

**CIVIL RIGHTS DEPARTMENT  
PROPOSED REGULATIONS REGARDING PROCEDURES OF COMMUNITY CONFLICT RESOLUTION  
INITIAL STATEMENT OF REASONS**

**CALIFORNIA CODE OF REGULATIONS**

**Title 2. Administration**

**Div. 4.1. California Civil Rights Department**

**Chapter 1. Procedures of the Civil Rights Department of Fair Employment and Housing**

**Subchapter 4. Community Conflict Resolution Services**

As it relates to community conflict, the Fair Employment and Housing Act (FEHA) (Gov. Code § 12900 et seq.) provides that the California Civil Rights Department (Department) has authority to provide community conflict resolution assistance to communities experiencing disputes, disagreements, or difficulties arising from discriminatory practices on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, veteran or military status, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, familial status, age, reproductive health decisionmaking, or sexual orientation that impair the rights of persons therein and threaten peaceful community relations. (Gov. Code § 12931-12932).

In Fiscal Year 2022-2023 the Department received funding for the first time to begin undertaking the activities described in Government Code section 12931 via a new Community Conflict Resolution Unit (CCRU). As such, community conflict resolution conciliation assistance is not contemplated or provided for in existing Department regulations. New regulations are necessary to effectively and efficiently implement and interpret this section and accompanying Government Code sections 12931-12932.

Pursuant to Government Code section 12930(e), the Department has authority to adopt “suitable procedural rules and regulations to carry out the investigation, prosecution, and dispute resolution functions and duties of the department pursuant to [FEHA].” This rulemaking action is intended to further implement, interpret, and/or make specific Government Code sections 12931-12932.

The specific purpose of each proposed regulation or amendment and the reason it is necessary are described below. The problem that a particular proposed regulation or amendment addresses and the intended benefits are outlined under each subsection.

**Chapter 1. Procedures of the Civil Rights Department of Fair Employment and Housing.**

The Department proposes to modify the title of Chapter 1 of Division 4.1 of Title 2 of the Government Code to reflect the Department’s current name – the Civil Rights Department. This modification is necessary to further implement SB 189 (Committee on Budget and Fiscal Review, Chapter 48, Statutes of 2022), which, effective July 1, 2022, changed the name of the

Department from the Department of Fair Employment and Housing to the Civil Rights Department. See also Notice of Approval of Changes Without Regulatory Effect, OAL Matter Number 2023-0207-02 (amending Chapter 5 of Division 4.1 of Title 2 of the Code of Regulations to reflect the new name of the department and of the Civil Rights Council).

#### **Subchapter 4. Community Conflict Resolution Services**

The Department proposes to add a new subchapter 4 to provide regulations specific to the Department's community conflict resolution services. This is necessary to organizationally distinguish these regulations from other procedures of the Department.

#### **§ 10300. Scope.**

The Department proposes to add a section to the regulations to introduce and clarify the scope of the Department's community conflict resolution conciliation assistance to communities.

This section also provides descriptive examples of conciliation assistance provided by the CCRU, including but not limited to facilitated dialogues, mediation, education and outreach, training, technical assistance, and consultation. Community conflict resolution assistance is intended to assist communities experiencing conflict to develop community-led solutions to the conflict and enhance communities' capacity to independently prevent and resolve future conflict, while also clarifying that these services are provided in a neutral and impartial manner.

This section also clarifies that the Department's community conflict resolution conciliation assistance is distinct from the Department's enforcement activities, including mediation provided by the Dispute Resolution Division, conducted pursuant to other parts of FEHA and existing regulations.

The addition of this section is necessary for clarity and to address the reach and applicability of this subchapter to communities.

#### **§ 10301. Community Conflict Resolution Services Jurisdiction.**

The Department proposes to add a new section to this subchapter to state: "The Department may provide its community conflict resolution conciliation assistance to communities and persons therein when, in the judgment of the community conflict resolution staff, peaceful relations among the persons of the community involved are threatened by disputes, disagreements, or difficulties relating to discriminatory practices based on the protected characteristics listed in Government Code section 12931." This section is necessary to introduce and clarify this new Departmental resource, particularly because the Department's community conflict resolution conciliation assistance may be confused with other Department activities, such as Enforcement Division investigators engaging in conciliation with parties to a Department administrative complaint. CCRU community conflict resolution conciliation assistance is distinguishable from conciliation performed by the Enforcement Division under 2 CCR § 10001(d), which is generally focused on individuals and individual claims, not communities and community tension, and which involve the Department's enforcement

authority under FEHA.

**§ 10302. Definitions.**

The Department proposes to add a section to this subchapter defining “conciliation assistance” and “investigation” for purposes of this subchapter.

