

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 1]

[EXECUTIVE ORDER 2002-3]

Equal Employment Opportunity

May 3, 2002

Whereas, this Administration believes that the employment practices of the Commonwealth of Pennsylvania should be nondiscriminatory in intent and effect to promote public confidence in the fairness and integrity of government; and

Whereas, past governors of the Commonwealth have recognized a constitutional and legislative mandate to take affirmative steps to remedy employment discrimination and have issued Executive Orders promoting equal employment opportunity; and

Whereas, this Administration is firmly committed to strengthening and developing equal employment opportunity programs in the Commonwealth.

Now, Therefore, I, Mark S. Schweiker, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order and direct as follows.



Governor

Fiscal Note: GOV 02-3. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 1. AGENCY OPERATION AND ORGANIZATION

Subchapter M. AFFIRMATIVE ACTION

Sec.

- 1.161. Prohibition of discrimination and affirmation of equal employment opportunity.
- 1.162. Responsibility for implementing equal employment opportunity.
- 1.168. Rescission.

§ 1.161. Prohibition of discrimination and affirmation of equal employment opportunity.

(a) Agencies under the jurisdiction of the Governor may not discriminate against an employee or applicant for employment because of race, color, religious creed, ancestry, union membership, age, gender, sexual orientation, national origin, AIDS or HIV status or disability.

(b) Positive steps shall be taken by each agency under the jurisdiction of the Governor to ensure fair and equal employment opportunity at every level of government for African Americans, Hispanics, Asians, American Indians, Alaskans, Pacific Islanders, persons with a disability, persons of 40 years of age or older and women.

(c) Sexual harassment or harassment based on any of the factors in subsection (a) is prohibited.

§ 1.162. Responsibility for implementing equal employment opportunity.

(a) The Secretary of Administration supervises the development, implementation and enforcement of the Commonwealth's equal employment opportunity programs through the Bureau of Equal Employment Opportunity, which shall:

(1) Develop and promote steps designed to ensure equal employment opportunity and fair treatment of the protected classes at all levels of State government.

(2) Develop Commonwealth-wide equal employment opportunity policies and procedures to ensure consistency and uniformity.

(3) Conduct or participate in periodic onsite reviews and audits of agency equal employment opportunity programs.

(4) Develop complaint resolution procedures for implementation by all agencies under the jurisdiction of the Governor.

(5) Review complaint investigation reports at any time during the complaint process.

(6) Develop and implement a standardized equal employment opportunity procedure to monitor personnel transactions in all Commonwealth agencies under the jurisdiction of the Governor.

(7) Develop and issue guidelines for the conduct of agency equal employment opportunity programs and review of equal employment opportunity plans prior to implementation.

(8) Design and implement monitoring and reporting systems to measure effectiveness of agency equal employment opportunity programs.

(9) Consult with agency officials regarding personnel actions affecting agency equal employment opportunity professional staff, including recruitment, hiring, promotion, demotion, separation, transfer, performance standards and evaluation, and rate of pay.

(10) Provide leadership to agencies in the design and implementation of innovative equal employment opportunity strategies which will further the Commonwealth's fulfillment of the commitment to equal employment opportunity.

(b) Heads of departments and agencies under the jurisdiction of the Governor shall:

(1) Designate an equal opportunity manager or specialist with primary responsibility to develop and implement the agency's equal employment opportunity program.

(2) Ensure that the agency equal opportunity manager or specialist reports directly to the individual who has overall responsibility for the agency's equal employment opportunity program.

(3) Ensure that the agency's commitment to equal employment opportunity is clearly transmitted to all agency employees and that bureau directors and managers provide adequate support to the equal opportunity manager or specialist in the development and implementation of program plans designed to achieve the agency's equal employment opportunity objectives.

(4) Seek input from the Director of the Bureau of Equal Employment Opportunity on personnel actions affecting equal employment opportunity professional staff.

(5) Ensure that the agency develops and implements effective equal employment opportunity plans and auditing and reporting mechanisms.

(6) Ensure that all agency supervisory and management employees are rated on equal employment opportunity, diversity and inclusiveness based in part upon criteria identified in the agency's equal employment opportunity plan.

§ 1.168. Rescission.

Executive Order 1996-9, Equal Employment Opportunity, dated December 20, 1996, is rescinded.

[Pa.B. Doc. No. 02-1089. Filed for public inspection June 21, 2002, 9:00 a.m.]

