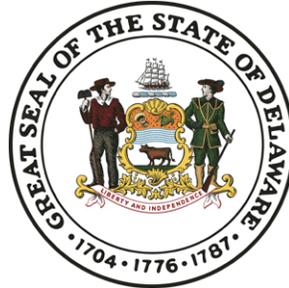


# State of Delaware



Executive Department  
Dover

## **FIRST REVISION TO THE TWENTY-SEVENTH MODIFICATION OF THE DECLARATION OF A STATE OF EMERGENCY FOR THE STATE OF DELAWARE DUE TO A PUBLIC HEALTH THREAT**

**WHEREAS**, on September 3, 2020 at 7:00 p.m. E.D.T., I issued the Twenty-Seventh Modification to the State of Emergency, combining all active COVID-19 restrictions into a single order (as used herein the “Omnibus Modification”), a complete copy of which is incorporated herein by reference and available at <https://de.gov/27soe>; and

**WHEREAS**, except as specifically set forth herein, this Revision shall in no way modify, alter or amend the remaining terms of the Omnibus Modification, all of which shall remain in full force; and

**WHEREAS**, it is important for state government agencies to resume responding to FOIA requests for public records to ensure that records are provided to requestors consistent with FOIA rules; and

**WHEREAS**, in the interest of protecting the citizens of this state from a public health threat, the Governor is authorized by law to issue an order requiring notification of positive cases in schools to control the spread of COVID-19; and

**WHEREAS**, in the interest of protecting the citizens of this state from a public health threat, the Governor is authorized by law to issue an order reasonably necessary to suspend the provisions of any regulatory statute prescribing the procedures for conducting state business, or the orders, rules, or regulations of any state agency, where strict compliance with such provisions may hinder necessary action in coping with the emergency.

**NOW, THEREFORE, I, JOHN C. CARNEY**, pursuant to Title 20, Chapter 31 of the Delaware Code, to control and prevent the spread of COVID-19 within the State of Delaware, do hereby order that Sections F., I.1., L., M.1., and N. of the Twenty-Seventh Modification related to Education, Public Health, State Government and Phase 2 Reopening are hereby modified, effective September 28<sup>th</sup>, 2020 at 8:00 a.m. E.D.T., by making deletions as shown by strike through and insertions as shown by italics as follows:

## **F. EDUCATION**

1. SCHOOL REOPENING. Local Education Agencies (“LEAs”), *private, and parochial schools* will follow the school reopening instructions provided by the DDOE on its website at <https://de.gov/schoolreopening>.
2. SCHOOL NOTIFICATION FOR COVID-19 POSITIVE CASES: Effective immediately, all LEAs, *private, and parochial schools* must notify parents/guardians, *school personnel*, and students aged eighteen (18) and up if the school becomes aware that a person who tested positive was in the school building at the same time as students. The manner and content of the notification is up to each school and must be consistent with applicable state and federal law. DPH will work with schools on their responses to reports of positive test results and on ensuring that any descriptions of those actions in their letters are accurate.

## **I. FOIA – PUBLIC RECORDS AND PUBLIC MEETINGS**

1. ~~The statutory time periods for responses to requests for public records made pursuant to 29 Del. C. § 10003 and for the filing of and response to petitions filed pursuant to 29 Del. C. § 10005 (e), whether such requests or petitions are presently pending or submitted hereafter, are hereby extended until fifteen (15) business days following the termination of any active Declaration of a State of Emergency.~~

## L. PUBLIC HEALTH

20. *The requirement that all payments for dental care treatments are subject to a \$3 copay for adult recipients as required in 31 Del. C. § 503(b)(2)(c) is hereby suspended. The Dental providers who treat adult Medicaid recipients shall not have their payments reduced by \$3, but shall be paid the full allowable amount by the Division of Medicaid and Medical Assistance.*

## M. STATE GOVERNMENT

### 1. EMPLOYEES.

- i. ~~State employees shall refrain from any business travel out of state. If you are scheduled for business travel that you feel is essential, please notify your supervisor. unless the Department Head (or authorized agent) deems such travel essential and issues an approval to the employee.~~
- ii. *In addition to a delegation of authority to issue emergency rules and regulations consistent with the COVID-19 State of Emergency declaration and Delaware law, the Department of Human Resources (“DHR”) is hereby authorized to extend existing or establish new COVID-19 leave policies for employees, as needed, to respond to the COVID-19 State of Emergency until the termination of the State of Emergency or June 30, 2021, whichever occurs first.*

