



Department of Fair Employment & Housing Fair Employment and Housing Council

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
800-884-1684 (voice) | 800-700-2320 (TTY) | California's Relay Service at 711
www.dfeh.ca.gov | email fehcouncil@dfeh.ca.gov

FAIR EMPLOYMENT AND HOUSING COUNCIL

Meeting of February 25, 2020

Minutes

Ronald Reagan State Building Auditorium (First Floor)
300 South Spring Street
Los Angeles, CA 90013
and
(Teleconference location)
77 Wellington Street, Russell
Northland 0202
New Zealand

Councilmembers Present

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

DFEH Staff Present

Brian Sperber, DFEH Legislative and Regulatory Counsel
Tatianna Grant, DFEH Business Services Associate Governmental Program Analyst
Branden Butler, DFEH Assistant Deputy Director of Education and Outreach
Lavinia Trotter, DFEH Associate Information Systems Analyst
Sovan Heng, Information Technology Technician

Others Present

Whitney Prout, California Apartment Association
Natasha Reyes, Disability Rights California
Jodi Dayberry, California Teachers Association
Mark Murray, California Teachers Association
Karim Drissi, California Association of Realtors
Jarrell Mitchell, Neighborhood Legal Services of Los Angeles County
Thomas Coleman, Spectrum Institute
Joann Lee, Legal Aid Foundation of Los Angeles
Lisa Ng, Department of Justice

I. Call to Order and Roll Call

Chair Mandelbaum welcomed guests to the FEH Council's 34th 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 introduced newly appointed Councilmember, Gabriel Sandoval, who introduced himself and discussed his interests as it relates to the Council's work. Chair Mandelbaum then acknowledged Department leaders and members, including: Brian Sperber, DFEH Legislative and Regulatory Counsel; Tatianna Grant, DFEH Business Services Associate Governmental Program Analyst; Branden Butler, DFEH Assistant Deputy Director of Education and Outreach; Lavinia Trotter, DFEH Associate Information Systems Analyst; and Sovan Heng, DFEH Information Technology Technician.

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:

- Consideration of Housing Regulations Regarding Definitions; Intentional Discrimination; Discriminatory Advertisements, Statements, and Notices; Consideration of Income; Residential Real Estate-Related Practices; and Disability
- Consideration of Modifications to Employment Regulations Regarding Criminal History, the California Family Rights Act, and the New Parent Leave Act
- Consideration of Unmodified Text of Employment Regulations Regarding Religious Creed and Age Discrimination
- Consideration of Revised Government Code Section 11135 Regulations

IV. Approval of the Minutes

Attachment A: Minutes from October 23, 2019 Meeting of the Fair Employment and Housing Council

Chair Mandelbaum reviewed the minutes of the October 23, 2019 meeting. During that meeting, the Council held a public hearing on proposed Employment Regulations Regarding Criminal History, the California Family Rights Act, and the New Parent Leave Act; considered Modifications to Employment Regulations Regarding Religious Creed and Age Discrimination; and considered and voted to initiate a rulemaking action on Employment Regulations Regarding Harassment Prevention Training. The Council moved, seconded and unanimously voted to approve the minutes, with one abstention.

V. Councilmembers' Reports

Chair Chaya Mandelbaum and Councilmembers

Councilmember Iglesias reported that he presented an annual real estate update to the Alameda County Bar Association last week regarding the Fair Housing Regulations, and that he will be participating in a DFEH webinar on the Fair Housing Regulations on March 12, 2020.

Councilmember Schur reported that she presented at the fair housing conference in San Diego regarding the Fair Housing Regulations two weeks ago, and that she will be participating in two DFEH webinars on the Fair Housing Regulations.

Councilmember Ortiz announced that he will act as a moderator at Fair Housing Council of Riverside County's annual conference on April 29, 2020.

VI. Department of Fair Employment and Housing Report

Kevin Kish, Director, Department of Fair Employment and Housing

Director Kish reported that DFEH in collaboration with subject matter experts from other organizations is currently providing a seven-part webinar series on Fair Housing Regulations. He also announced that DFEH's Education and Outreach unit has been working on several outreach initiatives, including: a new website that is expected to debut this week; new and revised outreach materials available in additional languages; an initiative to pursue discriminatory rental advertisements regarding source of income; and the online, interactive sexual harassment and abusive conduct prevention trainings for supervisory and non-supervisory employees expected to be available by April.

VII. Update from Subcommittee Regarding Hate Violence

Councilmembers Dale Brodsky and Joseph Ortiz

A. Discussion by Council

Councilmember Ortiz reported that a location has been secured for a public hearing in the Inland Empire – Riverside City Hall – and the projected hearing date is June 19. He also noted that stakeholders have expressed interest in participating in the hearing, including: Fair Housing Council of Riverside County, Riverside Legal Aid, Rebirth Homes, local law enforcement, California Rural Legal Assistance, Equal Justice Society, and the California Department of Justice.

Councilmember Schur added that she spoke with Brian Levin from California State University San Bernardino regarding the future public hearing.

B. Public Comment

None.

VIII. Consideration of 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: 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

Councilmember Iglesias noted that these regulations will address intentional discrimination, discriminatory statements in advertisements, source of income discrimination, and housing accommodations.

Councilmember Schur added that these regulations will also focus on reasonable modifications.

Chair Mandelbaum suggested additional structural and line-edit modifications.

