STATE OF MINNESOTA
Executive Department

Governor Tim Walz

Emergency Executive Order 20-41

Authorizing and Directing the Commissioner of Education to Extend the Distance Learning Period and Continue to Provide a Safe 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. Minnesota has taken proactive steps to ensure that we are ahead of the curve on COVID-19 prevention and response. 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. On April 13, 2020, after notifying the Legislature, I issued Executive Order 20-35, extending the peacetime emergency declared in Executive Order 20-01.

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. Pursuant to subdivision 3 of that same section, the Governor may "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.

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"). The 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 remain 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") exempted under Executive Order 20-20 and Executive Order 20-33, as supplemented by 20-38.

To preserve the health, safety, and lives of Minnesotans, it is necessary to extend the Distance Learning Period for all Minnesota school districts and charter schools for the remainder of the 2019-2020 school calendar year ("Extended Distance Learning Period"). Although distance learning is a critical component of our response to COVID-19, our Administration believes that we can make improvements to reduce disparities in students' experiences due to inequal access to internet.

Schools are community hubs for children and families. As such, school closures put burdens on children and families and disproportionately impact communities of color, as well as indigenous, immigrant, and low-income families and communities. We thank school staff for their dedication to students. I call on school districts and charter schools to continue to prioritize innovation and direct outreach to students.

In addition to distance learning, schools must continue to ensure students receive daily meals and provide other services virtually where possible, such as physical and mental health care supports.

Throughout the Distance Learning Period, the Minnesota Department of Education ("MDE") continually assessed the efficacy of the programming and services, issued additional guidance when necessary, and determined a need for additional supports for our most underserved students and families as well as students whose education may require limited on-site services. During the Extended Distance Learning Period, I request that all state agencies partner with MDE and the Children's Cabinet to innovate in serving children, schools, and communities to meet the needs of students. This is also a time for the public and private sectors to come together to prioritize the needs of students.

In collaboration with the Minnesota Department of Health ("MDH"), the Center for Disease Control and Prevention ("CDC"), and consistent with public health guidelines on masking, social distancing, personal hygiene, screening, and cleaning practices ("Public Health Guidelines"), MDE may determine that it is possible to safely reopen school facilities for additional specific instructional programming.

School districts and charter schools need authorization to transfer operating funds from programs that are not already assigned to or encumbered by staff salary and benefits, or otherwise encumbered by federal law, to help cover additional costs incurred for nutrition services, community education programs, and technology supports for our students.

Care of Eligible Children continues to be necessary for our state's COVID-19 response. Child care providers remain open. As such, care for such Eligible Children must continue. All programs serving children should follow Public Health Guidelines.

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 of the advice of their doctors. All Minnesotans should continue to regularly check and follow the advice on MDH's COVID-19 webpage: https://www.health.state.mn.us/diseases/coronavirus/

2. To preserve the health and safety of students, their families, school staff, and the public and to provide continuity of education during the COVID-19 pandemic, and pursuant to Minnesota Statutes 2019, section 12.21, subdivision 3(11) and paragraph seven of Executive Order 20-19, I authorize and direct the Commissioner to extend the Distance Learning Period established in Executive Order 20-19 through the end of the 2019-2020 school calendar year. For all school districts and charter schools that operate on an approved flexible learning year calendar, the Distance Learning Period is extended until June 30, 2020. For the purposes of this Executive Order, the extended distance learning periods set forth in this paragraph are referred to as the "Extended Distance Learning Period."

3. Executive Order 20-19 remains in full effect during the Extended Distance Learning Period except as explicitly modified by this Executive Order.

4. School districts and charter schools must use May 1, 2020 and May 4, 2020 to plan for the Extended Distance Learning Period, which will begin on May 5, 2020. To the extent possible, school districts and charter schools must provide accommodations for staff to work remotely. If staff must report to their respective buildings during this Extended Distance Learning Period, planning activities must be performed in accordance with Public Health Guidelines. This provision supersedes paragraph 12 of Executive Order 20-19.

5. School districts and charter schools must electronically post their respective distance learning plans and communicate them to students and their families by May 5, 2020. The distance learning plans must address, but not be limited to, communication pathways with student 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 effectively delivering educational models to students in a distance setting.

6. 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.

7. During the Extended Distance Learning Period, all public schools must provide continuous education based on the distance learning plans developed during the Closure Period directed by Executive Order 20-02, and as modified by school districts and charter schools during relevant planning periods.

8. I authorize the Commissioner, in consultation with the Commissioner of Health, to expand in-school provisions of additional activities and programming the Commissioner deems necessary and that can be operationalized in compliance with Public Health Guidelines where those services cannot be provided through a distance learning model and those services are needed to access that student's distance learning instruction, provide supports or services schools can safely offer, and create opportunities for meaningful connections between students and teachers.

9. MDE, in consultation with MDH, must establish a protocol in accordance with Public Health Guidelines to allow for home visits by school staff to build and preserve relationships with students and their families. Nothing in this protocol should be interpreted as a requirement or should be used to replace services provided by counties or social services.

