

**TITLE 2. DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Proposed Amendments to the Department of Fair Employment and Housing
Procedural Regulations**

[Notice published March 10, 2017]

NOTICE OF PROPOSED RULEMAKING

The Department of Fair Employment and Housing (hereafter “Department”) proposes to amend sections 10000-10056 of Title 2 of the California Code of Regulations after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Department has not scheduled a public hearing on this proposed action. However, the Department will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department. The written comment period closes at **5:00 p.m. on April 24, 2017**. The Department will consider only comments received by that time. Written comments can be mailed to:

Department of Fair Employment and Housing
c/o Brian Sperber, Legislative & Regulatory Counsel
Department of Fair Employment and Housing
320 West 4th Street, 10th Floor
Los Angeles, CA 90013
Telephone: 213-337-4495

Comments may also be submitted by e-mail to Brian.Sperber@dfeh.ca.gov.

AUTHORITY AND REFERENCE

Government Code section 12930(e) authorizes the Department to adopt these proposed regulations. The proposed regulations implement, interpret, and make specific section 12900 et seq. of the Government Code.

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

This rulemaking action clarifies, makes specific, and supplements the Department’s practice and procedure for receiving, investigating, and conciliating complaints of employment, housing and

public accommodation discrimination and hate crimes set forth in Government Code sections 12960 through 12976 and 12980 through 12989.3.

In compliance with the Administrative Procedure Act, the Department proposes to adopt these rules as duly noticed, vetted, and authorized regulations. This action has the specific benefit of clarifying existing rules and creating a more comprehensive set of rules to ensure that the Department can most efficiently receive, investigate, and conciliate complaints in order to promptly and fairly discharge its statutory duties.

The proposed amendments comprehensively amend the Department's procedural regulations in order to make them clearer and more consistent with the statute that they implement – the Fair Employment and Housing Act. The amendments most notably (1) clarify that verified complaints do not necessarily need to be signed, (2) overhaul the rules for the Department's dispute resolution division, (3) clarify that the Department does not have discretion in filing housing discrimination civil actions, and (4) reconstruct the Department's appeals process to eliminate redundancies.

The Department has determined that the proposed amendments are not inconsistent or incompatible with existing regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern procedures of the Department.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: No additional costs or savings beyond those imposed by existing law.

Cost to any local agency or school district, which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary cost or savings imposed on local agencies: No additional costs or savings beyond those imposed by existing law.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or businesses: No additional costs or savings beyond those imposed by existing law. Therefore, the Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Results of the economic impact assessment/analysis: The Department anticipates that the adoption of the regulations will not impact the creation or elimination of jobs or housing within the state; the creation of new businesses or housing or the elimination of existing businesses or

housing within the state; or the expansion of businesses or housing currently doing business within the state. To the contrary, adoption of the proposed amendments is anticipated to benefit California businesses, workers, housing providers, owners, tenants, 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.

Statewide adverse economic impact directly affecting businesses and individuals:

The Department has made an initial determination that the proposed action *will not* have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: None.

Small Business Determination: The Department anticipates that the regulations will not create additional costs or savings beyond those imposed by existing regulations. Similarly, the Department has determined that there is no impact on small businesses as a result of this proposed action because these regulations primarily serve to clarify existing law.

Business Report: The Department has determined that the proposed regulations do not require a report to be made.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the Department's attention would be more effective in carrying out the purpose for which this action is proposed, or 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 has thus far not become aware of a better alternative and invites interested persons to present alternatives to the proposed regulations during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Brian Sperber, Legislative & Regulatory Counsel
Department of Fair Employment and Housing
320 West 4th Street, 10th Floor
Los Angeles, CA 90013
Telephone: (213) 337-4495
E-mail: brian.sperber@dfeh.ca.gov

The backup contact person for these inquiries is:

Holly Thomas, Deputy Director of Executive Programs
Department of Fair Employment and Housing
320 West 4th Street, 10th Floor
Los Angeles, CA 90013
Telephone: (213) 439-6799
E-mail: holly.thomas@dfeh.ca.gov

Please direct requests for copies of the proposed text (express terms) of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based, should other sources be used in the future, to Brian Sperber at the above address.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the Initial Statement of Reasons. Copies may be obtained by contacting Brian Sperber at the email address, address, or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Brian Sperber at the address indicated above. The Department will accept written comments on the modified regulations for at least 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons will be available on the Department's Web page: <http://www.dfeh.ca.gov>.

Copies also may be obtained by contacting Brian Sperber at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the regulations, and any modified texts and the Final Statement of Reasons can be accessed through the Department's Web page at <http://www.dfeh.ca.gov>.

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