



STATE OF TENNESSEE

EXECUTIVE ORDER

BY THE GOVERNOR

No. 9

AN ORDER TRANSFERRING THE MANAGEMENT AND OPERATION OF ARLINGTON DEVELOPMENTAL CENTER AND THE DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION'S WEST TENNESSEE OFFICE OF COMMUNITY SERVICES FROM THE DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION TO THE DEPARTMENT OF FINANCE AND ADMINISTRATION

WHEREAS, it has been determined that it would be in the interest of a more economical and efficient state service to transfer the management and operation of Arlington Developmental Center and the Department of Mental Health and Mental Retardation's West Tennessee Office of Community Services from the Department of Mental Health and Mental Retardation to the Department of Finance and Administration; and

WHEREAS, the transfer of the management and operation of Arlington Developmental Center and the Department of Mental Health and Mental Retardation's West Tennessee Office of Community Services from the Department of Mental Health and Mental Retardation to the Department of Finance and Administration will facilitate the operation of governmental programs; and

WHEREAS, the Department of Finance and Administration was created and established in Tennessee Code Annotated, Section 4-3-1001, and the Department of Mental Health and Mental Retardation was created and established in Tennessee Code Annotated, Section 4-3-1601;

NOW THEREFORE, I, Don Sundquist, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and by Tennessee Code Annotated, Sections 4-4-102 and 4-4-117 do hereby direct the following:

1. That the management and operation of Arlington Developmental Center and the Department of Mental Health and Mental Retardation's West Tennessee Office of Community Services shall be transferred from the Department of Mental Health and Mental Retardation to the Department of Finance and Administration and that the Department of Finance and Administration shall have exclusive jurisdiction and control over Arlington Developmental Center and the Department of Mental Health and Mental Retardation's West Tennessee Office of Community Services effective February 7, 1996. (The Department of Mental Health and Mental Retardation's West Tennessee Office of Community Services shall be referred to hereafter as "The West Tennessee Office.") All statutory and related functions relating to Arlington Developmental Center and/or The West Tennessee Office now in the Department of Mental Health and Mental Retardation are hereby transferred to be made a part of the Department of Finance and Administration effective February 7, 1996, and that from and after February 7, 1996, all functions related to Arlington Developmental Center and/or The West Tennessee Office, as established in the Tennessee Code Annotated, shall be administered by and shall be under the control of the Commissioner of the Department of Finance and

Administration. Specifically, all authority and responsibilities established in the Tennessee Code Annotated, including those under Tennessee Code Annotated, Title 33 and Title 4, Chapter 3, Part 16, in the Department of Mental Health and Mental Retardation are transferred to the Department of Finance and Administration as they relate to Arlington Developmental Center and/or The West Tennessee Office.

2. That on or after February 7, 1996, the Department of Finance and Administration shall have the duty and responsibility of ensuring that the State of Tennessee, Arlington Developmental Center and The West Tennessee Office comply with any and all Orders that have been or are hereafter rendered in the case styled United States of America v. State of Tennessee, currently pending in the United States District Court for the Western District of Tennessee (hereinafter referred to as the "Arlington Case"), including the obligations of the Remedial Order relative to community placement for residents of Arlington Developmental Center. The authority and responsibility to satisfy the obligations of the Remedial Order relative to community placement for residents of Arlington Developmental Center include, but are not limited to, the authority and responsibility for assessing needs, monitoring the provision of community services and the development of the community infrastructure.

3. That on or after February 7, 1996, the Commissioner of the Department of Finance and Administration shall be responsible for the management and operation of Arlington Developmental Center and The West Tennessee Office. Said Commissioner shall perform all the duties and have the same authority and responsibility with respect to Arlington Developmental Center and The West Tennessee Office as the Commissioner has with other divisions or areas under the jurisdiction and control of the Department of Finance and Administration. Said Commissioner shall perform all duties related to, and have responsibility for, Arlington Developmental Center and The West Tennessee Office and the administration of all statutory functions transferred under the provisions of Section 1 of this Executive Order as well as any rules, regulations, policies and orders developed thereunder.

4. That the Commissioner of the Department of Finance and Administration is authorized to delegate to a compliance team, acting under his direction and supervision, any or all of the responsibilities transferred to the Commissioner or the Department pursuant to the provisions of this Executive Order. The team shall provide reports and recommendations to the Commissioner of the Department of Mental Health and Mental Retardation for use in other developmental centers, institutions and regional offices of community services of the State.

