



Department of Fair Employment & Housing Fair Employment and Housing Council

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FAIR EMPLOYMENT AND HOUSING COUNCIL

Meeting of March 19, 2021

Minutes

Remote Meeting

Councilmembers Present

Gabriel Sandoval, Chairperson
Dale Brodsky, Councilmember
Hellen Hong, Councilmember
Tim Iglesias, Councilmember
Adetunji O. Olude, Councilmember
Dara Schur, Councilmember
Julie Wilensky, Councilmember
Kevin Kish, DFEH Director and Ex Officio member

DFEH Staff Present

Adam Romero, DFEH Deputy Director of Executive Programs
Kara Brodfuehrer, DFEH Legislative and Regulatory Counsel

Others Present

About 25 members of the public

I. Call to Order and Roll Call

Chair Sandoval welcomed guests to the FEH Council's 42nd meeting and called it to order. He then turned the meeting over to DFEH Senior Fair Employment and Housing Counsel, Kara Brodfuehrer, who conducted roll call.

II. Welcome and Introduction of Guests

Chair Sandoval announced that the Council meeting would be livestreamed via Zoom 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 or using Zoom chat or using the "Raise Hand" function and can find the Attachments to the Agenda on the website.

Chair Sandoval then acknowledged Department leaders and members, including: Adam Romero, DFEH Deputy Director of Executive Programs, and Kara Brodfuehrer, DFEH Senior Fair Employment and Housing Counsel.

Chair Sandoval welcomed three new councilmembers, Julie Wilensky, Hellen Hong and Adetunji O. Olude, who were recently appointed to the Council by Governor Newsom. The Councilmembers introduced themselves.

Councilmember Hong expressed her honor and pleasure to be a part of the Council and discussed her background as an attorney advancing social justice in various fields. She shared that she began her career as a public interest attorney and later became an Executive Director of a Legal Aid program in Los Angeles, focusing on the rights of undocumented women and teenage parents. Councilmember Hong continued that she then worked with foster youth, assisting them in their educational and employment goals, then worked for the State Bar of California as the first Director of Access & Inclusion.

Councilmember Olude introduced herself and discussed her background as an attorney for the Judicial Council of the California courts. She stated that she was a civil litigator in housing and consumer finance, as well as workplace discrimination, whistleblower retaliation, and wage and hour lawsuits prior to her time at the Judicial Council. Councilmember Olude shared that she joined the Council with the motivation to dismantle stereotypes of communities of color, immigrants, religious minorities, and members of the LGBTQ+ community through administering the affairs of government.

Councilmember Wilensky expressed her honor and excitement to be a part of the Council. She stated that she is an attorney for the National Center for Lesbian Rights and has spent most of her career representing plaintiffs in cases involving race, sex, LGBTQ+, and disability discrimination. Councilmember Wilensky shared that she previously worked in the Santa Clara County Counsel's office, where she advised County entities on California's non-discrimination requirements.

III. Review of the Agenda

Chair Sandoval reviewed the agenda for the meeting.

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

- Consideration of Further Modifications to Housing Regulations Regarding Definitions; Intentional Discrimination; Discriminatory Advertisements, Statements, and Notices; Consideration of Income; Residential Real Estate-Related Practices; and Disability
- Update Regarding 4/30/2021 Hearing on the Use of Algorithms in Employment, Housing, and Lending
- Updates from the Council's other subcommittees

IV. Approval of the Minutes

Attachment A: Minutes from December 4, 2020 Meeting of the Fair Employment and Housing Council

Chair Sandoval reviewed the minutes of the December 4, 2020 meeting. During that meeting, the Council considered and adopted Modifications to Housing Regulations Regarding Definitions; Intentional Discrimination; Discriminatory Advertisements, Statements, and Notices; Consideration of Income; Residential Real Estate Related Practices; and Disability; considered and adopted Request for Public Input Regarding Reasonable Accommodations for Associational Disabilities Under the Fair Employment and Housing Act; and heard updates from the Council's other subcommittees. Chair Sandoval asked for public comments on the minutes, and receiving none, the Council voted to approve the minutes with Councilmembers Hong, Olude, and Wilensky abstaining.

V. Councilmembers' Reports

Chair Gabriel Sandoval and Councilmembers

None.

