

FILED AGENCY CLERK

2020 NOV 30 AM 8:54

DEPT OF EDUCATION  
TALLAHASSEE FLA

**STATE OF FLORIDA  
DEPARTMENT OF EDUCATION**

DOE ORDER NO. 2020-EO-07

IN RE: WAIVING STRICT  
ADHERENCE TO THE FLORIDA  
EDUCATION CODE, AS SPECIFIED  
HEREIN, PURSUANT TO  
EXECUTIVE ORDER NUMBER 20-  
52, MADE NECESSARY BY THE  
COVID-19 PUBLIC HEALTH  
EMERGENCY

**EMERGENCY ORDER**

WHEREAS, the Governor of the State of Florida issued Executive Order No. 20-276, ratifying and reaffirming Executive Order No. 20-52, declaring a state of emergency in response to the COVID-19 Public Health Emergency; and,

WHEREAS, in Florida Division of Emergency Management Order No. 20-004, the State Coordinating Officer directed the Florida Department of Education in coordination with educational providers to take all appropriate action to promote the health, safety, welfare and education of Florida's students during the emergency; and,

WHEREAS, the Commissioner of Education issued DOE Order No. 2020-EO-06, providing funding stability for school districts and educational options for parents during the pandemic, including in-person, innovative and virtual instruction; and,

WHEREAS, thanks to Florida's courageous and dedicated educators and local school leaders, all 67 county school districts, all state university laboratory schools and the Florida School for the Deaf and the Blind opened for in-person instruction so that nearly 65% of Florida's public school students (approximately 1.85 million) are learning in-person; and,

WHEREAS, parents and districts continue to need the educational and financial benefits provided by DOE Order No. 2020-EO-06, including funding stability as students continue to return to in-person instruction, supports for students who are not meeting grade-level expectations and an array of learning modalities (in-person, innovative, virtual) so that parents can select the option best suited for their children; and,

WHEREAS, disproportionate numbers of students who are already educationally disadvantaged are learning off-campus or not attending school at all, and certain achievement gaps are widening, such that additional supports and interventions are needed to reach children who are not enrolled in school and to help students who are enrolled but experiencing academic losses during the pandemic.

NOW, THEREFORE, I, Richard Corcoran, Commissioner of the Florida Department of Education (Department), pursuant to the authority granted by Executive Order 20-52 and Florida Division of Emergency Management Order No. 20-004, issue this Order to accomplish the goals of: 1) building on the successful reopening of all public schools to in-person instruction; 2) promoting parental choice while ensuring that every student is making adequate academic progress; 3) providing financial continuity to enable each school district to maintain the full panoply of services for the benefit of Florida students and families, including students from vulnerable populations such as low-income families, migrant families, the homeless, English Language Learners, students in foster care and students with disabilities; and 4) empowering every district to maintain high-quality school choices for Florida students and families with a focus on eliminating achievement gaps, which have been exacerbated by the crisis. I further find that the flexibility provided for in this Order is necessary to respond to and mitigate the impact of the emergency and promote the health, safety, and welfare of persons connected with Florida's educational system.

**I. Spring 2021 Education Plans.**

- a. In order to receive the benefits provided for in this Order, school districts must submit to the Department a Spring 2021 Education Plan that satisfies the requirements of this Order by Tuesday, December 15, 2020. Similarly, each charter school governing board must submit a Spring 2021 Education Plan to the sponsoring district by Friday, December 15, 2020. Either a school district or a charter school governing board may request assistance from the Department to resolve any disputes over a sponsor's approval of a charter school's Spring 2021 Education Plan. The Department will seek to resolve such disputes within three business days. The Department may withhold approval of a school district's Spring 2021 Education Plan until such time as all the charter school Spring 2021 Education Plans in the district have been approved by the district.
- b. Spring Intervention Plans. As a component of a district's Spring 2021 Education Plan, districts must submit a Spring Intervention Plan for students identified for expanded learning and supplemental interventions and services. The plan must document the interventions for reading and mathematics, by grade-level and learning modality, the method of identification of students, and include an explanation of how notice of these services and the need for services will be provided to parents/guardians. Spring Intervention Plans must be designed to focus on closing achievement gaps, particularly those that were exacerbated during the pandemic. Any plans for interventions that will continue into Summer 2021 for students with widening grade-level deficiencies must be identified in Spring Intervention Plans. Districts or charter schools that experienced lost instructional time due to delayed opening or temporary closures must provide an explanation of how lost instruction time has been or will be made up.
- c. The format of plan submissions and assurances, as well as the timing of review and approvals, will be established by the Commissioner of Education. The

