

# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 1]

[ EXECUTIVE ORDER NO. 2016-03 ]

#### **Establishing “Employment First” Policy and Increasing Competitive Integrated Employment for Pennsylvanians with a Disability**

March 10, 2016

*Whereas*, Pennsylvanians with a disability are valued members of society and all members of society deserve to have the opportunity to work; and

*Whereas*, there is dignity in work, as it provides an individual not only the income necessary to meet basic living needs but can help contribute to his or her self-identity, self-worth and self-respect, and offer a sense of accomplishment; a job can also provide opportunities for social interaction, meaningful friendships, and to be and feel included; and

*Whereas*, efforts to increase the hiring of Pennsylvanians with a disability should be based on the principle that Pennsylvanians with a disability make-up a largely untapped labor pool, and that workers with a disability add value to the workplace, whether it is because they can be dedicated, loyal, and productive members of a team or because they can increase productivity and contribute to new product and service innovations that improve a company's bottom line; and

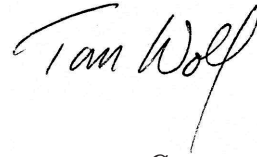
*Whereas*, the unemployment rate for Pennsylvanians with a disability is consistently twice that of the general population, and such a rate is even worse than it appears because it is based on a workforce participation rate of about 20 percent for Pennsylvanians with a disability compared to about 70 percent for all individuals; and

*Whereas*, Pennsylvania has a history of valuing employment for people with a disability and providing services intended to promote each person's ability to live, contribute and achieve status in their communities; and

*Whereas*, Pennsylvania government is actively committed to promoting improved competitive integrated employment outcomes through its involvement as a core state selected by the United States Department of Labor's Office of Disability Employment Policy's Employment First State Leadership Mentoring Program, and participation in the National Association of State Directors of Developmental Disability Services' State Employment Leadership Network; and

*Whereas*, the 21st Century has brought a significant change in public policy regarding employment of individuals with a disability recognized by the passage of the Workforce Innovation and Opportunity Act (WIOA), new federal rules for home and community based services, amendments to the Americans with Disabilities Act Amendments Act of 2008, and new federal rules that implement Section 503 of the Rehabilitation Act of 1973, as amended; and

Now, Therefore, I, Tom Wolf, 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-16-03. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 4. ADMINISTRATION**

**PART I. GOVERNOR'S OFFICE**

**CHAPTER 1. AGENCY OPERATION AND ORGANIZATION**

**Subchapter FFF. EMPLOYMENT FIRST POLICY AND  
COMPETITIVE INTEGRATED EMPLOYMENT FOR  
PENNSYLVANIANS WITH A DISABILITY**

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**§ 1.851. Policy.**

Employment First is the policy of Commonwealth executive branch agencies under the jurisdiction of the Governor. This policy reflects the Commonwealth's goal of making the Commonwealth a model state when it comes to creating a climate hospitable to workers with a disability.

**§ 1.852. Definitions.**

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

*Competitive integrated employment*—The term as defined in the Workforce Innovation and Opportunity Act (Pub. L. No. 113-128), which is work performed on a full or part-time basis, including self-employment, for which a person is:

(i) Compensated at not less than Federal minimum wage requirements or State or local minimum wage law, whichever is higher, and not less than the customary rate paid by the employer for the same or similar work performed by people without a disability.

(ii) At a location where the employee interacts with people without a disability, not including supervisory personnel or people who are providing services to the employee.

(iii) Presented, as appropriate, opportunities for similar benefits and advancement like those for other employees without a disability and who have similar positions.

*Employment First*—Competitive integrated employment is the first consideration and preferred outcome of publicly-funded education, training, employment and related services, and long-term supports and services for working-age Pennsylvanians with a disability, as "disability" is defined in each agency's governing statutes and rules.

**§ 1.853. Reduction of barriers.**

The Office of Administration will explore the means to reduce barriers to Commonwealth employment for Pennsylvanians with a disability.

**§ 1.854. Written plan; goals.**

(a) The Secretary of the Department of Education, the Secretary of the Department of Human Services and the Secretary of the Department of Labor and Industry, working with other Commonwealth agencies or executive office officials as appropriate, will develop a written plan to address the implementation of the following goals:

(1) Implement Employment First as the policy of Commonwealth executive branch agencies.

(2) Align funding, policy, data collection and practice toward an emphasis on competitive integrated employment rather than noncompetitive, nonintegrated employment.

(3) Increase the number of Pennsylvanians with a disability employed in a competitive integrated job.

(b) Progress toward meeting the goals in subsection (a) is to be measured by gathering and evaluating, as permissible by law and as available:

(1) The labor participation rate and unemployment rate of Pennsylvanians with a disability.

(2) The number and percentage of Pennsylvania youth with a disability who successfully complete at least one paid community integrated work experience or community integrated work-based learning experience before exiting secondary education.

(3) The number and percentage of Pennsylvania youth with a disability who transition from secondary education to adult life with a competitive integrated job or an integrated post-secondary education or training opportunity intended to lead to a competitive integrated job.

(4) The number and percentage of Pennsylvanians with a disability employed in a competitive integrated job who are participants in a Medicaid-funded or State-only funded program that provides home and community-based services.

(5) The number of private-sector businesses that have been provided requested technical assistance with the recruitment, hiring and retention of qualified Pennsylvanians with a disability.

(c) The written plan will be developed with broad stakeholder input including people with a disability, the Governor's Advisory Committee for People with Disabilities, potential employers and disability advocacy groups.

(d) The written plan should be submitted to the Governor's Office for review and approval 120 days from the effective date of this subchapter.

**§ 1.855. General provisions.**

Nothing in this subchapter shall be interpreted to supersede or pre-empt any Federal, State or local law, regulation, rule or ordinance. This subchapter is not intended to, and does not create, any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth, its departments, agencies or entities, its officers, employees or agents, or any other person.

**§ 1.856. Effective date.**

This subchapter becomes effective immediately.

**§ 1.857. Termination date.**

This subchapter shall remain in effect until amended or rescinded by the Governor.

[Pa.B. Doc. No. 16-626. Filed for public inspection April 15, 2016, 9:00 a.m.]