

**SENATE FISCAL AGENCY
 MEMORANDUM**

DATE: January 12, 2024
TO: Members of the Michigan Senate
FROM: Michael Siracuse, Senior Fiscal Analyst
RE: Executive Order 2024-1

Executive Order 2024-1

On January 5, 2024, Governor Whitmer issued Executive Order (E.O.) 2024-1, which expanded the Michigan Developmental Disabilities Council (MDDC) membership from 21 to 25 members. Pursuant to the E.O., two of the new members are required to be individuals with developmental disabilities, and two of the new members are required to be parents or guardians of a child with developmental disabilities.

The MDDC is housed within the Department of Health and Human Services (DHHS).

Article V, Section 2 of the Michigan Constitution states that the Executive may make changes in the organization of the executive branch considered necessary for efficient administration. When those changes require the force of law, the Legislature has 60 calendar days following the issuance of an Executive Order to disapprove it; E.O. 2024-1 does not make changes to the executive branch that require the force of law. The order was effective immediately, January 5, 2024.

Michigan Developmental Disabilities Council Formation

Some form of the MDDC has existed within Michigan since 1977, when it was created under E.O. 1977-3. The current formation of the MDDC was established pursuant to E.O. 2016-20, attached.

Michigan Developmental Disabilities Council Purpose

The MDDC is required under Federal law for Michigan to receive Federal funding under part B of the Developmental Disabilities Act. See Section 125 of the Act, [42 U.S.C. § 15025](#). State councils required under the Act are responsible for statewide advocacy for individuals with developmental disabilities.

Transfer Status

Executive Order 2024-1 does not involve a Type I, II, or III transfer of any office or agency within the Executive.

Fiscal Impact

Executive Order 2024-1 will have a minimal fiscal impact on the State and no fiscal impact on local units of government. The MDDC is already formed in its current configuration within the DHHS. The only fiscal impact relates to travel and administrative expenses for the four additional members to the Council. These additional expenses are expected to be absorbed by the DHHS.

Summary

Executive Order 2024-1 expanded the membership of the MDDC from 21 to 25 members. The E.O. was effective immediately, January 5, 2024, and is not subject to legislative disapproval. The E.O. does not involve a Type I, II, or III transfer. The E.O. will not have a significant fiscal impact on the State, and no fiscal impact on local units of government.

If you have any questions on E.O. 2024-1, please do not hesitate to contact me.

/mrw

c: Kathryn R. Summers, Director
Joe Carrasco, Associate Director



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

EXECUTIVE ORDER

No. 2024-1

Michigan Developmental Disabilities Council

Department of Health & Human Services

To receive funding, federal law requires that each state establish and maintain a council to undertake advocacy, capacity building, and systemic change activities that contribute to a coordinated and comprehensive system of community services, individualized support, and other forms of assistance beneficial to individuals with developmental disabilities.

Executive Order 2016-20 reconstituted the Michigan Developmental Disabilities Council (“the Council”) for that purpose: to ensure that resources were developed, implemented, and coordinated to achieve the maximum impact for the current and future needs of individuals with developmental disabilities and their families.

Today, the Council is a group of 21 individuals from across the state whose vision is that all people with disabilities are supported to live self-determined and self-directed lives in a diverse and inclusive community. In continued support of the Council’s mission and vision, and to maintain compliance with federal law, I am now acting to enlarge the Council’s membership to 25 to include additional voices and advance the Council’s important purpose.

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

Section 2 of article 5 of the Michigan Constitution of 1963 empowers the governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that are necessary for efficient administration.

Pursuant to 42 U.S.C. § 15025, certain changes to the Michigan Developmental Disabilities Council are needed. These changes will ensure the efficient administration and effectiveness of government, as well as compliance with federal law.