submission of Spring 2021 Education Plans, including the companion Spring Intervention Plan, and subsequent approval of those plans do not constitute a waiver of state statutes regarding instructional days and hours, rather, approval demonstrates how the district or school adheres to those statutes and rules. Nothing herein requires a district or charter school to submit a plan if the district or charter school wishes to open in traditional compliance with statutory requirements for instructional days and hours. Such districts or charter schools will be subject to funding increases and decreases in the manner prescribed in Florida law for the Spring semester.

## **II. School District and Charter School Requirements for Benefits of the Order.**

- a. All schools remain open. All school boards and charter school governing boards must continue to open brick and mortar schools at least five days per week for all students, subject to advice and orders of the Florida Department of Health, local departments of health, and subsequent executive orders. The day-to-day decision to open or close a school must always rest locally with the board or executive most closely associated with a school: the superintendent or school board in the case of a district-run school; the charter governing board in the case of a public charter school; or the private school principal, director or governing board in the case of a nonpublic school. Strict compliance with requirements of section 1001.42(4)(f), Florida Statutes, requiring school districts to establish a uniform and fixed date for the opening and closing of schools is waived to the extent necessary to give effect to this Order. In addition, strict compliance with sections 1003.02 and 1011.60(2), Florida Statutes, requiring school districts to operate public schools for a minimum of 180 days or an hourly equivalent is waived to the extent necessary to give effect to this Order, consistent with an approved Spring 2021 Education Plan. Further, strict compliance with the reporting requirements for educational planning and information, as set forth in section 1008.385, Florida Statutes, and Rule 6A-1.0014, Florida Administrative Code, is waived to the extent necessary to give effect to this Order, consistent with an approved Spring 2021 Education Plan.
- b. Continue full panoply of services. Pursuant to the authority granted in section 1001.10(8), Florida Statutes, school districts and charter school governing boards must provide the full array of services that are required by law so that families who wish to educate their children in a brick and mortar school full time have the opportunity to do so; these services include in-person instruction (barring a state or local health directive to the contrary), and specialized instruction and services for students with Individual Educational Plans (IEPs). Required services must be provided to students from low-income families, students of migrant workers, students who are homeless, students with disabilities, students in foster care, students who are English Language Learners and other vulnerable populations.
- c. Continue progress monitoring and interventions. Robust progress monitoring and requisite interventions must be extended to all students with tiered support

for students who are not making adequate progress. Progress monitoring data must be shared regularly with the Department, as prescribed, to help ensure that resources are rapidly deployed to support students who are failing to make adequate progress.

- d. Continue expanded learning and supplemental interventions and services. School districts and charter schools must provide supplemental services (such as after-school tutoring, Saturday Academies, Summer Intervention Camps), for any student who, based upon progress monitoring or other data, has not achieved grade-level mastery or who is not on track to achieve a minimum of one year of academic growth during the 2020-21 school year. Such students must be identified by districts and charter schools as soon as possible and provided written notice of the need and availability of these services. School districts and charter schools must use progress monitoring data to track these students, regardless of whether or not they participate in supplemental services.
- e. Continue services for students with disabilities and English Language Learners (ELLs).

1. Students with IEPs must be given the services necessary to ensure that they receive a free and appropriate education, in accordance with their IEPs. School districts must continue to work with IEP Teams to identify students who may have regressed during school closures or during the fall term. School districts must ensure that IEP Teams are appropriately determining needed services, including compensatory services. IEP Teams must follow a student-centered approach and, in accordance with Rule 6A-6.0331, Florida Administrative Code, provide a multi-tiered system of support with a commitment to ensure that the individual needs of each child are met.