PART I. GOVERNOR**[4 PA. CODE CH. 6]****[EXECUTIVE ORDER 2002-2]****Governor's Task Force on Early Childhood Care and Education**

Whereas, all infants are born ready to learn; and

Whereas, the majority of a child's brain development occurs in the first five years of a child's life, building the foundation for future learning and success; and

Whereas, the Commonwealth has a duty to assess every setting where our children spend their days, whether under the care of their parents, a relative, neighbor, or a center-based setting; and

Whereas, early identification of developmental delay and other risk factors is crucial to improving a child's individual linguistic, cognitive, social, and emotional development and thus, school readiness; and

Whereas, involved, informed parents, caregivers, and educators are critical to ensure the early identification of developmental delay; and

Whereas, school readiness is a critical workforce issue, with early skill building leading to greater academic achievement and graduates with the knowledge necessary to allow Pennsylvania to compete in the 21st Century economy; and

Whereas, it is the duty of the Commonwealth to invest resources on research-based, cost-effective programs or models with a documented record of success.

Now, Therefore, I, Mark S. Schweiker, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby establish the Governor's Task Force on Early Childhood Care and Education as hereinafter set forth.



Governor

Fiscal Note: GOV 02-2. No fiscal impact; (8) recommends adoption.

Annex A**TITLE 4. ADMINISTRATION****PART I. GOVERNOR'S OFFICE****CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES****Subchapter G. GOVERNOR'S TASK FORCE ON EARLY CHILDHOOD CARE AND EDUCATION**

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6.63.	Composition and appointments.
6.64.	Terms of membership.

- 6.65. Compensation.
- 6.66. Reports.
- 6.67. Annual report.
- 6.68. Executive agencies.
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§ 6.61. Mission.

The Governor's Task Force on Early Childhood Care and Education (Task Force) is charged with examining the full range of proven, evidence-based school readiness strategies available for early childhood care and education targeted at children age 0-8 and the existing Commonwealth services targeted to that age group. The Task Force will provide implementation cost estimates of each strategy based on experience in this Commonwealth or other states.

§ 6.62. Functions.

The Governor's Task Force on Early Childhood Care and Education (Task Force) has the powers and duties to do the following:

- (1) Serve in an advisory capacity.
- (2) Assess the current menu of early care and education programs and services offered or funded by the Commonwealth for children and their families.
- (3) Develop a model for the identification of programs that have a sufficient basis in science and a demonstrated record of effectiveness for discussion by the Task Force.
- (4) Develop a comprehensive listing of programs meeting the effectiveness standards developed under paragraph (3).
- (5) Provide per participant cost estimates for each program included in the list of effective programs.
- (6) Identify innovative financing sources and models for early care and education based on existing initiatives in this Commonwealth and Nationally.

§ 6.63. Composition and appointments.

(a) The Governor's Task Force on Early Childhood Care and Education (Task Force) consists of certain designated public officials and other individuals appointed by the Governor. The membership includes the heads of agencies of the Commonwealth that have responsibilities in the development, funding or regulation of early care and education programming, as well as various early care and education stakeholders. The Task Force consists of the following members:

- (1) The Secretary of Education.
- (2) The Secretary of Public Welfare.
- (3) The Secretary of Health.
- (4) The Physician General.
- (5) Representatives from each of the following stakeholder groups:
 - (i) Child advocacy community.
 - (ii) Business community.
 - (iii) Faith community.
 - (iv) School administrator.
 - (v) Civic, not-for-profit organization.
 - (vi) Statewide professional childcare organization.
 - (vii) Local community partnerships.
 - (viii) Public health/medical community.
 - (ix) Head Start provider.
 - (x) Child care provider.

- (xi) Family literacy community.
- (xii) Clinical practitioner (psychologist, psychiatrist).
- (xiii) Family-based programs.
- (xiv) K-3 educator.
- (xv) Philanthropic organization.
- (xvi) Public outreach and education professional.

(b) The Governor will designate a member or members to serve as the Task Force chairpersons.

(c) The Governor's Community Partnership for Safe Children (Partnership), or its successor entity, shall provide administrative support to the Task Force, with the Executive Director of the Partnership serving as the Task Force's project director and direct advisor to the Chairperson.

(d) A Task Force member may designate an alternate to attend Task Force meetings, if required.

§ 6.64. Terms of membership.

(a) Members of the Governor's Task Force on Early Childhood Care and Education (Task Force) serve at the pleasure of the Governor.

(b) If a vacancy occurs on the Task Force due to resignation, disability or death of a member, the Governor will appoint a successor as expeditiously as possible.

§ 6.65. Compensation.

Members of the Governor's Task Force on Early Childhood Care and Education receive no compensation for their services, except that the members may be reimbursed for actual travel and related expenses in accordance with Commonwealth travel and subsistence policies. See Chapter 40 (relating to travel and subsistence).

§ 6.66. Reports.

The Governor's Task Force on Early Childhood Care and Education (Task Force) shall present an initial report to the Governor by September 30, 2002. The Task Force shall present a comprehensive assessment of child care quality, across all settings, in this Commonwealth by November 15, 2002.