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

1. Council Enlargement

- (a) The Michigan Developmental Disabilities Council (“the Council”) shall continue to serve as the state council on developmental disabilities as required under Section 125 of the Developmental Disabilities Act, 42 U.S.C. § 15025.
- (b) The Department of Health & Human Services shall continue to serve as the state agency designated to provide support to the Council on behalf of this state as provided under Sections 124 and 125(d) of the Developmental Disabilities Act, 42 U.S.C. § 15024–15025.
- (c) The requirements of Executive Order 2016-20 shall remain in force except as specifically amended by this Order.
- (d) The Council’s membership shall be enlarged to include an additional four (4) members. Of those members:
 - (i) Two (2) shall be individuals with developmental disabilities, and
 - (ii) Two (2) shall be a parent or guardian of a child with developmental disabilities.
- (e) The requirement of Section II.F of Executive Order 2016-20 shall remain in effect and shall apply to the members added in Section 1(d) of this Order.
- (f) The newly appointed members shall be appointed and serve as outlined in Executive Order 2016-20. Vacancies shall be filled as specified in Section II.I of that Order. In addition, the newly appointed members shall not be any of the types of employees described in Section II.G of that Order.
- (g) The members initially appointed in accordance with this Order as described in Section 1(d) shall be appointed to terms expiring September 30, 2026. After the expiration of the initial terms, members of the Council shall be appointed for terms of four years. The members initially appointed in accordance with Section 1(d) of this Order may serve no more than one full term. Successors may serve up to two full terms.

2. Enforceability. This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party.

3. Severability. The provisions of this Order are severable and if any provision, or portion thereof, is held unconstitutional or otherwise invalid, such unconstitutionality or invalidity does not affect the remaining provisions, which

remain in force.

This Order is effective immediately.

Given under my hand and the Great Seal of the State of Michigan.

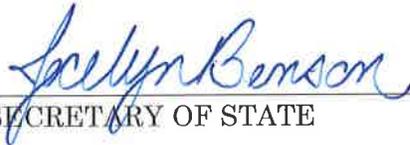


Date: January 5, 2024

Time: 8:30 a.m.

GRETCHEN WHITMER
GOVERNOR

By the Governor



SECRETARY OF STATE



**EXECUTIVE ORDER
No. 2016 - 20**

MICHIGAN DEVELOPMENTAL DISABILITIES COUNCIL

DEPARTMENT OF HEALTH AND HUMAN SERVICES

RESCISSION OF EXECUTIVE ORDER 2006-12

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 8 of Article V of the Michigan Constitution of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution; and

WHEREAS, the state of Michigan recognizes a need to ensure that resources are developed, implemented, and coordinated to achieve the maximum impact on current and future needs of individuals with developmental disabilities and their families; and

WHEREAS, development and implementation of needed services for individuals with developmental disabilities are ongoing responsibilities of the Department of Health and Human Services and other state departments and agencies, in collaboration with non-governmental agencies and resources; and

WHEREAS, Executive Order 1977-3 established the Michigan State Planning Council for Developmental Disabilities; and

WHEREAS, Executive Order 1984-13 established the Michigan Developmental Disabilities Council; and

WHEREAS, Executive Order 2006-12 established a new Michigan Developmental Disabilities Council; and

WHEREAS, Section 125 of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, 42 USC § 15025, requires that each state receiving funding establish and maintain a council to undertake advocacy, capacity building, and systematic change activities that contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system

of community services, individualized supports, and other forms of assistance beneficial for individuals with developmental disabilities; and

WHEREAS, modification of this state's council for developmental disabilities is necessary to reflect the current organizational structure of state government and to comply with federal law;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Council" means the Michigan Developmental Disabilities Council re-created under this Order.

B. "Department of Health and Human Services" or "Department" means the principal department of state government created under Executive Order 2015-4, MCL 400.227.

C. "Developmental Disabilities Act" means the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402, as amended, 42 USC § 15001 to 15115.

D. "State Developmental Disabilities Plan" means the state plan described under Section 124 of the Developmental Disabilities Act.

II. CREATION OF THE NEW MICHIGAN DEVELOPMENTAL DISABILITIES COUNCIL

A. The Department shall continue to serve as the state agency designated to provide support to the Council on behalf of this state as provided under Sections 124 and 125(d) of the Developmental Disabilities Act.

B. The Michigan Developmental Disabilities Council is created within the Department of Health and Human Services and shall be the state council on developmental disabilities required under Section 125 of the Developmental Disabilities Act.

C. The Governor shall appoint the members of the Council. The members shall be appointed at the discretion of the Governor after recommendations are solicited from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including, but not limited to, the members of the Council not employed by this state. The Council may, at the initiative of the Council or on the request of the Governor, coordinate Council and public input to the Governor regarding all recommendations.