10. Subject to paragraph 1, school districts and charter schools, in cooperation with state agencies, are directed to support communities disproportionately impacted by the Distance Learning Period and Extended Distance Learning Period, including but not limited to, historically marginalized families and families experiencing homelessness. During these periods, schools are expected to provide meals and instructional resources needed for distance learning to their students. MDE will continue to provide additional guidance to school districts and charter schools about this provision

11. During the Extended Distance Learning Period and per applicable labor agreements, school districts and schools must allow for remote work or telework to the extent possible. To the extent that it is necessary for teachers and staff to be physically present in school buildings, school districts and schools must provide conditions for staff in compliance with Public Health Guidelines.

12. Consistent with applicable labor agreements, school districts and charter schools must utilize available staff who are able to work during the Extended Distance Learning Period. School districts and charter schools must also provide employee accommodations as required by law.

13. Upon approval by the Executive Council and notwithstanding Minnesota Statutes 2019, section 169.443, subdivision 2, school buses may deploy arm and flashing red signal systems when delivering meals and distance learning materials to students.

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

15. Upon approval by the Executive Council, the requirement for school districts and charter schools to administer and for current senior high school students to complete the civics test questions pursuant to Minnesota Statutes 2019, section 120B.02, subdivision 3 is waived for the 2019-2020 school year.

16. 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.

    b. To pay additional transportation costs incurred between March 30, 2020 and the end of the 2019-2020 school year, as defined in paragraphs 2 and 3, 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, Distance Learning, and Extended Distance Learning periods.

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

17. Upon approval by the Executive Council, school districts and charter schools may use fiscal year 2020 ("FY 2020") revenues from programs that are not already assigned to staff salary and benefits for the purposes in paragraph 16 needed to implement this Executive Order. The expanded revenue use in a program is allowed if it does not increase state aid obligations to the school districts or charter schools or result in additional property tax authority for the school district other than what would be received under the statutory uses of the revenue in FY 2020. A school board must approve the use of FY 2020 revenue from operating funds of a district by the fiscal year reporting deadline. A school district or charter school must maintain accounting

records for the purpose of this Executive Order that may be reviewed by auditors and that are sufficient to document both the specific funds transferred and use of those funds. The Commissioner must provide guidance on the state revenue programs that may be used for the purposes outlined in this Executive Order.

18. Upon approval by the Executive Council, under Minnesota Statutes 2019, section 134.355, subdivision 8, the purposes of regional library telecommunications aid is expanded to include the improvement of internet access and access to technology with items that are not e-rated, including, but not limited to, digital or online resources.

19. The Commissioner, in consultation with the Commissioner of Health, may allow school districts and charter schools to open for summer school and extended school year programming. These programs must comply with Public Health Guidelines, paragraphs 1 and 11 and MDE guidance created pursuant to paragraph 20 of this Executive Order.

20. I direct the Commissioner to create guidance for distance learning during the summer period, and, if possible per MDH recommendations, for summer learning that employs a hybrid model of distance learning and in-school learning.

21. 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 in the case that a typical, in-building school year is not possible based on the health and safety of students, their families, school staff, and the public due to the COVID-19 pandemic.

22. Upon approval by the Executive Council, notwithstanding any law to the contrary, fiscal year 2020 expenditures for employees and contracted services that would have been eligible for state special education aid under Minnesota Statutes 2019, section 125A.76, and for special education tuition billing under Minnesota Statutes 2019, sections 125A.11 and 127A.47, in the absence of school closures or learning plan modifications due to COVID-19 must be included as eligible expenditures for the calculation of state special education aid and special education tuition billing.

23. Upon approval by the Executive Council, notwithstanding any law to the contrary:

    a. For school meals served beginning on or after March 16, 2020, the Commissioner may adjust the fiscal year 2020 appropriations remaining under Minnesota Laws 2019, First Special Session Chapter 11, article 7, section 1, subdivisions 2, 3, and 4 as specified in paragraph b.

    b. On June 30, 2020, the Commissioner must subtract the amount actually paid to participants for the 2019-2020 school year under Minnesota Laws 2019, First Special Session Chapter 11, article 7, section 1, subdivisions 2, 3, and 4 through March 13, 2020 from the total appropriations for each program. The

Commissioner must then allocate the remaining funds under each appropriation to participants in the summer food service program on a per-meal basis for meals served on or after March 16, 2020 and before July 1, 2020.

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

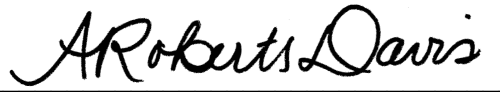
Signed on April 23, 2020.

Tim Walz
Governor

Filed According to Law:

Steve Simon
Secretary of State

Approved by the Executive Council on April 24, 2020:



Alice Roberts-Davis
Secretary, Executive Council

Filed on April 24, 2020
Office of the Minnesota
Secretary of State,
Steve Simon