

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 5]

[EXECUTIVE ORDER NO. 1997-2]

Developmental Disabilities Council

May 30, 1997

By virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, I, Thomas J. Ridge, Governor of the Commonwealth of Pennsylvania, do hereby reestablish the Developmental Disabilities Council, formerly known as the Developmental Disabilities Planning Council, as follows:

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

Subchapter M. DEVELOPMENTAL DISABILITIES PLANNING COUNCIL

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§ 5.141. Establishment.

The Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994, Pub. L. No. 103-230, amended substantially the earlier enacted statutes which governed the operation of the Pennsylvania Developmental Disabilities Planning Council. To advance further the development within this Commonwealth of a responsive system of services for individuals with developmental disabilities and to fulfill to the maximum extent practicable the goals of Pub. L. No. 103-230, the Developmental Disabilities Council (referred to as the Council) is established.

§ 5.142. Council function.

(a) The mandate of the Council is to carry out the duties of a State planning council specified in applicable Federal laws and regulations and this subchapter and to advise the Governor on all matters affecting individuals with developmental disabilities in this Commonwealth. Federal policy articulated in Pub. L. No. 103-230 states that individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported and encouraged, and any assistance to these individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities and capabilities of these individuals.

(b) The Council shall promote, through systemic change, capacity building and advocacy activities consistent with the policy of Pub. L. No. 103-230 stated in subsection (a), the development of a consumer and family-centered, comprehensive system, and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity and integration and inclusion into the community for individuals with developmental disabilities.

(c) Duties and obligations of the designated State agency and the Council will be governed by applicable Federal and Commonwealth laws, regulations and procedures.

§ 5.143. Composition of Council.

(a) The Council shall be composed of the Secretary of Public Welfare, the Secretary of Education, the Secretary of Health, the Secretary of Aging and the Secretary of Labor and Industry, or their designees, and 15 other members to be appointed by the Governor, including representatives of institutions of higher education, university affiliated programs in this Commonwealth, the State protection and advocacy system, local agencies, nongovernmental agencies and private nonprofit groups concerned with services for individuals with developmental disabilities in this Commonwealth in which these agencies and groups are located.

(b) The Governor will select members of the Council, at his discretion, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council shall coordinate Council and public input to the Governor regarding all recommendations. To the extent feasible, the membership of the Council shall be geographically representative of this Commonwealth and reflect the diversity of this Commonwealth with respect to race and ethnicity.

(c) Ex officio members shall continue to serve as long as they hold office. All other members shall serve terms as determined by the Governor at the time of appointment to rotate membership on the Council. Members shall continue to serve on the Council until the members' successors are appointed. The Council shall notify the Governor regarding membership requirements when vacancies remain unfilled for a significant period of time.

(d) At least 50% of the membership of the Council shall consist of individuals who are:

(1) Individuals with developmental disabilities.

(2) Parents or guardians of children with developmental disabilities.

(3) Immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves.

(4) Not employes of a State agency that receives funds or provides services made available under Pub. L. No. 103-230, and who are not managing employes (as defined in section 1126(b) of The Social Security Act (42 U.S.C.A. § 1320a-5)) of any other entity that receives funds or provides services under Pub. L. No. 103-230.

(e) Of the members of the Council described in subsection (d):

(1) One-third shall be individuals with developmental disabilities as described in subsection (d)(1).

(2) One-third shall be parents of children with developmental disabilities as described in subsection (d)(2) and immediate relatives or guardians of adults with mentally impairing developmental disabilities as described in subsection (d)(3).

(3) One-third shall be a combination of individuals described in subsection (d).

(f) Of the members of the Council described in subsection (e), at least one shall be an immediate relative or guardian of an institutionalized or previously institutionalized individual with a developmental disability or an individual with a developmental disability who resides or previously resided in an institution.

(g) The Governor will appoint a Chairperson of the Council who shall serve for 2 years and may thereafter be reappointed. The Council may make recommendations to the Governor concerning the appointment or reappointment of a Chairperson.

