



Department of Fair Employment & Housing Fair Employment and Housing Council

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FAIR EMPLOYMENT AND HOUSING COUNCIL

Meeting of July 31, 2019

Minutes

Elihu M. Harris State Building
1515 Clay Street, Room 2
Oakland, CA 94612

Councilmembers Present

Chaya Mandelbaum, Chairperson
Dale Brodsky, Councilmember
Tim Iglesias, Councilmember
Joseph Ortiz, Councilmember
Dara Schur, Councilmember
Kevin Kish, DFEH Director and Ex Officio member

DFEH Staff Present

Nelson Chan, DFEH Assistant Chief Counsel
Brian Sperber, DFEH Legislative and Regulatory Counsel
Tatianna Grant, DFEH Business Services Associate Governmental Program Analyst

Others Present

Bruce Wick, California Professional Association of Specialty Contractors
Alan Reinach, Church State Council
Noah Lebowitz, California Employment Lawyer's Association
Mark Reading-Smith, Sikh Coalition
Mark Murray, California Teachers Association
Naomi Young, Bay Area Legal Aid
Kara Brodfuehrer, National Housing Law Project
Matthew Warner, Western Center on Law & Poverty
Sheraden Nicholau, California State Council on Developmental Disabilities
Beth Avery, National Employment Law Project
Amanda Eaton, National Employment Law Project

I. Call to Order and Roll Call

Chair Mandelbaum welcomed guests to the FEH Council's 32nd meeting and called it to order. He then turned the meeting over to DFEH Legislative and Regulatory Counsel, Brian Sperber, who conducted roll call.

II. Welcome and Introduction of Guests

Chair Mandelbaum announced that the Council meeting would be livestreamed on the Council's website and that the recording will be available later on the Council's website and YouTube channel. The public can participate in the meeting by emailing the Council and can find the Attachments to the Agenda on the website.

Chair Mandelbaum then acknowledged Department leaders and members.

Chair Mandelbaum then invited the guests in attendance to introduce themselves, on a voluntary basis.

III. Review of the Agenda

Chair Mandelbaum noted that hard copies of the agenda and its attachments were available for people in attendance and that copies are also available on the Council's webpage. He then reviewed the agenda for the meeting.

Chair Mandelbaum announced the highlights of the meeting, which included:

- Public Hearing: Proposed Employment Regulations Regarding Religious Creed and Age Discrimination
- Updates from the Council's other subcommittees

IV. Approval of the Minutes

Attachment A: Minutes from July 3, 2019 Meeting of the Fair Employment and Housing Council

Chair Mandelbaum reviewed the minutes of the July 3, 2019 meeting. During that meeting, the Council considered and adopted Proposed Employment Regulations Regarding Criminal History, the California Family Rights Act, and the New Parent Leave Act; considered and adopted Additional Modifications to Text of Proposed Fair Housing Regulations; and heard updates from the Council's other subcommittees. Chair Mandelbaum asked for public comments on the minutes, and receiving none, the Council voted to approve the minutes unanimously.

V. Councilmembers' Reports

Chair Chaya Mandelbaum and Councilmembers

Councilmember Iglesias reported that since California banned hairstyle discrimination with the recent passing and signing into law of SB 188, it may be a topic to include in a new subcommittee.

VI. Department of Fair Employment and Housing Report

Kevin Kish, Director, Department of Fair Employment and Housing

Director Kish reported that the Department's new Assistant Deputy Director of Education and Outreach, Branden Butler, has been focusing on participating in reentry events, and encouraged the public to notify them of upcoming reentry events that the Department can participate in.

VII. Public Hearing: Proposed Employment Regulations Regarding Religious Creed and Age Discrimination

Attachment B: Notice of Proposed Rulemaking

Attachment C: Initial Statement of Reasons

Attachment D: Proposed Employment Regulations Regarding Religious Creed and Age Discrimination

Chair Mandelbaum introduced the proposed regulations and stated that the purpose of the hearing is to hear 45-day comments on the Proposed Employment Regulations Regarding Religious Creed and Age Discrimination.

The Council heard public comment from:

Bruce Wick, California Professional Association of Specialty Contractors: Mr. Wick thanked the Council for the work on the regulations. He commented that hiring staff and growing a company comes with liability risks, and companies would benefit more from education rather than additional regulation. Mr. Wick asked the Council to reexamine the regulations and scale back anything unnecessary or duplicative.

Alan Reinach, Church State Council: Mr. Reinach thanked the Council for the work on the regulations. He explained that he represents individuals who have been turned down during the application process due to religious preferences and requested additional focus and clarity as to what needs to occur in the application process to prevent this discrimination.