5. That based upon an implementation plan developed by the Commissioner of the Department of Finance and Administration, said Commissioner with the assistance and approval of the Department of Personnel shall cause to be transferred to the Department of Finance and Administration any filled or unfilled, authorized and funded positions assigned, directly or indirectly to Arlington Developmental Center and/or The West Tennessee Office or directly or indirectly performing functions relating to Arlington Developmental Center and/or The West Tennessee Office. The Commissioner of Finance and Administration shall, on or before February 7, 1996, begin the process of implementing this Executive Order and shall complete the process in due time.

6. In accordance with the schedule for transferring jurisdiction and control, the 1995-6 fiscal year appropriations to the Department of Mental Health and Mental Retardation for the management and operation of Arlington Developmental Center and The West Tennessee Office and for the administration of those statutory functions transferred under the provisions of Section 1 of this Executive Order and the rules and regulations, orders and policies effectuated thereunder shall be transferred to the Department of Finance and Administration, and the Department of Finance and Administration shall revise the present work programs, as well as future budgets, of the Departments affected to reflect the effect of this Executive Order.

7. That all personal property, equipment and other materials available and necessary to implement the requirements of this Executive Order shall also be transferred to the custody and control of the Department of Finance and Administration.

8. That on or after February 7, 1996, the Department of Finance and Administration, through its Commissioner, shall have the authority to receive, administer and supervise any and all grants and funds from whatever sources, including but not limited to the federal, state, county and municipal governments, related to Arlington Developmental Center and/or The West Tennessee Office.

9. That all contracts or leases entered into prior to February 7, 1996 by the Department of Mental Health and Mental Retardation that concern or relate to Arlington Developmental Center and/or The West Tennessee Office, and do not concern or relate to any other facility operated by the Department of Mental Health and Mental Retardation, with any entity, corporation, agency, enterprise or person shall continue in full force and effect as to all essential provisions in accordance with the terms and conditions of the contracts or leases in existence on February 7, 1996, to the same extent as if such contracts or leases had originally been entered into by and between such entity, corporation, agency, enterprise or person and the Department of Finance and Administration unless and until such contracts or leases are amended or modified by the parties thereto.


Any contracts or leases entered into prior to February 7, 1996 by the Department of Mental Health and Mental Retardation that concern or relate to more than one (1) facility operated by the Department, one of which is either Arlington Developmental Center or The West Tennessee Office, with any entity, corporation, agency, enterprise or person shall continue in full force and effect as to all essential provisions in accordance with the terms and conditions of the contracts or leases in existence on February 7, 1996, unless and until such contracts or leases are amended or modified by the parties thereto. The Commissioner of the Department of Finance and Administration shall determine whether the mandates of this Executive Order require that said contracts or leases be amended or modified. In any event, the Department of Mental Health and Mental Retardation shall not enter into an amendment to or modification of any provision of said contracts or leases that relate to or affect Arlington Developmental Center and/or The West Tennessee Office without the approval of the Commissioner of the Department of Finance and Administration.

10. That all current rules, regulations, orders, decisions and policies heretofore issued or promulgated by the Department of Mental Health and Mental Retardation with respect to Arlington Developmental Center and/or The West Tennessee Office shall remain in full force and effect and shall hereafter be administered and enforced by the Department of Finance and Administration. To this end, the Department of Finance and Administration, through its Commissioner, shall have authority consistent with the statutes and regulations pertaining to Arlington Developmental Center and The West Tennessee Office to modify or rescind orders, rules and regulations, decisions or policies heretofore issued and to adopt, issue or promulgate new orders, rules and regulations, decisions or policies as may be necessary for the management and operation of Arlington Developmental Center and The West Tennessee Office.

11. That it is my intent to transfer the exclusive jurisdiction and control over Arlington Developmental Center and the Department of Mental Health and Mental Retardation's West Tennessee Office of Community Services and all statutory and related functions relating to Arlington Developmental Center and the Department of Mental Health and Mental Retardation's West Tennessee Office of Community Services to the Department of Finance and Administration that may be necessary for the implementation and the continued management and operation of Arlington Developmental Center and the Department of Mental Health and Mental Retardation's West Tennessee Office of Community Services.

12. That this Order supersedes all other Executive Orders on the same subject to the extent that those Orders are inconsistent with this Order.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 7th day of February, 1996.


GOVERNOR

ATTEST:


SECRETARY OF STATE