B. Public Comment

Whitney Prout, California Apartment Association: Ms. Prout proposed a number of changes to the draft regulations, including: revising the definition of “motivating factor,” revising the definition of “lawful, verifiable income,” adding clarity to section 12142 regarding aggregate income, and adding “Space Force” to the definition of “military or veteran status.”

Natasha Reyes, Disability Rights California: Ms. Reyes thanked the Council for the work on the regulations and expressed the importance of clarifying the sections on reasonable modifications and source of income, notably surrounding third-party payments.

Karim Drissi, California Association of Realtors: Mr. Drissi thanked the Council for the work on the regulations.

Jodi Dayberry, California Teachers Association: Ms. Dayberry stated that many homeless families are being denied housing using third-party payments.

C. Action by Council

The Council moved, seconded, and unanimously approved a motion to adopt Attachment B as amended and allow the Department to prepare the rulemaking package and notice the draft regulations for public comment.

IX. Consideration of Modifications to Employment Regulations Regarding Criminal History, the California Family Rights Act, and the New Parent Leave Act

Chair Chaya Mandelbaum and Councilmember Joseph Ortiz

Attachment C: Modified Text of Proposed Employment Regulations Regarding Criminal History, the California Family Rights Act, and the New Parent Leave Act

A. Discussion by Council

Chair Mandelbaum and Councilmember Joseph Ortiz noted that the subcommittee made additional modifications to the regulations since the last Council meeting after reviewing public comment.

The Council suggested a number of additional structural and line-edit modifications and discussed options for modified language to the definition of “directly employs” in the CFRA/NPLA section.

B. Public Comment

Jarrell Mitchell, Neighborhood Legal Services of Los Angeles County: Mr. Mitchell thanked the Council for the work on the regulations and proposed a number of changes to the draft regulations, including: replacing “calendar days” with “business days” in section 11017.1(d)(2)(C), providing guidance to applicants encountering job applications with unlawful questions regarding criminal history, and emphasizing the allowance of third party complaints to be filed with DFEH.

C. Action by Council

The Council moved, seconded, and voted to approve revisions to the definition of “directly employs” and then moved, seconded and unanimously approved a motion to adopt Attachment C as amended and initiate an additional 15-day comment period.

X. Consideration of Unmodified Text of Employment Regulations Regarding Religious Creed and Age Discrimination

Councilmembers Tim Iglesias and Joseph Ortiz

Attachment D: Unmodified Text of Employment Regulations Regarding Religious Creed and Age Discrimination

A. Discussion by Council

Councilmember Ortiz reviewed the previous modifications made to the regulations that went out for a 15-day comment period and received zero comments.

Councilmember Sandoval suggested additional nonsubstantial structural and line-edit modifications.

B. Public Comment

None.

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.

XI. Consideration of Revised Government Code Section 11135 Regulations

Councilmembers Dale Brodsky and Dara Schur

Attachment E: Text of Proposed Revised Government Code Section 11135 Regulations

A. Discussion by Council

Councilmember Schur and Director Kish noted that the subcommittee made additional modifications to the regulations since the last Council meeting.

Chair Mandelbaum suggested additional structural and line-edit modifications.

B. Public Comment

Natasha Reyes, Disability Rights of California: Ms. Reyes thanked the Council for the work on the regulations and proposed a number of changes to the draft regulations, including: adding a reference to definitions of the terms “undue burden,” “direct threat,” and “fundamental alteration” used in section 14331, and revising section 14331(d)(7) to include text referencing that covered entities may not require animal vests, identification cards, or certificates confirming an animal is an assistance animal.

Joann Lee, Legal Aid Foundation of Los Angeles: Ms. Lee proposed a number of changes to the draft

regulations, including: clarity to restrictions on unqualified interpreters, adding provisions on when to provide written translations as well as multi-lingual notices; more clarity on language services being free of charge; and encouraging covered entities to have written language access plans. She further suggested these changes be incorporated into current definitions of “reasonable steps” or “meaningful access” in section 14101(d). Lastly, Ms. Lee recommended using a broader approach to the current five factor analysis found in section 14101(d).

C. Action by Council

The Council moved, seconded, and unanimously approved a motion to adopt Attachment E as amended and allow the Department to prepare the rulemaking package and notice the draft regulations for public comment.

XII. Discussion Regarding Additional Subcommittee Assignments

Chair Chaya Mandelbaum and Councilmembers

A. Discussion by Council

Chair Mandelbaum inquired if anyone would like to join him on the SB1343 subcommittee regarding harassment prevention training. Councilmember Sandoval volunteered to join. The Council also discussed forming a subcommittee to explore a potential hearing on the use of criminal history in employment decisions and the implementation of ban the box in California. Chair Mandelbaum and Councilmember Sandoval volunteered to form the new subcommittee.

B. Public Comment

None.

C. Action by Council

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

XIII. Further Public Comment

Thomas Coleman, Spectrum Institute: During public comment after Agenda Item IX, Mr. Coleman proposed changes to the draft Government Code Section 11135 Regulations, including: clarifying that public entities should be proactive in making reasonable accommodations without a formal request from the disabled party and adding a section regarding implementation in the context of judicial proceedings and conservatorships.

Lisa Ng, Department of Justice: Ms. Ing asked the Council for clarification on the definitions of reasonable accommodation and reasonable modification.

XIV. Adjournment

Chair Mandelbaum adjourned the meeting at approximately 1:21 PM.

Date: March 2, 2020

CHAYA MANDELBAUM
Chair

RENEE RONDINONE
DFEH Outreach and Education Specialist