Noah Lebowitz, California Employment Lawyer's Association: Mr. Lebowitz thanked the Council for the work on the regulations and stated that he agrees with the Church State Council's comments. He requested clarity on the pre-employment inquiries section, as it appears to use different language than used elsewhere in the regulations and may cause confusion. Mr. Lebowitz also expressed concern regarding the prevalence of age discrimination in the workplace and requested clarity on the age discrimination regulations. He proposed line-edit modifications to these sections.

VIII. Update from Government Code Section 11135 Regulations Subcommittee
Councilmembers Dale Brodsky and Dara Schur

A. Discussion by Council

Councilmember Schur reported that the initial statement of reasons for the regulations are still delayed and will be completed in the coming weeks.

B. Public Comment

None.

IX. Update from Subcommittee Regarding Hate Violence
Councilmembers Dale Brodsky and Connie Chan

Attachment E: Statement of Eva Paterson to House Judiciary Committee

A. Discussion by Council

Councilmember Brodsky reported that she and Councilmember Chan have been reaching out to organizations that are actively engaged in combating hate violence and they would like the subcommittee to collect input from those with experience in the enforcement of hate violence protections. Councilmember Brodsky proposed they have an assigned slot in subsequent Council meetings for individuals to provide input about hate violence and potential regulations or other steps the Council can take to address it, rather than holding a public hearing.

Councilmember Brodsky further reported that Eva Paterson will be available in Fall 2019 to present input before the Council.

Councilmember Schur agreed that she would like Eva Paterson to present input. She also requested speakers to comment on hate violence related to religion and immigration. Councilmembers Schur and Ortiz also encouraged the Council to hold a separate hearing on hate violence in addition to the portions of meetings dedicated to soliciting feedback on the topic.

Director Kish requested a speaker to comment on hate violence within the Sikh community.

B. Public Comment

Mark Murray, California Teachers Association: Mr. Murray commented that the California Teachers Association is actively training its members surrounding these issues and offered support to the Council.

X. **Update from the SB 1343 Implementation Subcommittee**
Chair Chaya Mandelbaum and Councilmember Connie Chan

A. Discussion by Council

Chair Mandelbaum stated that the subcommittee has been following the status of a pending bill, SB 778, which would delay the deadline to implement SB 1343. He noted that it has not yet passed. He further stated that regardless of the passing of this bill, the public would benefit from regulations regarding implementing SB 1343 in various contexts not specifically address in the statute. The rulemaking may be in the form of emergency regulations if SB 778 does not pass.

Director Kish reported that the Department is required to produce online, interactive training courses. In order to accomplish this, the Department prepared a request for offer from vendors but received no offers. As a result, a retired IT expert has been asked to help produce these trainings.

B. Public Comment

None.

XI. **Consideration of Unmodified Text of Proposed Fair Housing Regulations**
Councilmembers Dara Schur and Tim Iglesias

Attachment F: Unmodified Text of Proposed Fair Housing Regulations

A. Discussion by Council

Councilmember Schur noted that the subcommittee has not made additional modifications to the regulations since the last Council meeting.

B. Public Comment

Kara Brodfuehrer, National Housing Law Project: Ms. Brodfuehrer thanked the Council for the work on the regulations and urged the Council to adopt the regulations as drafted.

Matthew Warner, Western Center on Law & Poverty: Mr. Warner thanked the Council for the work on the regulations.

C. Action by Council

The Council unanimously approved the text, authorized DFEH staff to submit it to the Office of Administrative Law, and authorized DFEH staff to make non-substantial changes if required by the Office of Administrative Law.

XII. Discussion Regarding Additional Subcommittee Assignments

Chair Chaya Mandelbaum and Councilmembers

A. Discussion by Council

Chair Mandelbaum discussed the need to form a SB 1343 implementation subcommittee with an expanded scope of responsibilities and a subcommittee regarding hate violence with an expanded scope of responsibilities.

Councilmember Ortiz volunteered to join the subcommittee regarding hate violence along with Councilmember Brodsky.

Chair Mandelbaum volunteered to form the new SB 1343 implementation subcommittee.

Director Kish reviewed the membership of current subcommittees.

Councilmember Brodsky discussed possible date(s) for the civil rights hearing in the Inland Empire. Councilmember Ortiz responded that he has reached out to stakeholders and has determined that October would be the soonest possibility and that the fall or early winter would be the optimal time.

B. Public Comment

None.

C. Action by Council

The Council moved, seconded, and unanimously voted to approve the subcommittee assignments.

XIII. Further Public Comment

None.

XIV. Adjournment

Chair Mandelbaum adjourned the meeting at 11:21 AM.

Date: August 1, 2019

CHAYA MANDELBAUM
Chair

RENEE RONDINONE
DFEH Outreach and Education Specialist