The Department proposes to define “conciliation assistance” to include “activities undertaken by the Community Conflict Resolution Unit to assist communities or state or local bodies to resolve community conflict, including, but not limited to, facilitating dialogues, mediation, education and outreach, training, designing effective opportunities for community input, technical assistance, and consultation.” This definition is necessary to define a term used throughout this subchapter and to succinctly describe the types of activities undertaken by the Department in fulfilling its obligations under Government Code section 12931. This is also necessary to provide information to the public regarding the type of assistance the Department provides specifically within the scope of Government Code section 12931 and to differentiate community conflict resolution conciliation assistance from the Department’s existing conciliation services.

The Department proposes to define “investigation” to include “activities to gather and examine information, discover or uncover facts, and research.” This definition is necessary to define a term used throughout this subchapter and to succinctly describe the types of activities that would qualify as investigatory by the Community Conflict Resolution Unit. This is also necessary to differentiate the use of the term in Government Code section 12931 from the use of the term throughout the Department’s existing regulations referring exclusively to activities undertaken within the scope of the Department’s enforcement-related investigations.

**§ 10303. Confidentiality.**

The Department proposes to add a section to this subchapter to clarify that the activities of community conflict resolution conciliation assistance are conducted confidentially and without publicity, and that the Department will hold confidential all information it acquires in providing community conflict resolution conciliation assistance. This is necessary to confirm that confidentiality pursuant to Government Code section 12932, subdivision (b), covers the conciliation assistance offered and provided by the Community Conflict Resolution Unit. This is also necessary to clarify and distinguish the confidentiality of community conflict resolution conciliation assistance from “conciliation” offered by the Department’s Enforcement Division, as defined at 2 CCR § 10001(d). Unlike community conflict resolution conciliation assistance, “conciliation” offered by the Enforcement Division occurs as part of the Department’s enforcement activities, concerns the investigation of a complaint as defined by 2 CCR § 10001(d), and may not be fully confidential since exceptions to confidentiality exist under 2 CCR § 10024.

**§ 10304. Requesting or Accepting Community Conflict Resolution Conciliation Assistance.**

The Department proposes to add a section to this subchapter explaining that the filing of a complaint as defined by 2 CCR § 10001(c) is not a prerequisite to requesting or accepting

community conflict resolution conciliation assistance. This section distinguishes the process for requesting and accepting community conflict resolution conciliation assistance from the “intake” process under 2 CCR § 10007 for filing a complaint. No “intake” under 2 CCR § 10007 is required in order to engage the Department’s community conflict resolution conciliation assistance. Rather, as provided for by Government Code section 12931, any state or local public body, or any person directly affected by a dispute, disagreement, or difficulty relating to discriminatory practices based on the protected characteristics identified in Government Code section 12931 may request or accept CCRU community conflict resolution conciliation assistance orally, in writing—including by email—or by filing a CCRU request for service form.

This section also necessary to clarify that CCRU provides community conflict resolution conciliation assistance independently and without reference to a complaint as defined by 2 CCR § 10001(c). Thus, requesting or accepting CCRU community conflict resolution conciliation assistance neither stays nor otherwise affects the statute of limitation or any investigatory deadlines associated with a complaint under 2 CCR § 10001(c) or receiving Dispute Resolution Division services pursuant to 2 CCR § 10025.

#### **TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS**

The Department did not rely upon any technical, theoretical or empirical studies, reports, or documents in proposing these regulations.

#### **REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S REASONS FOR REJECTING THOSE ALTERNATIVES**

The Department has determined that no reasonable alternative it considered, or that was otherwise brought to its attention, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Department invites comments from the public regarding suggested alternatives, where greater clarity or guidance is needed.

#### **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The proposed regulations, which clarify existing law without imposing any new burdens, will not adversely affect small businesses.

#### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The proposed regulations clarify and supplement existing law without imposing any new burdens. Their adoption is anticipated to benefit California businesses, workers, and the State's judiciary by clarifying and streamlining the operation of the law, making it easier for all to understand their rights and obligations, and reducing litigation costs.

### **ECONOMIC IMPACT ANALYSIS/ASSESSMENT**

The Department anticipates that the adoption of these regulations will not impact the creation or elimination of jobs; the creation of new businesses or the elimination of existing businesses; the expansion of businesses currently doing business within the state; or worker safety and the environment because the regulations centralize and codify existing law, clarify terms, and make technical changes without affecting the supply of jobs or ability to do business in California. To the contrary, adoption of the regulations is anticipated to benefit California businesses, workers, and the state's judiciary by clarifying and streamlining the operation of the law, making it easier for all to understand their rights and obligations, and reducing litigation costs.