	DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING ***ENFORCEMENT DIVISION DIRECTIVE***	**DIRECTIVE NUMBER** **235** **DISTRIBUTION DATE** **October 1, 1998**

1. **SUBJECT: DEPARTMENT ACCOMMODATION FOR HEARING, SPEECH AND VISION IMPAIRED COMPLAINANTS AND OTHERS NEEDING REASONABLE ACCOMMODATION TO OBTAIN ACCESS TO DEPARTMENT SERVICES**

2. **PURPOSE:** To set forth the procedures for ensuring access to Department of Fair Employment and Housing (DFEH) services by individuals who are hearing, speech or vision impaired or have other disabilities. It is the policy of DFEH to provide equal access to its services for all individuals regardless of disability. To this end, the Department will engage in an interactive process with individuals seeking access to its services.

3. **BACKGROUND:** There may be occasions when DFEH employees interface with persons who are hearing, speech or vision impaired or otherwise need accommodation to gain access to its services. This Directive describes the procedures for such interface.

4. **PROCEDURES:**

   A. **Inquiries to the Department:**

      1) Inquiries about DFEH services by persons who are hearing or speech impaired shall be handled by providing the following information:

         a) **TTY:** A TeleTypewriter (TTY) is available in the Communication Center in Sacramento. This machine can receive and send typed messages over regular telephone lines. Trained DFEH personnel are available at the following toll-free number:

1-800-700-2320

b) **California Relay Service:**

(1) Employment Discrimination Complaints – TTY users who wish to use the California Relay Service to contact DFEH regarding employment discrimination complaints can call the Department's Communication Center directly at the following toll-free number:

1-800-884-1684

(2) Housing Discrimination Complaints – TTY users who wish to use the California Relay Service to contact DFEH regarding housing discrimination complaints can call the Department at the following toll-free number:

1-800-233-3212

B. **Complaint Filing Procedures:**

1) Employment, Ralph, Unruh or Housing Discrimination Complaints:

a) Individuals who are hearing, speech or vision impaired who wish to file an employment, Ralph or Unruh discrimination complaint should be referred to the Communication Center. Any such individuals seeking to file a housing discrimination complaint should be referred to the housing intake unit in Oakland.

b) Screening will be conducted by a Communication Center representative either through the TTY or the California Relay Service.

c) The Communication Center representative will schedule an appointment for an interview as appropriate.

d) In those instances in which the hearing or speech impaired person understands signing, the Communication Center representative (or housing intake consultant if an in-person interview is appropriate) will offer the option of utilizing a sign language interpreter at the Department's expense.

e) When the individual indicates a desire to utilize a sign language interpreter and does not indicate a preference to utilize his/her own interpreter, the Department shall arrange and pay for the services of an interpreter.

f) When the individual chooses to provide his/her own interpreter, the Communication Center representative (or housing intake consultant if an in-person interview is appropriate) will obtain the name, address, telephone number and message telephone number of the interpreter, if available.

g) In the event the Department needs to make arrangements for an interpreter, the Communication Center representative (or housing intake consultant if an in-person interview is appropriate) will promptly notify (by telephone) the district administrator of the district office where the appointment has been made. The district administrator will arrange for the services of an interpreter.

C. **Case-Related Calls:**

For hearing or speech impaired complainants, respondents or individuals who have been identified as witnesses, the following shall apply:

1) When a hearing or speech impaired complainant, respondent or witness contacts the TTY through the Communication Center, the Communication Center representative receiving the call will promptly relay (by telephone) the information to the district office and/or consultant handling the case.

2) When a hearing or speech impaired complainant, respondent or witness who understands signing wishes to have an in-person meeting with the consultant and/or district administrator, the consultant and/or district administrator shall offer the option of utilizing a sign language interpreter at the Department's expense.

3) When the individual indicates a desire to utilize a sign language interpreter and does not indicate a preference to utilize his/her own interpreter, the Department shall arrange and pay for the services of an interpreter.

4) Consultants and district office staff can use the California Relay Service (refer to Section 4.D., below) to contact a complainant, respondent or witness.

D. **Resources:**

1) **California Relay Service**:

a) When possible, all calls to persons with a TTY will be handled through the California Relay Service. This service allows persons without a TTY to communicate with a TTY user through a regular telephone. Calls made through the California Relay Service can be made to persons within and outside California.

b) To access the service:

(1) Dial **1-800-735-2922**

(2) When the relay service answers, tell the service the name and telephone number of the person you want to call.

c) The California Relay Service also enables deaf or speech-impaired persons to initiate communication via TTY with persons who are not TTY equipped.

2) **Sign Language Interpreters:**

a) Each district administrator will identify the resources for interpreters within the area they serve and maintain a listing of such sources for ready reference. (Refer to Attachment 1 for a partial list.)

b) Any person who functions as an interpreter who is not an employee of the Department shall be required to complete and sign a DFEH Interpreter/Translator Confidentiality Agreement (DFEH 600-13). (Refer to Attachment 2.) Upon completion, the form shall be maintained in the case file.

c) Interpreters who charge for their services will be paid in the same manner as expert witnesses or subpoena services, using a service order upon receipt of a bill.

E. **Case-Related Work Involving Vision Impaired Individuals:**

When a complainant, respondent or individual identified as a witness who is vision impaired seeks an accommodation in order to utilize Department services, the accommodation will be evaluated on a case-by-case basis and arrangements will be made as appropriate in consultation with the Public Affairs Unit and/or Reasonable Accommodation Coordinator and in compliance with Management Memo 03-08, May 9, 2003. (Refer to Attachment 3.)

F. **Other Disabilities Requiring Accommodation:**

Individuals with other types of disabilities who require accommodation to obtain access to the Department's services shall be referred to the Department's EEO Officer. The EEO Officer or the Ombudsperson in the absence of the EEO Officer shall engage in an interactive dialogue with the individual seeking accommodation to determine on a case-by-case basis what is an appropriate and reasonable accommodation to provide equal access to Department services.

5. **APPROVAL:**

_____ _____

Jill C. Peterson, Interim Director Date

EMERGENCY RELIEF GUIDELINES

In the area of employment, the following categories of cases should be considered for emergency (injunctive) relief. Three elements are necessary: likelihood of success, preservation of the status quo, and irreparable harm.

1. **THREATENED LOSS OF JOB OR TRANSFER:**

   A. **Reasonable Likelihood of Success**

   The Department must be able to prove that we are likely to win the case at hearing.

   B. **Status Quo**

   The Department is acting to preserve the status quo. For example, a complainant with AIDS has been threatened with termination because of concerns the company has about the illness being spread to other employees. Here, an injunction can maintain the status quo (i.e., the job) and the facts clearly present a violation of our statute.

   C. **Irreparable Harm:**

   An important consideration in employment cases must be that the harm is such that an award of back pay or other benefits at a later time will not fully compensate the complainant for his/her losses. For instance, a complainant with a terminal illness, whose prognosis is such that he/she might not survive the normal administrative process, is subjected to irreparable harm if denied continuing employment.

2. **CHANGE IN CONDITION OF EMPLOYMENT**

   There are other occasions when a Temporary Restraining Order (TRO) should be requested such as a change in a condition of employment that is clearly discriminatory.

   A. **Reasonable Likelihood of Success**

   The Department must be able to prove that we are likely to win the case at hearing.

B. **Status Quo**

The Department is preserving the status quo. For instance, the Department was granted a TRO where an employer planned to require waitresses to wear revealing costumes which could be seen as sex discrimination. The action was brought before the costume change occurred.

C. **Irreparable Harm**

The harm must be such that it could not be remedied by damages at a later time.