emergency basis and that would therefore permit the State Board of Education and Ohio Department of Education, pursuant to Sections 3301.07 and 3301.53 of the Ohio Revised Code, to make an immediate and necessary adoption of the revised rules.

NOW THEREFORE, I, Mike DeWine, Governor of the State of Ohio, by virtue of the power and authority vested in me by the Constitution and laws of this State, do hereby rescind Executive Order 2020-36D in its entirety.

Further, I have determined, upon the request of the State Board of Education and Ohio Department of Education, that an emergency exists requiring the immediate adoption of revised rules 3301-32-06.1 and 3301-37-03.1 of the Ohio Administrative Code.

I hereby order that the procedures prescribed by Section 119.03 of the Ohio Revised Code with respect to the adoption of the specified rules be suspended and that the State Board of Education and Ohio Department of Education be permitted to adopt the rules immediately by filing them electronically with the Secretary of State, the Director of the Legislative Service Commission, and the Joint Committee on Agency Rule Review ("JCARR").

Furthermore, I hereby order that this Executive Order be filed in electronic form with the State Board of Education, Ohio Department of Education, the Secretary of State, the Director of the Legislative Service Commission, and JCARR.

I signed this Executive Order on December 16, 2020, in Cedarville, Ohio, and it will expire one hundred and twenty (120) days from the effective date of the emergency rules, or upon the adoption of the rules through the normal JCARR process, whichever is sooner.

Mike DeWine, Governor

ATTEST:

Frank LaRose, Secretary of State

Filed on December 18, 2020
Per
In the Office of the Secretary
of State at Columbus, OH
FRANK LaROSE
Secretary of State