



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 May 27, 2021

Minutes

Remote Meeting

Councilmembers Present

Gabriel Sandoval, Chairperson
Dale Brodsky, Councilmember
Hellen Hong, Councilmember
Tim Iglesias, Councilmember
Adetunji O. Olude, Councilmember
Dara Schur, Councilmember
Julie Wilensky, Councilmember
Kevin Kish, DFEH Director and Ex Officio member

DFEH Staff Present

Kara Brodfuehrer, DFEH Legislative and Regulatory Counsel

Others Present

About 35 members of the public.

I. Call to Order and Roll Call

Chair Sandoval welcomed guests to the FEH Council's 43rd meeting and called it to order. He then turned the meeting over to DFEH Legislative and Regulatory Counsel, Kara Brodfuehrer, who conducted roll call.

II. Welcome and Introduction of Guests

Chair Sandoval announced that the Council meeting would be livestreamed via Zoom 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 or by using Zoom chat or using the "raise hand" function and can find the Attachments to the Agenda on the website.

Chair Sandoval then acknowledged Department leaders and members, including: Kara Brodfuehrer, DFEH Legislative and Regulatory Counsel.

III. Review of the Agenda

Chair Sandoval reviewed the agenda for the meeting.

Chair Sandoval announced the highlights of the meeting, which included:

- Consideration of Additional Modifications to Housing Regulations Regarding Definitions; Intentional Discrimination; Discriminatory Advertisements, Statements, and Notices; Consideration of Income; Residential Real Estate-Related Practices; and Disability
- Updates from the Council’s other subcommittees

IV. Approval of the Minutes

Attachment A: Minutes from March 19, 2021 Meeting of the Fair Employment and Housing Council

Chair Sandoval reviewed the minutes of the March 19, 2021 meeting. During that meeting, the Council considered and adopted Further Modifications to Housing Regulations Regarding Definitions; Intentional Discrimination; Discriminatory Advertisements, Statements, and Notices; Consideration of Income; Residential Real Estate-Related Practices; and Disability; heard an update regarding the 4/30/2021 hearing on the use of algorithms in employment, housing, and lending; and heard updates from the Council’s other subcommittees. Chair Sandoval asked for public comments on the minutes, and receiving none, the Council voted to approve the minutes unanimously.

V. Councilmembers’ Reports

Chair Gabriel Sandoval and Councilmembers

None.

VI. Department of Fair Employment and Housing Report

Kevin Kish, Director, Department of Fair Employment and Housing

Director Kish noted that California’s pay data reporting deadline for employers to submit their data to DFEH has passed. He further noted that DFEH will be contacting eligible employers who failed to submit their pay data by the deadline. Director Kish announced that DFEH’s online, interactive sexual harassment and abusive conduct prevention trainings, released in August 2020, has garnered over 600,000 completions, or approximately 70,000 completions per month. He also noted that DFEH has implemented new informational materials, including: an updated outreach material regarding housing and COVID-19; and the release of new outreach material regarding healthcare and COVID-19. He also highlighted the launch of DFEH’s new public portal where submissions of discriminatory advertisements and applications in employment and housing can be made.

VII. Consideration of Additional Modifications to 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: Additional Modifications to 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

Councilmembers Iglesias and Schur noted that the subcommittee made additional modifications to the regulations since the last Council meeting as a result of public comment.

Councilmember Iglesias also noted that modifications were not made to portions of the regulations that had not been revised during the last round of edits.

Councilmember Wilensky suggested additional non-substantive structural and grammatical modifications.

Director Kish stated that the edits did not have to be done on the record because they were non-substantive and could be completed by DFEH staff after the meeting.

B. Public Comment

Heidi Palutke, California Apartment Association: Ms. Palutke thanked the Council for the work on the regulations and proposed a number of changes to the draft regulations, including clarifying the examples of adverse action in section 12141(a), and expanding the list of additional inquiries concerning the level of source of income in section 12141(b).

Renee Williams, National Housing Law Project: Ms. Williams thanked the Council for the work on the regulations and proposed including a clearer connection between the regulations that address facially discriminatory policies that benefit protected classes and other regulations that may be relevant, such as the regulations regarding source of income discrimination and discriminatory advertisements.

C. Action by Council

The Council moved, seconded, and unanimously approved a motion to adopt Attachment B as amended during the meeting and initiate a 15-day comment period.

VIII. Update from the Reasonable Accommodations for Associational Disabilities Subcommittee
Councilmembers Dale Brodsky and Adetunji Olude

A. Discussion by Council

Councilmember Olude noted that the subcommittee is making progress on reviewing the public comments received and expects to have proposed language soon.

B. Public Comment

Rachael Langston, Legal Aid at Work: Ms. Langston thanked the Council for the work on the regulations.

Ashley Hoffman, California Chamber of Commerce: Ms. Hoffman stated that the Chamber does not believe the right to extend reasonable accommodations to associational disabilities currently exists under the FEHA, and inquired as to whether the Council believes this right does currently exist under the FEHA.

Councilmember Brodsky responded that the subcommittee has not yet submitted a draft to the Council and that it is a work in progress.

Alan Goldstein, SEIU Local 1000: Mr. Goldstein thanked the Council for the work on the regulations.

IX. Update from the Criminal History & Employment Regulations Subcommittee
Chair Gabriel Sandoval and Councilmember Julie Wilensky

A. Discussion by Council

Councilmember Wilensky noted that the subcommittee is making progress on modifications to the proposed regulations. She also noted that the subcommittee attended a virtual “Know Your Rights” community event.

B. Public Comment

None.

X. Update from Government Code Section 11135 Regulations Subcommittee
Councilmembers Dale Brodsky and Dara Schur

A. Discussion by Council

Councilmember Schur reported that the notice package is still under review by the California Business, Consumer Services and Housing Agency.

B. Public Comment

None.

XI. Update from the Hate Violence Subcommittee
Chair Gabriel Sandoval and Councilmember Dale Brodsky

A. Discussion by Council

Councilmember Brodsky reported that the subcommittee attended a bystander training and is considering incorporating a similar training into a future Council meeting.

Chair Sandoval added that in light of recent hate violence events, the subcommittee would like to provide this as a free training for the public.

Councilmember Hong inquired as to whether MCLE credit might be offered for this training.

B. Public Comment

A member of the public, who did not provide a name, commented that they would like the training to be open to the public.

Councilmember Brodsky responded that it will be open to the public.

XII. Update from the Algorithms and Bias Hearing Subcommittee
Councilmembers Tim Iglesias and Hellen Hong

A. Discussion by Council

Councilmember Hong noted that the subcommittee is reviewing feedback from the topics discussed during the April 2021 Algorithms and Bias Hearing and asked the Council for feedback on possible next steps.

Chair Sandoval suggested reviewing the existing law to provide a clearer picture of what additional guidance is needed.

Councilmember Schur recommended including more topics on housing and lending in a future hearing or event.

B. Public Comment

None.

XIII. Discussion Regarding Additional Subcommittee Assignments

Chair Gabriel Sandoval and Councilmembers

A. Discussion by Council

None.

B. Public Comment

None.

C. Action by Council

None.

XIV. Further Public Comment

None.

XV. Adjournment

Chair Sandoval adjourned the meeting at approximately 1:15 PM in honor of the passing of former California Supreme Court Justice Cruz Reynoso.

Date: May 27, 2021

GABRIEL SANDOVAL

Chair

RENEE RONDINONE

DFEH Outreach and Education Specialist