§ 6.67. Annual report.

The Governor's Task Force on Early Childhood Care and Education shall provide a brief update of the reports to the Governor by September 30, 2003, and each subsequent year. The annual update shall include additional programming, practices and funding allocated during the previous year as well as outcomes related to existing programming and practices.

§ 6.68. Executive agencies.

Agencies under the Governor's jurisdiction shall provide assistance to the Governor's Task Force on Early Childhood Care and Education as requested by the chairpersons.

§ 6.69. Termination date.

This subchapter shall continue in force until rescinded or superseded by order of the Governor.

[Pa.B. Doc. No. 02-1090. Filed for public inspection June 21, 2002, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE
[4 PA. CODE CH. 7]
[EXECUTIVE ORDER NO. 2002-5]
Disability-Related Policy

May 3, 2002

Whereas, Pennsylvania cannot be a Commonwealth to all of its people until all of its people enjoy the opportunity to participate fully in society; and

Whereas, Pennsylvania has a proud and distinguished history of protecting the rights of individuals with disabilities through such laws as the Pennsylvania Human Relations Act and the Universal Accessibility Act, as amended, December 20, 1988; and

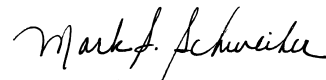
Whereas, the Americans With Disabilities Act of 1990, P. L. 101-336 and the Rehabilitation Act of 1973, P. L. No. 93-112, are intended to empower people with disabilities to lead independent and productive lives and to participate fully in the activities of their communities; and

Whereas, the Americans With Disabilities Act and the Rehabilitation Act complement those state laws and thereby further open the doors of opportunity for Pennsylvanians who seek to be considered on the basis of their abilities and not their disabilities; and

Whereas, the Americans With Disabilities Act requires state services, programs, and activities, when viewed in their entirety, to be accessible to individuals with disabilities; and

Whereas, this Administration has an abiding commitment to the equal rights of all Pennsylvania's citizens.

Now, Therefore, I, Mark S. Schweiker, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order and direct as follows.



Governor

Fiscal Note: GOV 02-5. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

**Subchapter MM. COMMONWEALTH DISABILITY-RELATED
POLICIES**

- Sec.
7.571. Individuals with disabilities.
7.572. Programs offered by Commonwealth agencies.
7.573. Direction for disability-related policy.
7.574. Coordination of meetings.
7.575. Rescission.

§ 7.571. Individuals with disabilities.

A Commonwealth agency under the Governor's jurisdiction may not discriminate against an individual with a disability because of his disability. Individuals with disabilities shall be treated with respect and dignity and shall be provided access to Commonwealth services, programs, activities and employment opportunities.

§ 7.572. Programs offered by Commonwealth agencies.

Commonwealth agencies under the Governor's jurisdiction shall ensure that the programs they offer to the public are nondiscriminatory, accessible and address the particular challenges faced by persons with disabilities.

§ 7.573. Direction for disability-related policy.

Direction for disability-related policy will be assigned as follows:

(1) The Secretary of Administration, as required by Federal law and court decisions, is responsible for ensuring compliance with the employment provisions of the Americans With Disabilities Act of 1960 (act) (42 U.S.C.A. §§ 12101—12213), sections 504 and 508 of the Rehabilitation Act of 1973 (42 U.S.C.A. §§ 794 and 794d) and the Pennsylvania Human Relations Act (43 P.S. §§ 951—963), relating to Commonwealth employment and for ensuring public access to Commonwealth programs and services.

(2) The Secretary of General Services is responsible for ensuring compliance with Title II of the act (42 U.S.C.A. §§ 12131—12165) and other applicable laws relating to Commonwealth buildings and facilities and contract compliance.

(3) The Governor's Policy Office coordinates the implementation of Commonwealth disability-related policies and assesses the effectiveness of those policies.

(4) The Office of General Counsel provides direction and guidance to executive agency legal counsel on handling disability-related litigation and reviews proposed disability-related rules and regulations of executive agencies before they are deposited with the Legislative Reference Bureau as required by sections 102, 201—208 and 602 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1102, 1201—1208 and 1602), known as the Commonwealth Documents Law.

§ 7.574. Coordination of meetings.

The Governor's Policy Office shall coordinate regular meetings of the responsible agencies to discuss disability-related policy and resolve issues that may arise.

§ 7.575. Rescission.

Executive Order 1996-11, Disability-Related Policy dated December 20, 1996, is rescinded.

