



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING
FAIR EMPLOYMENT & HOUSING COUNCIL
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FAIR EMPLOYMENT AND HOUSING COUNCIL
Meeting of September 16, 2013

Minutes

320 West Fourth Street, First Floor
Los Angeles, CA 90013

Councilmembers Present

Chaya Mandelbaum, Chairperson
Dale Brodsky, Councilmember
Chanée Franklin Minor, Councilmember
Patricia Perez, Councilmember
Andrew Schneiderman, Councilmember
Phyllis Cheng, DFEH Director and Ex Officio member

DFEH Staff Present

Annmarie Billotti, DFEH Chief of Dispute Resolution, Legislative and Regulatory Affairs
Karen Carter, DFEH Legal Secretary
Jon Ichinaga, DFEH Chief Counsel
Angela Oh, DFEH Attorney Mediator
Mallory Sepler-King, DFEH Civil Rights Fellow
Brian Sperber, DFEH Legislative and Regulatory Counsel

Others Present

Tony Diaz, Teacher, California Teachers Association
Cecilia Kim, Attorney, California Women's Law Center
Mo Mandel, Scholar
Mia Munro, Staff Attorney, Equal Rights Advocates
Anna Park, Regional Attorney, EEOC
Alan Reinach, Director, Church State Council
Lindsey Scott-Flórez, Consultant, California State Senate, by webcast and e-mail
Carey Stone, ADA Coordinator, City of Los Angeles Department on Disability
Steve White, EEO Has Solutions
Additional members of the public attended through 56 unique live Web streams

I. Welcome, Opening Remarks, and Introduction of Council and Guests

Chair Mandelbaum called the meeting to order. Karen Carter took roll. Chair Mandelbaum introduced audience members and guest speaker Anna Park of the EEOC. Chair Mandelbaum encouraged audience members to visit the [Council's Web page](#) to follow its activities and notified those participating remotely of their opportunity to engage in public comment via e-mail at FEHCouncil@dfeh.ca.gov.

II. Review of the Agenda

Chair Mandelbaum reviewed the [agenda](#).

III. Approval of the Minutes

Chair Mandelbaum called for a vote to approve [Attachment A: Minutes from the June 18, 2013 Meeting of the Fair Employment and Housing Council](#). The Council moved, seconded, and unanimously passed a motion to approve the minutes.

IV. Guest Speaker

[Anna Park](#), Regional Attorney for the U.S. Equal Employment Opportunity Commission (EEOC), spoke on human trafficking and other civil rights issues of concern to the EEOC. Ms. Park encouraged and commended collaboration between the DFEH and the EEOC to enforce civil rights in California.

V. Councilmembers' Reports

Councilmember Franklin Minor acknowledged the import of addressing human trafficking violations and thanked Ms. Park for her comments.

Chairperson Mandelbaum reported that he and Councilmember Brodsky will be on a panel, moderated by Director Cheng, to discuss "Proposed Amendments to the CFRA Regulations" at the April 25, 2014, Combined Annual Meeting and Public Section Conference of the State Bar Labor and Employment Section.

VI. Department of Fair Employment and Housing Reports

A. DFEH Update and Council Outreach

Director Cheng reported that the DFEH is winner of the 2013 State Bar of California Education Pipeline Award for its educational partnerships with UC Irvine and Davis Schools of Law, CSU Bakersfield Graduate School, College of the Canyons, Rio Hondo College, and the Department's Equal Rights and Fair Housing 101 Campaigns. She also discussed new partnerships, such as the DFEH-Pepperdine University School of Law | Straus Institute for Dispute Resolution Employment Mediation Clinic and the DFEH-UC San Diego Extension Civil Rights Clinic.

B. Legislative Update

Ms. Billotti reported on one chaptered bill, SB 292 (Corbett) (Employment: sexual harassment), and two pending bills that, if enacted, would affect the Department and Council's work: AB 556 (Salas) (Fair Employment and Housing Act: military veterans) and SB 655 (Wright) (Fair Employment and Housing Act: unlawful practices).

VII. Update on Changes Without Regulatory Effect

Ms. Billotti reported that the [changes without regulatory effect](#) to the former Commission's regulations the Council approved on June 18, 2013 had been submitted to the Office of Administrative Law, from which a decision on approval is anticipated in about two weeks.

VIII. Incompatible Activities Statement

Councilmember Schneidernan introduced the Council's newly drafted [Attachment B. Proposed Fair Employment and Housing Council Incompatible Activities Statement](#). The Council moved, seconded, and unanimously passed a motion to adopt the Incompatible Activities Statement with one technical amendment to a section heading.

IX. Preliminary Matters and Standards of Review for Regulations

Councilmember Brodsky noted that the various proposed plans of action for amendments to regulations and for new regulations are flexible. The proposed schedules can vary based on future developments and the volume of public comment received.

Chair Mandelbaum reviewed [Attachment C: Guidance on Rulemaking: Government Code sections 11349-11349.6](#), the Office of Administrative Law's six standards of review for regulations. Councilmember Perez asked for guidance on the tension between the non-duplication and clarity standards and Ms. Billotti responded.

Director Cheng noted the Fair Employment and Housing Act's (FEHA) wide availability, including on the DFEH's [Web site](#), where all the Council's regulations will be posted with hyperlinks to all referenced FEHA provisions.

LUNCH RECEPTION

The Council recessed for lunch at 11:17 a.m. and reconvened at 12:42 p.m.

X. Proposed Draft Amendments to the California Family Rights Act Regulations

The Council reviewed [Attachment E: Proposed Amendments to the California Family Rights Act \(CFRA\) Regulations](#) the CFRA subcommittee drafted. Chair Mandelbaum and Councilmember Brodsky described each substantive change and addressed other Councilmembers' questions. The Council discussed the necessity of specifying evidentiary burdens within the regulations and agreed to re-examine the issue along with several other issues raised during the discussion. The Council moved, seconded, and unanimously passed a motion to approve the proposed amendments to the CFRA regulations with modifications the Councilmembers discussed and upon which they had agreed. Councilmember Brodsky presented the [Attachment D: Proposed Plan of Action for Amendments to the California Family Rights Act](#).

XI. Report of the Fair Employment and Housing Act Regulations Subcommittee

Councilmember Perez presented [Attachment F: Proposed Plan of Action for Selected FEHA Regulatory Amendments](#).

XII. Report of the Housing Regulations Subcommittee

Councilmembers Franklin Minor and Schneiderman presented [Attachment G: Proposed Plan of Action for New Housing Regulations](#).

XIII. Public Comment

Mia Munro, Staff Attorney, Equal Rights Advocates, commended the Council for its work on the proposed amendments to the CFRA regulations. She added that her organization will formally comment during the rulemaking process and that changes to the regulations should not increase the burden on employees seeking CFRA leave.

Director Cheng invited anyone who wanted to comment at a later time to e-mail the Council at FEHCouncil@dfeh.ca.gov.

XIV. Future Council Meeting Schedule

Chair Mandelbaum announced that the Council's [next meeting](#) will be on December 10, 2013 at the State Personnel Board, 801 Capitol Mall, Auditorium, Sacramento 95814. He stated the Council plans to hold 2014 meetings throughout the state and on the campuses of DFEH educational partners. He also announced that the next Council meeting may involve the formation of Unruh Civil Rights Act and Government Code section 11135 et seq. subcommittees.

XV. Adjournment

There being no further business to conduct, Chair Mandelbaum adjourned the meeting at 3:45 p.m.

Date: September 24, 2013

CHAYA MANDELBAUM
Chairperson

KAREN CARTER
Legal Secretary