VI. Department of Fair Employment and Housing Report

Kevin Kish, Director, Department of Fair Employment and Housing

Director Kish thanked the Council's new chair, Chair Sandoval, for accepting his new role and welcomed the new Council members. He noted that California's pay data reporting requirement is in effect for employers of 100 or more employees, and that employers have until the end of March to submit their data using DFEH's new pay data reporting online portal. He further explained that employers also have access to a user guide, templates, and a set of FAQs. Director Kish announced that DFEH launched a newsletter highlighting Department updates and event news, which can be viewed on DFEH's website or received via email subscription. He also noted that DFEH has implemented the expansion of the California Family Rights Act (CFRA) throughout its website content and new informational materials, and these materials can be accessed through the new online Family, Medical, and Pregnancy Disability Leave for Employees in California toolkit. He further highlighted that DFEH participated in two webinars with the Stop AAPI Hate coalition, and video of the second webinar can be accessed on the Department's YouTube channel. Lastly, he announced that DFEH has launched its first formal public outreach campaign called Keep California Fair, which includes radio and social media advertisements, also accessible through the Department's website.

VII. Consideration of Further Modifications to Housing Regulations Regarding Definitions; Intentional Discrimination; Discriminatory Advertisements, Statements, and Notices; Consideration of Income; Residential Real Estate-Related Practices; and Disability Councilmembers Dara Schur and Tim Iglesias

Attachment B: Further Modifications to Text of Proposed Housing Regulations Regarding Definitions; Intentional Discrimination; Discriminatory Advertisements, Statements, and Notices; Consideration of Income; Residential Real Estate-Related Practices; and Disability

A. Discussion by Council

Councilmembers Iglesias and Schur noted that the subcommittee made further modifications to the proposed regulations since the last Council meeting in response to public comment.

Director Kish reminded the Council that Councilmembers can propose changes that the Council can vote on during today's meeting and move into the draft that goes out for public comment, then the public can submit comments that the Council must consider.

Council members suggested a number of additional line-edit modifications.

B. Public Comment

Paul Dumont: Mr. Dumont submitted an email comment suggesting the Council reconsider using the phrase "available only to persons of one sex" in Section 12051(b).

Connie Arnold: Ms. Arnold submitted a Zoom comment expressing the need for newer apartment complexes to include roll-in showers in accessible units, as many complexes have accessible units but are not required to include roll-in showers.

Councilmember Schur agreed with the need for roll-in showers and explained that establishing this requirement is not within the scope of these regulations. She further explained that this issue is primarily handled by the State architect and the California Department of Housing and Community Development (HCD).

Whitney Prout, California Apartment Association: Ms. Prout thanked the Council for the work on the regulations and noted that she will no longer be the point of contact for the California Apartment Association at Council meetings going forward. She also noted that because she will no longer be the point of contact, she will abstain from providing her opinion on changing the word “parents” to “relatives” or “family members” in Section 12140(b)(2).

Tina Rosales, Western Center on Law & Poverty: Ms. Rosales thanked the Council for the work on the regulations.

Matthew Oglander, San Francisco Human Rights Commission: Mr. Oglander thanked the Council for the work on the regulations and suggested the subcommittee add language regarding discriminatory statements in Section 12050, clarifying whether any particular type of damages are necessary in order to establish liability for discriminatory statements and what type of damages can be recovered from discriminatory statements or advertisements.

Kareem Dressy, California Association of Realtors: Mr. Dressy thanked the Council for the work on the regulations.

C. Action by Council

The Council moved, seconded, and unanimously approved a motion to adopt Attachment B as amended during the meeting and to initiate a 15-day comment period.

VIII. Update Regarding 4/30/2021 Hearing on the Use of Algorithms in Employment, Housing, and Lending

A. Discussion by Council

Director Kish turned the meeting over to Deputy Director of Executive Programs Adam Romero for updates.

Mr. Romero noted that they have been making progress on organizing a hearing on the use of discriminatory algorithms, which is tentatively scheduled for April 30, 2021, and have been collaborating with subject-matter experts on the topic.

B. Public Comment

Ken Wang, California Employment Lawyers Association: Mr. Wang thanked the Council for the work on this topic.

IX. Update from the Reasonable Accommodations for Associational Disabilities Subcommittee
Councilmember Dale Brodsky

A. Discussion by Council

Councilmember Brodsky noted that during the last Council meeting the Council approved a request for public input on the issue of reasonable accommodations for associational disabilities, for which the subcommittee received a number of responses. She then asked if another councilmember is interested in joining the subcommittee.

Councilmember Schur expressed the importance of this topic and the subcommittee to address it.

B. Public Comment

None.

