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Pennsylvania Statewide Independent Living Council

207 House Avenue • Suite 107 • Room 14 • Camp Hill, PA 17011

May 17, 2017

Pennsylvania Independent Regulatory Review Commission

333 Market Street

14th Floor

Harrisburg, PA 17101

2017 MAY 17 PM 1:25

RECEIVED
IRRC

Re: Pennsylvania State Civil Service Commission (PA SCSC)

Proposed Regulation #61-6

Implementation of Act 69 of 2016 and Act 167 of 2016

IRRC Identification Number 3167

Dear Commissioners:

We are the Pennsylvania Statewide Independent Living Council (PA SILC). All 50 states and 6 territories have a SILC as required under the Federal Rehabilitation Act of 1973, as amended. We provide support for the 17 Centers for Independent Living (CILs) in Pennsylvania and collaborate with other community organizations to support Independent Living (IL) opportunities for individuals of every age and disability in all aspects of life, including employment for people with disabilities. PA SILC is also a leading collaborator with other disability organizations in Pennsylvania and with our national partner, National Council on Independent Living (NCIL), in seeking to address state and Federal public policy issues on disability related employment barriers. PA SILC is also designated in Act 139 of 1994 as the leading advisory body for IL in Pennsylvania.

PA SILC has serious concerns regarding the adverse impact of the proposed regulation on the ability of people with disabilities to apply for, test, and be hired for Commonwealth employment opportunities highlighted here on page 21 in the proposed regulation:

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www.pasilc.org

(d) Rejection of applicants and disqualification of eligibles. The Director will not be required to examine, nor after examination, to certify an eligible applicant who is found to lack the established or announced requirements for admission to the examination or for appointment from an entrance or promotion list. The Director, with the approval of the Commission, may refuse to examine an applicant, or after examination, to certify an eligible applicant who:

(1)

(2)

(3)

(4) Has a physical or mental disability which renders the applicant unfit or unsuited to perform the essential functions of the position's duties and responsibilities with or without reasonable accommodation.

Part (d) paragraph 4 use of the terms "unfit" and "unsuitable" is inconsistent with the ADA, 504, and the Pennsylvania Human Relations Act in terms of determining if an applicant can perform the essential functions of a job.

We find the above proposal to be inconsistent with IL principles and practices, State and Federal public policy that have improved the lives of people with disabilities, as well as being both discriminatory and morally reprehensible. PA SILC along with other employment stakeholders in the disability community continues to hear complaints about the lack of accommodations and support for individuals in the disability community to obtain state employment via Pennsylvania's State Civil Service Commission (SCSC), including the lack of support available at SCSC's regional state testing sites. This proposal and current practices for PA SCSC is clearly not in line with Governor Wolf's Employment First Initiative for Pennsylvania which is to promote, not further impede hiring people with disabilities.

Last year, Acts 69 and 167 of 2016 were signed into law without updating significantly outdated language related to the hiring of people with disabilities. The laws and regulations also fail to address the need for timely and reasonable accommodations cited within the Americans with

Disabilities Act of 1990, As Amended (ADAA) later in 2008. The ADAA recognizes "that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers" and that " individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities." Thus, it is imperative that the PA SCSC immediately develop effective and alternative pathways to employment for people with disabilities.

The PA SCSC has also failed to develop an alternative hiring path for people with disabilities who may not be able to benefit from traditional testing and interview processes, but are otherwise qualified for positions. PA SILC requests that the PA SCSC immediately create a program similar to the Federal Schedule A hiring program that has been successfully employment people with disabilities for years. We also request that additional alternative paths for hiring be implemented that allow people with disabilities who are otherwise qualified for a position to complete internships to demonstrate their skills without the need for testing. This model has been successful at international organizations and can ensure that candidates are a good fit for a position that may otherwise be screened out by a test or interview process. If the Commonwealth wants to become a leader in diversity and disability hiring as indicated in Governor Wolf's Employment First Executive Order, then the time to implement these innovate strategies is now.

PA SILC would be more than willing to discuss and consult on changes to policy and practice that will ensure that people with disabilities can fully engage with the Commonwealth's Civil Service process. It is unacceptable that in 2017 people with disabilities are still unable to easily, effectively, and reasonably participate in the application, testing, and hiring process.

Thank you for considering our comments and we look forward to seeing these necessary changes to an antiquated and ineffective system.

Sincerely,

Matthew R. Seeley, Esquire

Rob Oliver

Executive Director

Chair

CC: PA Senator Kim Ward (R), PA Senate Labor & Industry Committee, Majority Chair

PA Senator Christine Tartaglione (D), PA Senate Labor & Industry Committee, Minority Chair

PA Senator Bob Mensch (R)

PA Representative Rob Kauffman (R), PA House Labor & Industry Committee, Majority Chair

PA Representative John Galloway (D), Pa House Labor & Industry Committee, Minority Chair

PA Representative Brian Cutler (R)

PA Representative Dan Miller (D)

PA Labor & Industry Secretary Kathy Manderino

PA Labor & Industry Office of Vocational Rehabilitation (OVR) Executive Director David DeNotaris

Stephen Pennington, Client Assistance Program (CAP), Executive Director