[Pa.B. Doc. No. 02-1091. Filed for public inspection June 21, 2002, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER NO. 2002-4]

Prohibition of Sexual Harassment in this Commonwealth

May 3, 2002

Whereas, sexual harassment is a form of discrimination that undermines the integrity of the employment relationship and/or service delivery; and

Whereas, the Commonwealth of Pennsylvania, Pennsylvania's largest employer, has an obligation to assertively address sexual harassment issues in the workplace; and

Whereas, sexual harassment shall not be tolerated in Commonwealth workplaces under any circumstances; and

Whereas, this Administration is committed to providing a work environment where employees, applicants for employment, or individuals receiving services from the Commonwealth shall not be subjected to sexual harassment; and

Whereas, to prevent sexual harassment in the workplace, all managers, supervisors, and employees must be made aware of the Commonwealth's sexual harassment policy, the steps to take when concerns arise, and our commitment to address instances of sexual harassment aggressively and equitably.

Now, Therefore, I, Mark S. Schweiker, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby adopt and reaffirm the Commonwealth's sexual harassment policy.



Governor

Fiscal Note: GOV 02-4. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter NN. PROHIBITION OF SEXUAL HARASSMENT IN THIS COMMONWEALTH

Sec.	
7.591.	Prohibition.
7.592.	Prohibited actions.
7.593.	Disciplinary action.
7.594.	Retaliation.
7.595.	Education.
7.596.	Workplace environment.
7.597.	Complaint mechanism.
7.598.	Oversight and resolution of complaints and appeals.
7.599.	Commonwealth policy.
7.600.	Cooperation by State agencies.
7.601.	Rescission.

§ 7.591. Prohibition.

A department, board, commission or other agency under the Governor's jurisdiction may not tolerate sexual harassment by a Commonwealth employee against another employee, applicant for employment, or client or other person receiving services from or conducting business with the Commonwealth. Sexual harassment in Commonwealth work settings is strictly forbidden. Further, a department, board, commission or other agency under the Governor's jurisdiction may not tolerate acts of sexual harassment by persons not employed by the Commonwealth within Commonwealth offices or upon employees of the Commonwealth in the performance of their duties. Sexual harassment is a violation of Federal and State law. Therefore, all Federal and State laws relating to sexual harassment or sex discrimination, or both, will be enforced.

§ 7.592. Prohibited actions.

(a) Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal, visual or physical conduct of a sexual nature when:

(1) Submission to or rejection of the conduct is made either explicitly or implicitly a term or condition of an individual's employment.

(2) Submission to or rejection of the conduct by an individual is used as a basis for employment decisions affecting the individuals.

(3) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(b) Prohibited sexual harassment may include actions by members of the opposite sex of an employee as well as members of an employee's own sex.

Prohibited sexual harassment may include actions which are overtly sexual or facially neutral if the actions constitute gender-based discrimination.

§ 7.593. Disciplinary action.

A Commonwealth employee who engages in or knowingly condones sexual harassment related to Commonwealth employment shall be subject to disciplinary action, up to and including dismissal.

§ 7.594. Retaliation.

Retaliation in any form against an employee, applicant for employment, client or person conducting business with or receiving services from the Commonwealth who exercises his right to make a good faith complaint under this subchapter or who cooperates in an investigation of any complaint is strictly prohibited, and will itself be cause for appropriate disciplinary action.

§ 7.595. Education.

Commonwealth employees will be educated in sexual harassment issues. Education may consist of written materials, formal training, educational videos, orientation sessions, workplace discussions or individual counseling. Commonwealth employees will be provided with a copy of this policy and shall sign an acknowledgement that they have received and reviewed the policy.

§ 7.596. Workplace environment.

Agency heads shall create a workplace environment which encourages discussion of sexual harassment issues, where employees are educated and sensitized to sexual harassment, and where individuals with sexual harassment questions or complaints are provided with a response which is clear, impartial and timely.

§ 7.597. Complaint mechanism.

The Secretary of Administration shall require each agency to have an effective complaint mechanism, which ensures that an employee does not have to complain to the alleged harasser, and which provides for prompt and effective investigation of complaints. The Secretary of Administration shall also have the authority to issue Management Directives and establish rules necessary to carry out the mandates of this subchapter.

§ 7.598. Oversight and resolution of complaints and appeals

The Office of Administration, Bureau of Equal Employment Opportunity, shall provide appropriate oversight and resolution of complaints.

§ 7.599. Commonwealth policy.

This subchapter and *Management Directive 505.30, Prohibition of Sexual Harassment in Commonwealth Work Settings*, constitute the Commonwealth's sexual harassment policy.

§ 7.600. Cooperation by State agencies.

Commonwealth departments, boards, commissions and other agencies under the Governor's jurisdiction shall cooperate fully with the Secretary of Administration and provide assistance and information, as needed, in the implementation of this subchapter.

§ 7.601. Rescission.

Executive Order 1999-3, Prohibition of Sexual Harassment in the Commonwealth is rescinded.

[Pa.B. Doc. No. 02-1092. Filed for public inspection June 21, 2002, 9:00 a.m.]