X. Update from Criminal History & Employment Hearing Subcommittee

Chair Gabriel Sandoval

A. Discussion by Council

Chair Gabriel noted that the subcommittee is reviewing feedback from and topics discussed during the November 2020 Criminal History & Employment Hearing. He also noted that he is considering combining the Criminal History & Work Opportunity Tax Credit Subcommittee with this subcommittee. He then asked if another councilmember is interested in joining the subcommittee.

Councilmember Iglesias commented that combining the Criminal History & Work Opportunity Tax Credit Subcommittee with the Criminal History & Employment Hearing Subcommittee is a good idea.

B. Public Comment

None.

XI. Update from Government Code Section 11135 Regulations Subcommittee

Councilmembers Dale Brodsky and Dara Schur

A. Discussion by Council

Councilmember Schur reported that the notice package is still under review by the California Business, Consumer Services and Housing Agency.

B. Public Comment

Kevin Baker, American Civil Liberties Union: Mr. Baker submitted an email comment supporting the rulemaking for the Government Code Section 11135 Regulations.

Liz Guillen, Public Advocates: Ms. Guillen submitted an email comment supporting the rulemaking for the Government Code Section 11135 Regulations.

Joann Lee, Legal Aid Foundation of Los Angeles: Ms. Lee submitted an email comment supporting the rulemaking for the Government Code Section 11135 Regulations.

Thomas Coleman, Spectrum Institute: Mr. Coleman noted that the courts continue to violate the Government Code Section 11135 regulations in judicial proceedings on a daily basis. Because of this, he urged that the regulations stress that disability non-discrimination provisions apply to judicial proceedings including the duty to grant reasonable accommodations. He further requested that the regulations involuntary litigants with major cognitive disabilities who are unable to request reasonable accommodations. He also noted two publications of importance to the drafting of these regulations, which can be found on the Spectrum Institute website: a Department of Justice guidance memo on criminal justice courts and agencies and a guidance memo between the Department of Justice and Department of Health and Human Services on child welfare proceedings. Finally,

he noted that the Washington State Courts have a rule dealing with accommodations that an appointment of counsel may be provided as an accommodation to individuals with cognitive disabilities.

Silvia Yee: Ms. Yee thanked the Council for the work on the regulations and noted that during the COVID-19 pandemic, individuals with disabilities have been experiencing discrimination in medical rationing as well as in regards to medical facilities failing to modify their visitation policies for individual's with disabilities and their support persons.

XIII. Update from the Hate Violence Hearing Subcommittee

Chair Gabriel Sandoval and Councilmember Dale Brodsky

A. Discussion by Council

Councilmember Brodsky reported that the subcommittee will be reviewing the comments from the September 2020 hearing on hate violence.

Chair Sandoval added that in light of recent hate violence events, the subcommittee is contemplating additional next steps and resources that can be provided to the public.

Councilmember Iglesias expressed looking forward to the subcommittee bringing suggestions back to the Council and noted that the Riverside Police Department may be a model to reference.

Councilmember Hong added that according to the California Justice Gap study, people encountering issues tend to first go to family and friends, then advisors and non-profit organizations rather than law enforcement. She encouraged the subcommittee to use this information to be proactive in helping individuals facing hate violence.

B. Public Comment

Dr. Cliff Chang: Dr. Chang shared that he recently began collecting data and applying for grants to create a documentary and write a book regarding hate violence toward Asian communities. He explained that there is work to be done with police departments as well as the judicial system, as there have been failings to report on various instances of hate violence.

Mark Murray, California Teachers Association: Mr. Murray stated that 2-1-1 is a state-wide number provided by the Public Utilities Commission and customized by local counties.

XIV. Discussion Regarding Additional Subcommittee Assignments

Chair Gabriel Sandoval

A. Discussion by Council

Chair Sandoval turned the meeting over to the Councilmembers to volunteer for additional subcommittee formations.

Councilmember Hong and Councilmember Iglesias volunteered to create the Algorithms and Bias Hearing Subcommittee.

Councilmember Olude volunteered to join Councilmember Brodsky on the Reasonable Accommodations for Associational Disabilities Subcommittee.

Councilmember Wilensky volunteered to join Chair Sandoval on a new Subcommittee on Criminal History and Employment, combining the prior two related committees.

Councilmember Brodsky suggested the Council form a subcommittee to reexamine the Unruh Act. Director Kish suggested tabling this subcommittee until the next meeting.

B. Public Comment

None.

C. Action by Council

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

XV. Further Public Comment

None.

XVI. Adjournment

Chair Sandoval adjourned the meeting at approximately 3:45 PM.

Date: March 19, 2021

GABRIEL SANDOVAL
Chair

RENEE RONDINONE
DFEH Outreach and Education Specialist