



STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GRETCHEN WHITMER
GOVERNOR

GARLIN GILCHRIST II
LT. GOVERNOR

SECRETARY OF SENATE
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EXECUTIVE ORDER

No. 2020-130

Executive Office of the Governor

Michigan Statewide Independent Living Council

Rescission of Executive Order 2016-11

Many Michigan residents have one or more disabilities. Disability in no way diminishes the right to live independently, enjoy self-determination, make choices, contribute to society, pursue a meaningful career, and enjoy full inclusion and integration in the economic, political, social, cultural, and educational institutions of our society.

The State of Michigan shares the federal government's goal of providing persons with disabilities the tools necessary to make informed choices and decisions and to achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency.

To be eligible to receive federal assistance under Title VII of the Rehabilitation Act of 1973, Public Law 93-112, as amended, 29 USC 796 *et seq.*, a state must establish and maintain a statewide independent living council, consistent with the requirements set forth in 29 USC 796d.

The Michigan Statewide Independent Living Council has been periodically reestablished over the years, most recently under Executive Order 2016-11. Reestablishment of this Council at this time is necessary to ensure compliance with current requirements under federal law and to further strengthen working relationships among the Council and entities providing services to individuals with disabilities, centers for independent living, and other programs.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

Section 8 of article 5 of the Michigan Constitution of 1963 obligates the governor to take care that the laws be faithfully executed.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Creating the Michigan Statewide Independent Living Council

- (a) The Michigan Statewide Independent Living Council (the "Council") is created within the Executive Office of the Governor.
- (b) The Council must be composed of members who provide statewide representation, represent a broad range of individuals with disabilities from diverse backgrounds, and are knowledgeable about centers for independent living and independent living services. A majority of the members of the Council must be individuals with disabilities who are not employed by a center for independent living or any agency of the State of Michigan.
- (c) The Council must include the following 11 voting members appointed by the governor after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities:
 - (1) One director of a center for independent living chosen by the directors of centers for independent living within this state.
 - (2) One individual representing parents or guardians of individuals with disabilities.
 - (3) One individual representing advocates of, and for, individuals with disabilities.
 - (4) One individual representing organizations that provide services for individuals with disabilities, including, but not limited to, private businesses.
 - (5) Seven other residents of this state, including residents who represent the underserved or tribal communities.

A majority of the voting members of the Council must be individuals with disabilities who are not employed by a center for independent living or any agency of the State of Michigan.

- (d) In addition to the voting members of the Council appointed under section 1(c) of this order, the Council must include the following 5 non-voting ex officio members appointed by the governor, representing the designated state entity and representatives from agencies of the State of Michigan providing services for individuals with disabilities:
 - (1) The director of Michigan Rehabilitation Services, or the director's designee.
 - (2) The director of the Bureau of Services for Blind Persons, or the director's designee.

- (3) A representative from the Michigan Department of Civil Rights, designated by the director of that department, who works in that department's Division on Deaf, DeafBlind and Hard of Hearing.
- (4) A representative from the Michigan Department of Education, designated by the Superintendent of Public Instruction, who works in that department's Office of Special Education.
- (5) A representative from the Department of Health and Human Services, designated by the director of that department, with knowledge of all programs within that department impacting individuals with disabilities.
- (e) Of the voting members of the Council initially appointed under section 1(c) of this order, three members must be appointed for a term expiring on December 31, 2021, four members must be appointed for a term expiring on December 31, 2022, and four members must be appointed for a term expiring on December 31, 2023. After the initial appointments, a member of the Council appointed under section 1(c) of this order must be appointed for a term of three years.
- (f) A vacancy on the Council must be filled in the same manner as the original appointment. An appointment to fill a vacancy created other than by the expiration of the term of a member of the Council shall be for the remainder of the unexpired term. A vacancy on the Council shall not affect the power of the remaining members to execute the duties of the Council.
- (g) Except as provided in subsections (e) and (f) of this section, an appointment to the Council must be for a term of three years. A member of the Council may be reappointed, but no member of the Council may serve more than two consecutive full terms.

2. Charge to the Council

- (a) The Council must do all of the following:
 - (1) Develop the state plan as provided in Section 704(a)(2) of the Rehabilitation Act of 1973, 29 USC 796c(a)(2).
 - (2) Monitor, review, and evaluate the implementation of the state plan.
 - (3) Meet regularly and ensure that meetings of the Council are open to the public and that sufficient advance notice of such meetings is provided.
 - (4) Submit reports to the United States Department of Health and Human Services, as that department's Administrator of the Administration for Community Living may reasonably request. The Council must also keep such records, and provide the Administrator access to such records, that the Administrator finds necessary to verify the reports. Copies of any reports submitted under this subsection must be transmitted to the governor and the members of the Council.

- (5) Coordinate activities, as appropriate, with other entities in this state that provide services similar or complementary to independent living services, such as entities providing long-term community-based services and support or entities facilitating the provision of such services and support.
- (b) Consistent with the state plan, the Council may do the following, unless prohibited by the laws of this state:
 - (1) Work with centers for independent living to coordinate services with public and private entities to improve services provided to individuals with disabilities.
 - (2) Conduct resource development activities to support the Council and the provision of independent living services by centers for independent living.
 - (3) Perform other comparable functions the Council deems appropriate, consistent with the purpose set forth in Section 701 of the Rehabilitation Act of 1973, 29 USC 796.
- (c) The Council shall not provide independent living services directly to individuals with significant disabilities or manage such services.