The members of the Council shall be geographically representative of this state and reflect the diversity of the state of Michigan with respect to race and ethnicity.

D. The Council shall consist of 21 members appointed by the Governor, including all of the following:

1. An individual from the state agency that administers funds provided under the Rehabilitation Act of 1973 (29 USC § 701, *et seq.*);
2. An individual from the state agency that administers funds provided under the Individuals with Disabilities Education Act (20 USC § 1400, *et seq.*);
3. An individual from the state agency that administers funds provided under the Older Americans Act of 1965 (42 USC § 3001, *et seq.*);
4. An individual from the state agency that administers funds provided under Title V of the Social Security Act (42 USC § 701, *et seq.*);
5. An individual from the state agency that administers funds provided under Title XIX of the Social Security Act (42 USC § 1396, *et seq.*);
6. Not less than one (1) individual representing a university center for excellence in developmental disabilities education, research, and service with sufficient authority to engage in policy planning on behalf of the university center;
7. Not less than one (1) individual representing the protection and advocacy system in this state with sufficient authority to engage in policy planning and implementation; and
8. Not less than two (2) individuals representing local and non-governmental agencies and private nonprofit groups concerned with services for individuals with developmental disabilities in this state with sufficient authority to engage in policy planning and implementation on behalf of the agency or group.
9. Not less than one (1) individual with a developmental disability elected to the board of Self-Advocates of Michigan to represent self-advocates.

E. Subject to Sections II.E. and II.F., not less than 60 percent of the members of the Council shall be individuals who are one or more of the following:

1. An individual with developmental disabilities.
2. A parent or guardian of a child with developmental disabilities.
3. An immediate relative or guardian of an adult with mentally impairing developmental disabilities who cannot advocate for himself or herself.

F. Of the individuals described in Section II.E., all of the following shall apply:

1. Not less than one-third (1/3) of the individuals shall be individuals with developmental disabilities.
2. Not less than one-third (1/3) of the individuals shall be parents or guardians of an individual with developmental disabilities or immediate relatives or guardians of an adult with mentally impairing developmental disabilities who cannot advocate for himself or herself.
3. Not less than one-third (1/3) of the individuals shall be a combination of the individuals described in Section II.E.
4. If such an individual resides in this state, at least one of the individuals shall be an immediate relative or guardian of an individual with a developmental disability who previously resided in an institution or shall be an individual with a developmental disability who previously resided in an institution.

G. An individual meeting the criteria established under Section II.E. shall not be any of the following:

1. An employee of a state department or agency that receives funds or provides services under Subtitle B of the Developmental Disabilities Act.
2. A managing employee as defined in Section 1126(b) of the Social Security Act, 42 USC § 1320a-5(b).
3. An employee of any other entity that receives funds or provides services under Subtitle B of the Developmental Disabilities Act.

H. Of the members of the Council initially appointed under this Order, seven (7) members shall be appointed for terms expiring September 30, 2017, five (5) members shall be appointed for terms expiring September 30, 2018, five (5) members shall be appointed for terms expiring September 30, 2019, and five (5) members shall be appointed for terms expiring September 30, 2020. After the expiration of the initial terms, members of the Council shall be appointed for terms of four years.

I. A member of the Council shall continue to serve until a successor is appointed and qualified. A vacancy on the Council occurring other than by expiration of a term shall be filled in the same manner as the original appointment for the balance of the unexpired term.

J. The Council shall advise the Governor regarding the membership requirements of the Council and shall notify the Governor if a vacancy on the Council remains unfilled for more than 180 days.

III. CHARGE TO THE COUNCIL

A. The Council shall undertake advocacy, capacity building, and systematic change activities, consistent with Sections 101(b) and 101(c) of the Developmental Disabilities Act that contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that contribute to the achievement of the purpose of Subtitle B of the Developmental Disabilities Act.

B. The Council shall serve as an advocate for individuals with developmental disabilities and conduct or support programs, projects, and activities that carry out the purpose of Subtitle B of the Developmental Disabilities Act.

