

**ORDER OF THE BOARD OF HEALTH
OF THE CITY OF NEW YORK
FOR THE CLOSURE OF CERTAIN CHILD CARE PROGRAMS AND FAMILY
SHELTER-BASED DROP-OFF CHILD SUPERVISION PROGRAMS**

WHEREAS, on January 30, 2020 the World Health Organization designated the novel coronavirus disease 2019 (“COVID-19”) outbreak as a Public Health Emergency of International Concern and on March 11, 2020 characterized the outbreak as a pandemic; and

WHEREAS, on January 31, 2020 the United States Secretary of Health and Human Services announced a nationwide public health emergency to respond to COVID-19; and

WHEREAS, on March 7, 2020 New York State Governor Andrew Cuomo issued Executive Order No. 202, declaring a State disaster emergency for the entire State of New York to address the threat that COVID-19 poses to the health and welfare of New York residents and visitors; and

WHEREAS, on March 12, 2020, Mayor Bill de Blasio issued Emergency Executive Order No. 98 declaring a state of emergency in the City to address the threat posed by COVID-19 to the health and welfare of City residents; and such Emergency Executive Order directed all agency heads, including the Department of Health and Mental Hygiene (the “Department”) and the Board of Health (the “Board”), to take all appropriate and necessary steps to preserve public safety and to render all required and available assistance to protect the security, well-being and health of the residents of the City; and

WHEREAS, the Department advises the Board that the continuing widespread transmission of COVID-19 internationally and locally continues to be a threat to public health in the City of New York; and

WHEREAS, there is an urgent public health need in the City to slow the spread of COVID-19, and extraordinary measures have been implemented by both the State and the City to limit interactions among people who do not live in the same household; and

WHEREAS, pursuant to Section 558 of the New York City Charter (the “Charter”), the Board may embrace in the Health Code all matters and subjects to which the power and authority of the Department extends, and pursuant to Section 556 of the Charter and Section 3.01 of the Health Code, the Department is authorized to supervise the control of communicable diseases and conditions hazardous to life and health and take such actions as may be necessary to assure the maintenance of the protection of public health; and

WHEREAS, Article 43 of the Health Code establishes regulatory standards for school-based instructional programs for children ages three through five, and Article 47 of the Health Code establishes regulatory standards for, and requires a permit to operate, center-based child care programs and family shelter-based drop-off child supervision programs for children ages birth through five; and

WHEREAS, pursuant to Sections 43.29 and 47.77 of the Health Code, the Department may order a school-based program for a child aged three through five, or a center-based child care program or family shelter-based drop-off child supervision program to close and to discontinue operations if the Department determines that its operation presents a risk of endangering the health or safety of children or other persons; and

WHEREAS, Governor Cuomo issued Executive Order 202.4 ordering every school in the State to close no later than March 18, 2020 and to develop an alternative plan for child care with an emphasis on serving parents who work in the health care profession or first responders who are critical to the COVID-19 response effort, and issued Executive Order 202.11 extending the period of such closures and alternative plans until at least April 15, 2020; and

WHEREAS, the New York City Department of Education has established Regional Enrichment Centers and Emergency Childcare Centers in Department of Education buildings, Department of Education pre-K centers, and community-based programs throughout the city to provide child care and education to children of healthcare workers, first responders and other essential government employees, food workers and pharmacy employees, and the classes in such programs are limited in size to promote physical distance among students and teachers;

NOW THEREFORE BE IT RESOLVED, the Board of Health hereby orders, except as described herein, all school-based instructional programs for children ages three through five, and all center-based child care programs and family shelter-based drop-off child supervision programs serving children ages birth to five and operating with a permit issued by the Department, to close and cease operations before Monday, April 6, 2020, and remain so closed as described in this Order; and

FURTHER, this Order shall not apply to any education and child care programs operated by or on behalf of the Department of Education for children of healthcare workers, first responders and other essential government employees, provided that such programs may also be offered to children of other essential workers and other high-need groups including but not limited to students in temporary housing, space permitting, at the discretion of the Department of Education; and

FURTHER, any program operated by or on behalf of the Department of Education subject to this Order may immediately seek approval from the Department of Education to serve children of healthcare workers, first responders and other essential workers and high-need groups as described herein, and if such approval is granted by midnight, April 3, 2020, such program may operate subject to the requirements and direction of the Department and the Department of Education and consistent with the requirements of this Order; and

FURTHER, the Department is directed to work with the Department of Education and any other agency to inform any program subject to this Order of its requirements, and enforce any provision thereof as necessary; and

FURTHER, this Order shall be effective immediately, and remain in effect until the date in-school instruction in schools operated by the Department of Education resumes, provided that the Commissioner, in accordance with efforts to slow the spread of COVID-19 and further the protection of public health, may permit any program subject to this Order to reopen before such in-school instruction resumes after the Governor has permitted schools to reopen.