§ 5.144. Council responsibilities.

As outlined in Pub. L. No. 103-230, the Council shall have the following responsibilities:

- (1) Serve as advocate for systemic change, capacity building and advocacy activities.
- (2) Examine priority areas.
- (3) Develop and submit a State plan.
- (4) Implement the State plan by various activities including demonstration of new approaches, outreach, training, supporting communities, inter-agency collaboration and coordination, coordination with related councils, committees and programs, barrier elimination, systems design, citizen participation, public education, coalition development, informing policymakers and prevention.
- (5) Monitor the State plan.
- (6) Review of designated State agency.
- (7) Submit periodic reports.
- (8) Develop a Council budget.
- (9) Hire, supervise and assign staff.

§ 5.145. Council administration and support services.

(a) Members of the Council and its committees shall serve without salary but shall be reimbursed for reasonable and necessary expenses for attending Council meetings and performing Council duties, including child care and personal assistance services.

(b) The Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and shall supervise and evaluate annually the Director.

(c) The Director shall hire, supervise and evaluate annually the staff of the Council. Council recruitment and hiring of staff shall be consistent with Federal and State nondiscrimination laws. Dismissal of personnel shall be consistent with State law and personnel policies. The staff and other personnel, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties and may not be assigned duties by the designated State agency or any other agency or office of the Commonwealth.

(d) The Council is not subject to Commonwealth policies on hiring freezes, reductions in force, prohibitions on staff travel or other policies, to the extent that these policies would impact staff or functions funded with Federal funds and would prevent the Council from carrying out its functions.

(e) Until the provisions of subsection (f) are implemented, the responsibilities of the designated State agency shall temporarily be continued by the Office of the Secretary of the Department of Public Welfare and staff to the Council shall be assigned to the Department of Public Welfare for complement and administrative purposes.

(f) The Council shall conduct a review of the designation of the Department of Public Welfare (Department) as the designated State agency and submit its recommendations to the Governor to assure compliance with Pub. L. No. 103-230. During this review and until its completion, the Department shall ensure the provision of adequate staff which shall participate with the Council in preparation of the Developmental Disabilities State Plan. Furthermore, the Department shall provide assurances and support services, as requested by and negotiated with the Council, in support of its duties and functions.

(g) The five principal departments which may be involved in the implementation of the Developmental Disabilities State Plan, Health, Aging, Education, Public Welfare and Labor and Industry, shall designate specific

personnel to work with the Council and the administrative unit to ensure their ability to perform mandated functions.

(h) The Council shall adopt rules of procedure consistent with this subchapter, Pub. L. No. 103-230, regulations and guidelines issued by the Department of Health and Human Services, and applicable Commonwealth laws, regulations and procedures.

§ 5.146. Cooperation by State agencies.

Commonwealth agencies under the jurisdiction of the Governor shall cooperate fully with the Developmental Disabilities Council and shall provide assistance and information as needed to carry out the functions in an effective manner.

§ 5.147. Definition.

As used in this subchapter and as defined in Pub. L. No. 103-230, the term "developmental disability" means a severe, chronic disability of an individual 5 years of age or older that:

(1) Is attributable to a mental or physical impairment or a combination of mental and physical impairments.

(2) Is manifested before the individual attains age 22.

(3) Is likely to continue indefinitely.

(4) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care.

(ii) Receptive and expressive language.

(iii) Learning.

(iv) Mobility.

(v) Self-direction.

(vi) Capacity for independent living.

(vii) Economic self-sufficiency.

(5) Reflects the individual's need for a combination and sequence of special, interdisciplinary or generic services, supports or other assistance that is of lifelong or extended duration and is individually planned and coordinated.

(6) When the term is applied to infants and young children, it means individuals from birth to 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

§ 5.148. Rescission.

Executive Order 1979-9, Executive Order 1981-9 and Executive Order 1989-4 are rescinded.



Governor

Fiscal Note: Gov. 97-11. No fiscal impact; (8) recommends adoption.

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