C. At the end of each federal grant year, the Council shall:

1. Determine the extent to which each goal of the Council was achieved for the grant year.
2. Determine the extent to which each goal of the Council was not achieved and the factors that impeded the achievement.
3. Determine needs that require amendment of the State Developmental Disabilities Plan.
4. Separately determine the information on the self-advocacy goal described in Section 124(c)(4)(A)(ii) of the Developmental Disabilities Act.
5. Determine customer satisfaction with activities supported or conducted by the Council.

D. The Council shall continue to develop the State Developmental Disabilities Plan and submit the State Developmental Disabilities Plan to the Secretary of the United States Department of Health and Human Services after consultation with the Director of the Department of Health and Human Services. The consultation required by this paragraph shall be solely for the purpose of obtaining assurances from this state and ensuring consistency of the State Developmental Disabilities Plan with state law.

E. The Council shall implement the State Developmental Disabilities Plan by conducting and supporting advocacy, capacity building, and systemic change activities, including, but not limited to, any of the following:

1. The Council may support and conduct outreach activities to identify individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council and assist and enable the individuals and families to obtain services, individualized supports, and other forms of assistance, including access to special adaptation of generic community services or specialized services.

2. The Council may support and conduct training for individuals with developmental disabilities, their families, and personnel, including professionals, paraprofessionals, students, volunteers, and other community members, to enable such persons to obtain access to, or to provide, community services, individualized supports, and other forms of assistance, including special adaptation of generic community services or specialized services for individuals with developmental disabilities and their families. To the extent that the Council supports or conducts training activities under this paragraph, such activities shall contribute to the achievement of the purpose of Subtitle B of the Developmental Disabilities Act.

3. The Council may support and conduct technical assistance activities to assist public and private entities to contribute to the achievement of the purpose of Subtitle B of the Developmental Disabilities Act.

4. The Council may support and conduct activities to assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families by any of the following:

- a. Encouraging local networks to provide informal and formal supports.
- b. Education.
- c. Enabling neighborhoods and communities to offer individuals with developmental disabilities and their families access to, and use of, services, resources, and opportunities that lead to independence, community inclusion and productivity.

5. The Council may support and conduct activities to promote interdepartmental and interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

6. The Council may support and conduct activities to enhance coordination of services with other councils, groups, entities, or committees, authorized by federal or state law concerning individuals with disabilities and other groups or entities as authorized under Section 125(c)(5)(G) of the Developmental Disabilities Act.

7. The Council may support and conduct activities to eliminate barriers to access and use of community services by individuals with developmental disabilities, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State Developmental Disabilities Plan.

8. The Council may support and conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental

disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, education of policymakers, and citizen leadership skills.

9. The Council may support and conduct activities to provide information to policymakers by supporting and conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations. The Council may provide the information directly to federal, state, and local policymakers, including, but not limited to, Congress, the federal executive branch, the Governor, the Michigan Legislature, and state departments and agencies, in order to increase the ability of the policymakers to offer opportunities and to enhance or adapt generic services to meet the needs of, and provide specialized services to, individuals with developmental disabilities and their families.

10. The Council may support and conduct, on a time-limited basis, activities to demonstrate new approaches to serving individuals with developmental disabilities that are a part of an overall strategy for systemic change. The strategy may involve the education of policymakers and the public about how to deliver effectively, to individuals with developmental disabilities and their families, services, supports, and assistance that contribute to the achievement of the purpose of Subtitle B of the Developmental Disabilities Act. The Council may carry out this paragraph by supporting and conducting demonstration activities through sources of available funding other than funding provided under Subtitle B of the Developmental Disabilities Act, and by assisting entities conducting demonstration activities to develop strategies to secure funding from other sources.

11. The Council may support and conduct other advocacy, capacity building, and systemic change activities to promote the development of a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that contribute to the achievement of the purpose of Subtitle B of the Developmental Disabilities Act.

F. The Council shall periodically review the activities of the Department of Health and Human Services carried out under Subtitle B of the Developmental Disabilities Act and report any recommendations for change to the Governor.

G. The Council shall annually prepare and transmit to the Secretary of the United States Department of Health and Human Services a report as required by Section 125(c)(7) of the Developmental Disabilities Act.

