

GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA
★
EXECUTIVE ORDER

Executive Order 2021-10

Providing Schools Options for Face Coverings

WHEREAS, on March 11, 2020 the World Health Organization officially declared a pandemic due to COVID-19; and

WHEREAS, that same day, pursuant to A.R.S. §§ 26-303 and 36-787, I, as Governor of the State of Arizona, issued a Declaration of a Public Health State of Emergency, authorizing the Director of the Arizona Department of Health Services (ADHS) to coordinate all matters pertaining to the public health emergency response of the State; and

WHEREAS, on July 23, 2020, Executive Order 2020-51, *Arizona: Open for Learning*, was issued requiring that “[a]ll 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 ADHS determines that face coverings are no longer necessary or recommended to contain the spread of the virus”; and

WHEREAS, the Director of ADHS, pursuant to the Declaration of Emergency and A.R.S. §§ 26-307(A) and 36-787(A), may make, amend, and rescind orders, rules, and regulations necessary for emergency functions and shall coordinate matters pertaining to the public health emergency response of the State; and

WHEREAS, pursuant to A.R.S. § 36-787(A)(1) and (2) ADHS has primary jurisdiction, responsibility, and authority for planning and executing the public health emergency mitigation response for the State and coordinating the public health emergency response among State, local, and tribal authorities; and

WHEREAS, on November 19, 2020, the Director of ADHS, to attempt to prevent and control the spread of COVID-19, mandated face coverings at all schools and charter schools in the State through Emergency Measure 2020-04; and

WHEREAS, on March 19, 2021, the Center for Disease Control and Prevention (the “CDC”) issued updated Operational Strategy for K-12 Schools and Indicators for Dynamic School Decision Making (collectively the “Recommendations”); and

WHEREAS, the Recommendations identify “universal and correct use of masks” as one of the five key prevention strategies in the Essential Elements; and

WHEREAS, the Arizona Department of Education has issued a Roadmap for Reopening Schools (the “Roadmap”); and

WHEREAS, on March 29, 2021, ADHS adopted the CDC’s Recommendations in its K-12 School Guidance for Covid-19 (the “Guidance”); and

WHEREAS, since that time, the Director of ADHS has monitored the updated information and recommendations available regarding prevention, mitigation and response to the COVID-19 pandemic; and

WHEREAS, pursuant to A.R.S. § 26-307(A), “counties, cities and towns may make, amend and rescind orders, rules and regulations necessary for emergency functions but such shall not be inconsistent with orders, rules and regulations promulgated by the governor;” and

WHEREAS, pursuant to A.R.S. § 26-307(B), “Existing laws, ordinances, orders, rules and regulations in conflict with this chapter or orders, rules or regulations issued under authority of this chapter are suspended during the time and to the extent that they conflict;” and

WHEREAS, pursuant to A.R.S. § 36-787, during a public health state of emergency, the Arizona Department of Health Services shall coordinate all matters pertaining to the public health emergency; and

WHEREAS, based on the authority of A.R.S. Title 26, Chapter 2 and A.R.S. § 36-787, coordination of all matters pertaining to COVID-19 are of statewide concern rather than local concern unless otherwise determined by the Director of the Arizona Department of Health Services; and

WHEREAS, Arizona’s mass distribution of the vaccine has resulted in the administration of 4,495,519 doses of COVID-19 vaccine to 2,736,235 individuals in Arizona, including 1,926,181 who have been fully vaccinated; and

WHEREAS, the availability of vaccines has grown, allowing for additional vaccine appointments to be opened to more age groups, including those 16 and older; and

WHEREAS, as more and more of Arizona’s population becomes vaccinated, the risk previously posed by COVID-19 that our healthcare institutions will exceed capacity is decreasing as Arizona has seen the number of cases, hospitalizations, and deaths continue to decrease over the last seven weeks; and

WHEREAS, as advances are made in preventing, mitigating and responding to COVID-19 and recommendations are updated, it is possible to rescind prior directives that can be more appropriately addressed by ADHS.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, 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 that effective immediately:

1. Paragraph 5 of Executive Order 2020-51, *Arizona: Open for Learning*, is rescinded.
2. Pursuant to A.R.S. § 26-307(A), ADHS shall make, amend and rescind orders, rules and regulations necessary to be consistent with this order.
3. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

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



Douglas A. Ducey

GOVERNOR

DONE at the Capitol in Phoenix on this 19th day of April in the year Two Thousand and Twenty-one and of the Independence of the United States of America the Two Hundred and Forty-Fifth.

ATTEST:

[Signature]

Secretary of State