

**ORDER OF THE BOARD OF HEALTH OF THE CITY OF NEW YORK
FOR THE TEMPORARY SUSPENSION OF CERTAIN CHILD CARE PROGRAM
STAFF QUALIFICATION REQUIREMENTS**

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 such order remains in effect; 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 (“Department”) and the Board of Health (“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 such order remain in effect; and

WHEREAS, pursuant to Section 558 of the New York City Charter (“Charter”), the Board may embrace in the Health Code of the City of New York (“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, pursuant to Section 556 of the Charter, the Department is also authorized to promote or provide health services for school children in the City; and

WHEREAS, Article 47 of the Health Code establishes health and safety standards for center-based child care in New York City and sets forth education and experience requirements for child care staffing; and

WHEREAS, subdivision (d) of Section 47.13 of the Health Code sets forth the required qualifications for a group teacher in a child care program, and provides that a person who does not possess the requisite baccalaureate degree and certification or experience may qualify for such position by proposing and receiving approval from an accredited college for a study plan to meet these requirements within 7 years; and

WHEREAS, paragraph (3) of subdivision (d) of Section 47.13 of the Health Code requires that a person eligible to be a group teacher in a child care program pursuant to a study plan must submit to the Department documentation indicating that such person is currently enrolled in the accredited college that approves such study plan; and

WHEREAS, paragraph (1) of subdivision (c) of section 47.13 of the Health Code allows a child care program to designate an individual to temporarily act as education director when the education director is not on the premises, provided such individual is a certified group teacher, or a group teacher whose application for certification is pending before the State Education Department or the Department; and

WHEREAS, education directors may be required to quarantine for a minimum of 14 days or otherwise be off-site due to the COVID-19 pandemic, necessitating such designated individuals to act as the education director; and

WHEREAS, existing child care program providers have informed the Department that they expect that urgent staffing needs will continue and expand in the upcoming months; and

WHEREAS, the Department anticipates that child care providers may be unable to hire sufficient numbers of qualified group teachers, as prospective candidates eligible for such position pursuant to a study plan may be unable to satisfy the requirement to be currently enrolled at an accredited college, and may be unable to hire sufficient numbers of certified group teachers who may serve as temporary education directors when necessary; and

WHEREAS, the Department reports that there is a need for additional child care programs, in order to serve the needs of families living and working in New York City while accounting for reduced class sizes and other measures implemented to prevent the transmission of COVID-19; and

WHEREAS, the Board finds that, in order to enable existing and newly opened child care programs to hire sufficient numbers of staff, a temporary modification of the Health Code requirements for group teachers qualified pursuant to a study plan and individuals designated as temporary education directors is warranted.

NOW THEREFORE BE IT RESOLVED THAT, the Board of Health hereby modifies paragraph (1) of subdivision (c) of Section 47.13 of the Health Code to allow that a group teacher who meets the qualifications of subdivision (d) of Section 47.13, as modified by this Order, may be designated to act as a temporary education director when the education director is not on the premises to supervise the child care program, provided that such a group teacher qualified pursuant to a study plan must have completed at least 2 years of such plan; and

FURTHER, BE IT RESOLVED THAT, the Board of Health hereby suspends paragraph (3) of subdivision (d) of Section 47.13 of the Health Code, to the extent such paragraph requires a person eligible to be a group teacher pursuant to a study plan obtain approval of such study plan by an accredited college and be currently enrolled at such college, provided that any person employed as a group teacher obtains approval of a study plan from the child care program's education director and attests to the Department in writing that they

have obtained such approval, satisfy all other applicable qualification requirements set forth in Article 47 of the Health Code and intend to enroll at the accredited college specified in such plan no later than fall 2021.

This Order does not suspend, modify or otherwise affect any requirements that may be applicable to child care program staff pursuant to State law, including section 3602-ee of the New York State Education Law, which imposes qualification requirements upon teachers in universal pre-kindergarten programs.

This Order shall be effective immediately and remain in effect through the end of the 2020-2021 school year, including any summer school sessions during 2021, or such earlier time as identified by the Commissioner of Health and Mental Hygiene upon a determination that this Order no longer serves the public health.