H. The Council shall prepare, approve, and implement a budget using amounts paid to the state under Subtitle B of the Developmental Disabilities Act to fund and implement all programs, projects, and activities carried out under Subtitle B of the

Developmental Disabilities Act, including all of the following, consistent with the requirements of state and federal law and Council policy:

1. Conducting hearings and forums as the Council determines necessary to carry out the duties of the Council.
2. Reimbursing members of the Council for reasonable and necessary expenses, including expenses for child care and personal assistance services, for attending Council meetings and performing Council duties.
3. Paying a stipend to a member of the Council, if the member is not employed or must forfeit wages from other employment to attend Council meetings or perform other Council duties.
4. Supporting Council members and staff travel to authorized training and technical assistance activities, including in-service training and leadership development activities.
5. Carrying out appropriate contracting and subcontracting activities.
6. Hiring and maintaining such numbers and types of staff, qualified by training and experience and obtaining the services of such professional, consulting, technical, and clerical staff, qualified by training and experience, as the Council determines to be necessary to carry out the functions of the Council under Subtitle B of the Developmental Disabilities Act, subject to applicable federal law and regulations of the Civil Service Commission.
7. Directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the State Developmental Disabilities Plan.

I. The Council may participate in the planning, design, or redesign, and monitoring of quality assurance systems of this state that affect individuals with developmental disabilities.

J. The Council also shall fulfill the functions and responsibilities determined by the Governor that are consistent with the Developmental Disabilities Act.

IV. OPERATIONS OF THE COUNCIL

A. The Department of Health and Human Services shall provide necessary support services, including qualified staff, to permit the Council to fulfill its responsibilities.

B. The Governor shall designate the Chairperson of the Council.

C. The Council may select from among its members a Vice Chairperson.

D. The Council shall, consistent with state law and applicable regulations of the Civil Service Commission, recruit and hire a Director of the Council if the position of Director becomes vacant, supervise the Director, and annually evaluate the Director. The Director of the Council shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment, hiring, and dismissal of staff shall be conducted in a manner consistent with state and federal nondiscrimination laws and regulations, including applicable Civil Service Commission regulations.

E. The staff and other personnel of the Council, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties, and shall not be assigned duties by the Department or any other entity of this state.

F. The Department and the Council shall maintain a written Memorandum of Agreement to clarify the discharge of administrative responsibilities.

G. The Council may establish committees and subcommittees, and request public participation on advisory groups or panels, including, but not limited to, regional coordinating councils serving as local forums for services coordination and problem resolution, as it deems necessary. The Council may adopt, reject, or modify recommendations made by committees, subcommittees, advisory groups, or panels.

H. The Council may enter into agreements with state agencies and other providers of services for improvements in services for persons with disabilities.

I. The Council shall conduct its business in accordance with the procedures established under the Open Meetings Act, 1976 PA 267, MCL 15.261 *et seq.*

J. As required under Section 124(c)(5)(D) of the Developmental Disabilities Act, no member of the Council shall cast a vote on any matter that would provide direct financial benefit of the member or otherwise give the appearance of a conflict of interest. As required under Section 125(b)(4)(B) of the Developmental Disabilities Act, a member of the Council appointed under Sections II.E.4 to II.E.9 shall recuse himself or herself from any discussion of grants or contracts for which the member's department, agency, or program is a grantee, contractor, or applicant.

V. RESCISSION

A. The Michigan Developmental Disabilities Council established by Executive Order 2006-12 is abolished. Executive Order 2006-12 is rescinded in its entirety.

B. Executive Orders 1977-3 and 1984-13, rescinded by Executive Order 2006-12, remain rescinded in their entirety.

VI. MISCELLANEOUS

A. Nothing in this Order shall be construed to authorize the Council to direct, control, or exercise any policymaking authority or administrative authority over any

program assisted under the federal Rehabilitation Act of 1973 or the federal Individuals with Disabilities Education Act.

B. Any rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

C. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

D. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

This Order shall become effective upon filing.

Given under my hand and the Great Seal of the state of Michigan this _____ day of November, in the Year of our Lord Two Thousand Sixteen.

RICHARD D. SNYDER
GOVERNOR

BY THE GOVERNOR:

SECRETARY OF STATE