## N. PHASE 2 REOPENING

### SOCIAL GATHERINGS AND EVENTS IN PHASE 2:

3. Gatherings/Events over 250 people: According to the CDC, gatherings of more than two hundred and fifty (250) people offer more opportunities for person-to-person contact and therefore pose greater risk of COVID-19 transmission. Social, community, recreational, and leisure events of more than two hundred and fifty (250) people (“large gatherings and events”), including but not limited to weddings, concerts, parades, festivals, conventions, fundraisers, sporting events and fairs, are hereby prohibited at all locations and venues, except that hosts of large gatherings and events may apply to host a large gathering or event by submitting a plan to ~~eovid19faq@delaware.gov~~ [HSPContact@delaware.gov](mailto:HSPContact@delaware.gov) at least seven (7) days prior to the anticipated event. Outdoor gatherings and events pose a lower risk of infection and are strongly encouraged. Plan approval is at the discretion of *the Division of Public Health* ~~Division of Small Business which, in consultation with DPH, which~~ will consider how to prevent, reduce the spread of, and suppress COVID-19 at any

gathering or event permitted under this Modification. At a minimum, the plan must meet the following requirements:

- a. The plan must show a strict adherence to guidelines in Paragraph 2 of this section: “Gatherings/Events up to 250 People.”
- b. The plan must consider information regarding the number of people attending who are at greater risk of more serious illness after contracting COVID-19. Older adults and persons with pre-existing health conditions are thought to be at increased risk.
- c. The plan must consider information regarding the density of attendees within a confined area. Based on what is currently known about the virus, spread from person-to-person happens most frequently among close contacts, meaning individuals who are within six (6) feet of each other for ten (10) minutes or more.
- d. The plan must contain information regarding enforcement of social distancing.
- e. The plan must consider information regarding the level of transmission in the local community and the level of transmission in the areas from which attendees will travel. That information can be obtained from the two sites listed here:
  1. View Delaware data from DPH available at <https://myhealthycommunity.dhss.delaware.gov>.
  2. View national data from CDC available at <https://www.cdc.gov/covid-data-tracker/index.html>.
- f. The plan must consider local traffic patterns and parking capacity needs.
- g. The plan must follow all requirements for Food and Drink Establishments outlined in the Phase 2 Reopen Plan, including but not limited to maintaining social distancing between individuals from different households if food or drink is served.
- h. The gathering or event must comply with all other applicable state, county and local laws for gatherings and events.

~~4. Graduation Events. A school district or charter school may apply to host a large gathering or event by submitting a plan to Secretary of Education Susan Bunting at [susan.bunting@doe.k12.de.us](mailto:susan.bunting@doe.k12.de.us) at least seven (7) days prior to the anticipated event. A school district or charter school holding an outdoor gathering or event must also comply with any guidance posted by the Department of Education. Plan approval is at the discretion of the Department of Education, which in consultation with DPH, will consider how to prevent, reduce the spread of, and suppress COVID 19 in relation to the gathering. Non-public schools may apply to host a large gathering or event by submitting a plan to the *Division of Public Health at [HSPContact@delaware.gov](mailto:HSPContact@delaware.gov)* Department of State at [covid19faq@delaware.gov](mailto:covid19faq@delaware.gov) at least seven (7) days prior to the anticipated event.~~

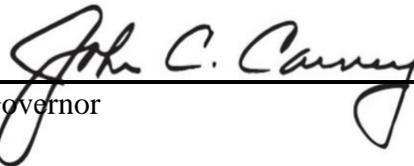
**PHASE 2 LIMITED BUSINESSES:** The following businesses are not permitted to open during Phase 2, except as provided:

1. Sporting facilities and venues (professional and amateur), including but not limited to arcades, bowling alleys, indoor skating rinks (ice and non-ice), martial arts studios, dance studios, indoor tennis and similar indoor athletic facilities, unless they can create

a facility-specific plan to observe the industry guidance provided for exercise facilities. Plans should be emailed to ~~eovid19faq@delaware.gov~~ [hspcontact@delaware.gov](mailto:hspcontact@delaware.gov) for consideration.

2. Indoor children's play areas, including softscape or hardscape playground facilities, trampoline parks and children's museums, unless they can create a facility-specific plan to observe the industry guidance provided for indoor children's play areas, including that that the total number of guests permitted in a facility at any one time shall not exceed thirty percent (30%) of that facility's stated fire occupancy requirements. Plans should be emailed to ~~eovid19faq@delaware.gov~~ [hspcontact@delaware.gov](mailto:hspcontact@delaware.gov) for consideration. The responsibility for enforcing the occupancy limits lies with the facility operator.
3. Water parks, unless they can create a facility-specific plan to observe the industry guidance provided for water parks, including that that the total number of guests permitted in a facility at any one time shall not exceed thirty percent (30%) of that facility's stated fire occupancy requirements. Plans should be emailed to ~~eovid19faq@delaware.gov~~ [hspcontact@delaware.gov](mailto:hspcontact@delaware.gov) for consideration. The responsibility for enforcing the occupancy limits lies with the facility operator.

APPROVED this 25<sup>th</sup> day of September 2020 at 2:00 p.m.

  
Governor