2. If an English Language Learner's English reading, writing, listening or speaking skills have regressed during school closures, school districts should convene an ELL Committee meeting with appropriate staff and parents to determine if additional or supplemental English for Speakers of Other Languages (ESOL) services are needed. Although ELL Committee meetings may take place virtually or on-site, school districts should ensure that appropriate identification of English skills has been noted and that schools have the resources to implement additional interventions and strategies. Until Florida Standards Assessment (FSA) for English Language Arts (ELA) assessment scores are available, and despite Rule 6A-6.0903(2)(a)2.b. and c., Florida Administrative Code, school districts are authorized to use scores from district reading assessments, such as progress monitoring, in lieu of FSA-ELA assessment scores, to exit a student from an ESOL program for the 2020-21 school year. Further, despite the requirements of Rule 6A-6.09022(2), Florida Administrative Code, districts may use existing proficiency assessment scores, in lieu of re-testing students for the 2020-21 school year, when determining whether to provide extended services to ELL beyond three years.

- f. Charter school flexibility. School districts must extend the same flexibility in instructional methods and funding to every charter school that submits a Spring 2021 Education Plan to the sponsoring district addressing the requirements set forth in this Order. Charter schools with an approved Spring 2021 Education Plan are authorized to exercise the flexibility provided in this Order. For charter schools with an approved Spring 2021 Education Plan, school districts must adjust funding for their increases or decreases in the same manner that the state funds the enrollment increases or decreases of districts with an approved Spring 2021 Education Plan.
- g. Innovative learning modality. School districts and charter schools are authorized to continue the innovative learning modality in the Spring semester. However, except as provided below, any student who is not making adequate academic progress in the innovative learning modality must be transitioned to another learning modality (in-person, virtual) as soon as practicable. In order for a student who is not making adequate progress to remain in the innovative learning modality, the district or charter school must: 1) provide written notice to the parent or guardian that the child is not making adequate progress and any associated education risks; and 2) obtain written acknowledgement from the parent or guardian verifying the receipt of this information and the intent to remain in the innovative learning modality. Students that are transitioned out of the innovative learning modality based on this requirement must be given additional interventions and supports.
- h. Parental selection of learning modality. School districts and charter schools must not unreasonably restrict the decision of a parent or guardian to alter the learning modality (in-person, innovative, virtual) that best suits their child's needs. Restricting when changes can be made to a certain time of the semester or requiring more than a week's notice prior to changing a student's learning modality are presumptively unreasonable.
- i. Truancy/Attendance of students. School districts must provide enhanced outreach to parents and guardians to ensure maximum in-person enrollment and participation in school. Districts must identify Voluntary Pre-kindergarten and kindergarten-eligible students in their district with the goal of engaging students to maximize kindergarten readiness to support long-term achievement. Efforts to enforce attendance and discourage absenteeism and truancy must be given priority. Every Spring 2021 Education Plan must identify the resources the district will deploy to ensure that every child in the district is accounted for and is actively participating in the public education system, excluding students who are enrolled in private school or home education.
- j. Professional development. In order to assist teachers and their students, school districts must provide training and support to teachers with a focus on those teaching in an innovative and virtual environment for the first time, or who are not yet proficient with these teaching modalities. The training and support must include specific strategies designed to ensure that teachers are fully prepared to

support the intervention needs of their students, regardless of the learning modality.