3. Council Operations

- (a) The Council must adopt procedures consistent with this order and applicable law governing its organization and operations.
- (b) The Council must select from among the voting members of the Council a member to serve as chairperson of the Council, and may select from among the voting members of the Council other officers as the Council deems necessary.
- (c) A majority of the voting members of the Council serving constitutes a quorum for the transaction of the business of the Council. The Council must act by a majority vote of its voting members serving.
- (d) The Council must meet at the call of its chairperson and as otherwise provided in procedures adopted by the Council.
- (e) The Council may establish advisory workgroups composed of individuals or entities participating in Council activities or other members of the public as deemed necessary by the Council to assist the Council in performing its duties and responsibilities. The Council may adopt, reject, or modify any recommendations proposed by an advisory workgroup.
- (f) The Council may, as appropriate, make inquiries, studies, investigations, hold hearings and forums, and receive comments from the public. The Council may also consult with outside experts in order to perform its duties, including, but not limited to, experts in the private sector, organized labor, government agencies, and at institutions of higher education.

- (g) The Council must prepare, in conjunction with the designated state entity, a resource plan for the provision of resources, including staff and personnel, as may be necessary and sufficient to carry out the state plan, with funds made available under Title VII of the Rehabilitation Act of 1973, 29 USC 796 *et seq.*, and under Section 110 of the Rehabilitation Act of 1973, 29 USC 730, consistent with Section 101(a)(18) of the Rehabilitation Act of 1973, 29 USC 721(a)(18), and from other public and private sources. The resource plan must, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the resource plan.
- (h) The Council must supervise and evaluate staff and personnel performing duties for the Council under the resource plan adopted under section 3(g) of this order, as may be necessary to carry out the functions of the Council under this order.
- (i) While assisting the Council in carrying out its duties, staff and other personnel performing duties pursuant to the resource plan adopted under section 3(g) of this order must not be assigned duties by the designated state entity or any other State agency or office that would create a conflict of interest.
- (j) In accordance with federal law, the Council may use resources available under the resource plan adopted under section 3(g) of this order to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings, and to pay reasonable compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.
- (k) The Council may enter into agreements with departments and agencies of this State to assist the Council in the performance of its duties and responsibilities under this order.
- (l) The Council may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Council and the performance of its duties as the Governor deems advisable and necessary, in accordance with this order and applicable law, rules, and procedures, subject to available funding.
- (m) The Council may accept donations of labor, services, or other things of value from any public or private agency or person. Any donations must be received and used in accordance with law.
- (n) The Council must comply with the Freedom of Information Act (FOIA), 1976 PA 442, as amended, MCL 15.231 to 15.246. In so doing, the Council must, among other things, designate a FOIA coordinator for the Council and develop and implement the processes, procedures, and guidelines required of public bodies under the FOIA. Moreover, the Council will not receive any services or resources of any kind from any private agency that pays for staff who support the Council, unless the private agency agrees to comply with FOIA as if the private agency were a public body and as to all writings otherwise subject to FOIA that are created or modified on or after the effective date of this order. The Council may designate a person employed by a

private agency that pays for staff who support the Council to serve as the FOIA coordinator for both the Council and the private agency.

- (o) Members of the Council must refer all legal, legislative, and media contacts relating to Council actions or activities to the Executive Office of the Governor.

4. Rescission of Executive Order 2016-11

- (a) Executive Order 2016-11 is rescinded. The Michigan Statewide Living Council established under Executive Order 2016-11 is abolished.

5. Definitions

- (a) As used in this order:

- (1) "Center for independent living" means that phrase as defined under Section 702(2) of the Rehabilitation Act of 1973, 29 USC 796a(2).
- (2) "Disability" means that term as defined under Section 7(9) of the Rehabilitation Act of 1973, 29 USC 705(9).
- (3) "Designated state entity" means that entity described in Section 704(c) of the Rehabilitation Act of 1973, 29 USC 796c(c).
- (4) "Independent living services" means that phrase as defined under Section 7(18) of the Rehabilitation Act of 1973, 29 USC 705(18).
- (5) "Individual with a disability" means that phrase as defined under Section 7(20)(B) of the Rehabilitation Act of 1973, 29 USC 705(20)(B).
- (6) "State plan" means the state plan for independent living required by Section 704 of the Rehabilitation Act of 1973, 29 USC 796c.

6. Implementation

- (a) All state departments and agencies shall cooperate, to their best ability, with the Council in the performance of its duties and responsibilities under this order. The Council may request of state departments and agencies information and assistance as the Council requires in the performance of its duties and responsibilities under this order.
- (b) Any rules, orders, contracts, and agreements related to the Council lawfully in effect prior to the effective date of this order shall continue to be effective until revised, amended, or repealed.
- (c) This order is not intended to abate a proceeding commenced by, against, or before an entity affected by this order. A proceeding may be maintained by, against, or before the successor of any entity affected under this order.

(d) If any portion of this order is found to be unenforceable, the rest of the order remains in effect.

(e) This order takes effect on July 15, 2020 at 12:01 am.

Given under my hand and the great seal of the State of Michigan.



Date: June 19, 2020

Time: 10:50 am

GRETCHEN WHITMER
GOVERNOR

By the Governor:

SECRETARY OF STATE