



State of North Carolina

ROY COOPER
GOVERNOR

September 25, 2020

EXECUTIVE ORDER NO. 168

**AMENDING THE NORTH CAROLINA STATEWIDE
INDEPENDENT LIVING COUNCIL**

WHEREAS, the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014 (hereinafter the “Rehabilitation Act”), recognized the importance of empowering individuals with disabilities to maximize the leadership, independence, and productivity of individuals with disabilities and the integration and full inclusion of individuals into the mainstream of American society; and

WHEREAS, the Rehabilitation Act made clear the necessity of providing financial assistance to states for service providers as they assist individuals in the pursuit of independent living; and for developing and supporting statewide networks of centers for independent living, and

WHEREAS, the purpose of independent living services and centers for independent living is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, individual advocacy, and systems advocacy; and

WHEREAS, it is imperative that North Carolinians with disabilities have the opportunity to achieve the goals outlined in the Rehabilitation Act; and

WHEREAS, North Carolina established a Statewide Independent Living Council (referred to hereafter as the “Council”) under federal mandate in 1992, with the Council operating as an independent, 501(c)(3) nonprofit corporation since 2006; and

WHEREAS, the Council is a vital component of North Carolina’s longstanding commitment to individuals in the state who live with disabilities; and

WHEREAS, Title VII, Section 704 of the Rehabilitation Act requires each state to formally establish a Statewide Independent Living Council on behalf of the state to be eligible for federal funding through the Rehabilitation Act; and

WHEREAS, using the state’s authority to establish the Council is mandated by federal law and affords the opportunity to promulgate the undersigned’s aspirations and criteria for the Council as it continues to advance opportunities for independent living with equity and dignity for all individuals in the state who are living with disabilities.

NOW, THEREFORE, by the power vested in me as Governor by the laws and Constitution of the State of North Carolina, **IT IS ORDERED**:

Section 1. Establishment

- a. The North Carolina Statewide Independent Living Council is hereby established. The Council shall serve the people of North Carolina in fulfillment of the requirements of the Rehabilitation Act. The Council shall advise state efforts to improve and expand the provision of independent living services, and foster the development and growth of a statewide network of centers for independent living.
- b. The Council shall exist as an entity independent of any state agency or political subdivision. The Council may operate as a 501(c)(3) nonprofit entity organized under Chapter 55A of the North Carolina General Statutes.

Section 2. Membership

- a. The Governor shall appoint all members of the Council and all members shall serve at the pleasure of the Governor. The Governor shall select members after soliciting recommendations from a broad range of individuals with disabilities and organizations interested in ensuring equal access and independence for individuals with disabilities.
- b. The Council shall consist of no more than twenty (20) voting members.
- c. The Council's membership should reflect North Carolina's demographic diversity with respect to race, gender, type of disability and age, and should provide statewide geographic representation to individuals with disabilities from diverse backgrounds who are knowledgeable about centers for independent living.
- d. The majority of Council members, including both voting and ex-officio members, shall be individuals with disabilities (as defined by the Rehabilitation Act) and individuals not employed by any state agency or center for independent living. Additionally, 60 percent (60%) of the Council's voting members shall also be individuals with disabilities, as defined in the Rehabilitation Act, and individuals not employed by any state agency or center for independent living.
- e. The Council's voting membership shall be comprised of the following:
 1. At least one (1) director of a center for independent living, chosen by the directors of centers for independent living within the State, who is appointed by the Governor.
 2. One director of an American Indian Vocational Rehabilitation Services project that is administered under Section 121 of the Rehabilitation Act.
 3. At least one veteran.
 4. One youth between the ages of eighteen (18) to twenty-six (26).
- f. The Council may also include the following voting members, if such appointments are consistent with the requirements provided in Section 2.d:
 1. Other representatives from centers for independent living.
 2. Individuals with disabilities, of which shall comprise the majority (60%) of voting members.
 3. Parents and/or legal guardians of individuals with disabilities.
 4. Advocates of and for individuals with disabilities.
 5. A representative of the private business sector.
 6. A representative of a community college, four-year college, or university who is familiar with centers for independent living and services for individuals with disabilities.
 7. Representatives from nonprofit organizations that provide services to or advocate for individuals with disabilities.
 8. A representative from the NCWorks Commission.
 9. Other appropriate individuals as determined by the Governor.
- g. The Council shall include the following ex-officio members:
 1. A representative of the designated State agency (the Division of Vocational Rehabilitation Services); and
 2. Representatives from State agencies that provide services for individuals with disabilities:

- a) A representative of the Division of Services for the Blind;
 - b) A representative of the Division of Services for the Deaf and Hard of Hearing;
 - c) A representative of the North Carolina Council on Developmental Disabilities;
 - d) A representative of the North Carolina Client Assistance Program;
 - e) A representative from Disability Rights North Carolina, the state's federally mandated protection and advocacy entity.
- h. Council members shall serve terms of three (3) years. The initial appointment terms shall be staggered by one (1), two (2), or three (3) years such that approximately one-third of the Council's terms shall expire annually on August 15. Vacancies on the Council shall be filled by the Governor. In the event of a vacancy caused by a reason other than the expiration of a term, the Governor shall appoint a person to serve for the remainder of the unexpired term. A vacancy shall not affect the power of the remaining members to execute the duties of the Council.
- i. No member of the Council may serve for more than two full consecutive terms. Individuals serving two or more years of an unexpired or partial term are considered to have served one full term. Voting members who have served for two full consecutive terms are ineligible to serve on the Council for one year. Ex-officio members may be reconsidered for appointment on the Council after a meaningful break from membership of at least one year.

Section 3. Meetings and Operations of the Council

- a. The Council shall select a Chair from the Council's voting membership. The Council may select other officers from the Council's voting membership as needed.
- b. The Council shall adopt procedures and bylaws consistent with state and federal laws, and this Executive Order, which governs the Council's organization and operations.
- c. The Council shall meet at least quarterly, and may also convene at the call of the Chair or the Governor, or as otherwise provided in procedures adopted by the Council. The Council may hold any hearings or forums that are necessary to fulfill the Council's duties.
- d. Due to challenges created by the COVID-19 pandemic, these meetings may be held virtually.
- e. The Council shall conduct all business at public meetings in compliance with the North Carolina Open Meetings Law. Public notice of the meeting's time, date, and place shall be provided in the manner required by the Open Meetings Law.
- f. For transacting the business of the Council, a quorum shall consist of a simple majority of voting members who have a disability and do not work for either the State or a center for independent living.

Section 4. Ethics and Other Standards

Members of the Council shall be subject to the requirements of the State Government Ethics Act, North Carolina General Statute Chapter 138A.

Section 5. Duties

The Council shall exercise the functions, duties and authorities as specified in the Rehabilitation Act and other federal law. In summary:

- a. Jointly develop and sign the State Plan for Independent Living ("SPIL") required by the Rehabilitation Act in conjunction with centers for independent living;
- b. Monitor, review, and evaluate the implementation of the SPIL;
- c. Meet regularly, and ensure that such meetings of the Council are open to the public and sufficient advance notice of such meetings is provided;
- d. Coordinate activities with the North Carolina State Rehabilitation Council and other state entities that provide services similar to or complementary to independent living services, such as entities that facilitate the provision of or provide long term community-based services and supports;

- e. Submit all periodic reports to the United States Secretary of Health and Human Services at the reasonable request of the Secretary. Maintain records and afford the Secretary access when necessary for the Secretary to verify the periodic reports. Upon request, copies of any submitted reports shall be provided to the Office of the Governor.
- f. Collaborate with designated state unit(s) to prepare a resource plan for the provision of Council resources, including staff and personnel, which are made available under part B Chapter 1 of Title VII of the Rehabilitation Act, Section 110 (consistent with Section 101(a)(18)), from innovation and expansion funding, and from other public and private sources which may be necessary to carry out the Council's duties. The Council must include a description of the Council's resource plan in the SPIL. The Council is responsible for the proper utilization of any funds or materials it receives under the resource plan. The Council shall ensure that it meets any additional federal requirements regarding the resource plan;
- g. Supervise and evaluate staff and personnel as necessary to execute the Council's functions under this Executive Order and the Rehabilitation Act and with consistency with applicable state and federal laws;
- h. Perform other duties as requested by the Governor and as deemed necessary by the Council to meet its responsibilities under this Executive Order and the Rehabilitation Act;
- i. Limitation: The Council shall not provide independent living services directly to individuals with significant disabilities or manage such services.

Section 6. Administration and Expenses

The designated state entity, as specified in the SPIL, may provide necessary administrative and staff support services to the Council as requested by either the Council or the Governor. The designated state entity may not assign such staff duties that would create a conflict of interest. The Council may use available resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (such as personal assistance services), 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. All monetary compensation and reimbursements shall be derived from the funds provided under the Council's resource plan and must be in accordance with Section 705 of the Rehabilitation Act. The Council may only use federal funds to perform the duties promulgated by Section 705 of the Rehabilitation Act.

Section 7. Effect and Duration

This Executive Order is effective immediately. It supersedes and replaces all other executive orders on this subject. This Executive Order shall remain in effect until December 31, 2022, pursuant to N. C. Gen. Stat. §147-16.2, or until rescinded.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 25th day of September in the year of our Lord two thousand and twenty.



Roy Cooper
Governor

ATTEST:



Elaine F. Marshall
Secretary of State