**III. Financial Continuity to Ensure High-Quality Educational Services.**

- a. Funding for the Fall 2020 semester was set by DOE Order No. 2020-EO-06, which allowed districts to receive funding for the first half of the school year, based upon the General Appropriations Act (GAA) forecast. School districts receive this funding without regard to the results of the October survey.
- b. Funding provided to school districts and charter schools with an approved Spring 2021 Education Plan is designed to continue the financial continuity provided in DOE Order No. 2020-EO-06, with modifications to ensure districts with increased full-time equivalent (FTE) students following surveys 3 and 4 as set forth in Rule 6A-1.0451, Florida Administrative Code, are funded for that increase.
- c. School districts with an approved Spring 2021 Education Plan will receive Florida Education Finance Program (FEFP) funding for the Spring semester based on the methodology described below. For purposes of this Order, the term “GAA forecast” or “forecast appropriation” means the second half of the 2020-21 FEFP appropriation.
- d. The Department will use annualized FTE following surveys 3 and 4, and Add-on FTE from 2019-20 survey 5, to identify all “growth districts.” A growth district is a district where the annualized FTE following survey 3 or 4 (or both), and Add-on FTE from 2019-20 survey 5, generate greater funding for a district than the GAA forecast.
- e. For the Spring semester, each district will receive the greater of:
  - i. The forecast appropriation, less the cost to fund the growth districts; or
  - ii. The funding generated by surveys 3 and 4, and Add-on FTE from 2019-20 survey 5, less the cost to fund the growth districts. The funding generated by surveys 3 and 4, and Add-on FTE from 2019-20 survey 5, shall be equal to one-half of the Second FEFP Calculation plus one-half of the FEFP calculation following surveys 3 and 4.
- f. The cost to fund the increase in growth districts will be proportionately spread across all school districts.
- g. The Student Transportation categorical district allocations within the FEFP shall remain as calculated within the GAA.
- h. Any unused funds from a categorical funded through specific appropriations 8, 9, 92, or 93, shall be used to fund the FEFP for the Spring 2021 semester, consistent with this Order.

- i. Funding adjustments resulting from FTE audits, Earned vs. Paid calculation and other prior year adjustments are not affected by this order and will be processed as in past years.
- j. For charter schools with an approved Spring 2021 Education Plan, school districts must fund their FTE students in the same manner that the state funds districts with enrollment growth or decreases.

**IV. Private Schools that Accept Scholarship Students.**

Private schools that accept public scholarship students may be deemed by the Commissioner of Education to satisfy the requirements for each student to maintain direct student contact with teachers under section 1002.421, Florida Statutes, and “actual school instruction days” for purposes of satisfying the daily and hourly instructional time as set forth in Rule 6A-1.09512, Florida Administrative Code, by submitting a Spring 2021 Education Plan, by Tuesday, December 15, 2020, in a format prescribed by the Department, that provides: 1) access to student progress monitoring data; and 2) plans to provide interventions to struggling public scholarship students, and that does not unreasonably restrict a parent or guardian’s option to alter the learning modality (in-person, innovative, virtual) that best suits their child’s needs. Restricting when changes can be made to a certain time of the semester or requiring more than a week’s notice prior to changing a student’s learning modality are presumptively unreasonable.

**V. Intensive Reading Interventions.**

In order to ensure that students are provided intensive reading interventions when there are limited opportunities to complete reading certifications and endorsements, sections 1008.25(7)(b)3., 1011.62(9)(c)5., and 1011.62(9)(d)1., Florida Statutes, and Rule 6A-6.6053(9)(c)5., Florida Administrative Code, are suspended to allow teachers who are not yet fully certified or endorsed in reading to provide intensive reading interventions out-of-field until June 30, 2021.

**VI. Waivers Require an Approved Spring 2021 Education Plan.**

All of the statutory and rule waivers set forth in this Order for school districts and charter schools are contingent upon having an approved Spring 2021 Education Plan.

**VII. Effective Date.**

This Order is effective immediately, and shall remain effective through the 2021 Summer semester, unless extended by a subsequent emergency order.

DONE AND ORDERED this 30<sup>th</sup> day of November 2020, in

Tallahassee, Leon County, Florida.



Richard Corcoran  
Commissioner of Education

I HEREBY CERTIFY that the above EMERGENCY ORDER has been filed with the Agency Clerk of the Department of Education, on this 30 day of November 2020.



Agency Clerk