State of North Carolina

ROY COOPER

GOVERNOR

March 28, 2019

EXECUTIVE ORDER NO. 92

EMPLOYMENT FIRST FOR NORTH CAROLINIANS WITH DISABILITIES

WHEREAS, the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101 *et seq.*, established a clear and comprehensive national mandate to eliminate discrimination against people with disabilities and safeguard their civil rights; and

WHEREAS, the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355 (as amended through Pub. L. No. 114–95) ("Rehab Act"), establishes aspirational workforce goals, including increased employment of workers with disabilities; and

WHEREAS, state government should strive to achieve these goals by recruiting applicants with disabilities, collecting data regarding applicants and employees who self-identify as having disabilities, and engaging in outreach to individuals with disabilities by forming partnerships with disability rights and advocacy organizations; and

WHEREAS, significant advancements for employees with disabilities, including the Workforce Innovation and Opportunity Act, 29 U.S.C. § 3101 *et seq.*; federal rules for home and community-based services contained in 42 C.F.R. Parts 430-447; and the ADA Amendments Act of 2008, Pub. L. No. 110-325, 122 Stat. 3553, have built upon the protections established in the ADA and the Rehab Act; and

WHEREAS, more than 1.3 million North Carolinians over the age of five, approximately 13% of the state's population, have a disability; and

WHEREAS, North Carolinians with disabilities experience disproportionately high levels of unemployment, residential segregation, financial dependency, and poverty; and

WHEREAS, less than 35% of North Carolinians who are between the ages of eighteen and sixty-four and have a disability are employed – a stark contrast to the nearly 76% of North Carolinians of working age without disabilities who are employed; and

WHEREAS, North Carolinians with disabilities should be able to secure employment in integrated community settings that provide competitive wages and benefits, enable them to reach their full potential, increase their economic self-sufficiency, and grant them dignity as members of the workforce; and

WHEREAS, the undersigned issued Executive Order No. 24, ***Policies Prohibiting Discrimination, Harassment, and Retaliation in State Employment, Services, and Contracts under the Jurisdiction of the Office of the Governor***, 32 N.C. Reg. 958-62 (Nov. 15, 2017), which directed the North Carolina Office of State Human Resources ("OSHR") to issue a non-discrimination guidance to State Agencies for certain groups, including people with disabilities; and

WHEREAS, the undersigned launched the NC Job Ready Initiative in 2017 to better align public sector resources with the evolving needs of businesses; and

WHEREAS, the undersigned commenced the Hometown Strong Initiative in 2018 to bolster efforts to expand employment opportunities to all North Carolinians; and

WHEREAS, North Carolina initiated the Everybody Works NC campaign in 2018 to increase awareness of the skills and expertise of North Carolinians with disabilities, as well as to assist these individuals and their families by providing information on how to access training and education, helping them become more competitive for available job opportunities, and improving their job readiness; and

WHEREAS, state government should take additional steps to support North Carolinians with disabilities in finding and securing good paying, high quality jobs.

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

Section 1. Definitions

(a) An "Integrated setting" is a workplace arrangement in which employed individuals with disabilities have equal opportunities to interact with co-workers without disabilities. Individuals who are paid to provide services to support the work of individuals with disabilities are not included when assessing integration.

(b) "Competitive wages" are at or above the minimum wage, but not less than the customary wage and level of benefits paid by an employer for the same or similar work performed by individuals who do not have disabilities.

(c) "Competitive, integrated employment" is work in a competitive labor market that is performed on a full-time or part-time basis in an integrated setting and for which an individual is compensated with competitive wages.

(d) "Employment First" typically refers to the principle that employment in the general workforce should be the first and preferred option for individuals with disabilities.

(e) "State Agency" refers to any North Carolina department, agency, board, commission, or committee for which the Governor has oversight responsibility.

Section 2. North Carolina as a Model Employer through Employment First

(a) Employment First is the policy of State Agencies. This policy reflects the state's goals to be a leader in recruiting workers with disabilities and to create an inclusive job climate for workers with disabilities. Competitive, integrated employment is the preferred mode of employment for all North Carolinians with disabilities regardless of level of disability. North Carolinians with disabilities should be able to work a job of their choosing, with reasonable support and accommodations provided to achieve and maintain employment.

(b) Employment First principles will apply to all individuals with intellectual and developmental, physical, sensory, mental health, and substance use disorder disabilities and include the following:

1. North Carolinians with disabilities can work in integrated settings and earn competitive wages and benefits.

2. Individuals with significant disabilities can secure employment with reasonable and appropriate accommodations and support.

3. Employees with and without disabilities are equally valued.

4. A job should match an individual's work skills, abilities, and career choices to the greatest extent possible.

Section 3. **State Agency Specific Policies**

(a) OSHR, in consultation with the North Carolina Department of Health and Human Services, will take the following actions to further the goals set forth in this Executive Order:

1. Issue guidelines applicable to State Agencies and directors, supervisors, officers, managers, staff, and employees covered under the State Human Resources Act that facilitate compliance with Section 2 of this Executive Order. These guidelines will set forth internal standards addressing these objectives:

   i. Improve recruitment and outreach efforts to identify and attract qualified individuals with disabilities for employment;
   ii. Enhance the accessibility of employment applications and facilitate accommodations during the hiring process;
   iii. Implement clear, reasonable workplace accommodation guidelines;
   iv. Build upon existing state human resources training programs to improve the inclusion of individuals with disabilities in the workplace;
   v. Identify opportunities for data collection to improve the state's hiring of individuals with disabilities.

2. Define measurable employment outcomes to achieve competitive and integrated employment for individuals with disabilities.

3. Track the measurable progress of State Agencies in the implementation of this Executive Order.

4. Periodically report on efforts to comply with and implement this Executive Order.

(b) I direct State Agencies to take the following actions to further the goals set forth in this Executive Order:

1. Consult with OSHR and thereafter, consistent with existing federal and state law, develop additional State Agency specific plans and procedures necessary to implement this Executive Order; and

2. Periodically report on efforts to comply with and implement this Executive Order.

Section 4. **General Provisions**

(a) This Executive Order does not create a private right of action.

(b) This Executive Order shall not be interpreted to supersede or preempt federal or state law.

(c) State entities not subject to the undersigned's oversight are encouraged but not required to comply with this Executive Order.

(d) This Executive Order is effective immediately and shall remain in effect until amended or rescinded by future Executive Order of the Governor.

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 the 28th day of March in the year of our Lord two thousand and nineteen.

Roy Cooper
Governor

ATTEST:

Rodney S. Maddox
Chief Deputy Secretary of State