



**DEPARTMENT OF FAIR EMPLOYMENT & HOUSING**  
**FAIR EMPLOYMENT & HOUSING COUNCIL**  
2218 KAUSEN DRIVE, SUITE 100, ELK GROVE, CA 95758  
(916) 478-7248 | www.dfeh.ca.gov | e-mail fehcouncil@dfeh.ca.gov

**FAIR EMPLOYMENT AND HOUSING COUNCIL**  
**Meeting of December 10, 2013**

**Minutes**

California State Capitol  
1315 10th St., Room 127  
Sacramento, CA 95814

**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**

Nelson Chan, DFEH Associate Chief Counsel, Educational Outreach  
Julie Montgomery, DFEH Senior Staff Counsel  
Brian Sperber, DFEH Legislative and Regulatory Counsel  
Mallory Sepler-King, DFEH Civil Rights Fellow  
Kristin Kameen, DFEH Civil Rights Fellow  
Roya Ladan, DFEH Staff Counsel  
Josephine Blue, DFEH Executive Assistant

**Others Present**

Anna Caballero, Secretary, Business, Consumer Services and Housing Agency  
Harold M. Brody, Partner, Proskauer Rose LLP, Member, Legal Committee, Employers Group  
Noah Lebowitz, Partner, Duckworth Peters Lebowitz Olivier LLP, Board Member, CELA  
Tony Diaz, Teacher, California Teachers Association  
Elizabeth Dietzen Olsen, Counsel, Senate Office of Research  
Kenneth Fleming, President, CAERP  
Dean Lan, Civil Rights Coalition  
Laurie Lively (for Jennifer Barrerra), Executive Assistant, California Chamber of Commerce  
Alfonso Ramirez, Civil Rights Coalition  
45 additional citizens attended through live web streams

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

Chair Mandelbaum called the meeting to order. Josephine Blue took roll. Chair Mandelbaum introduced audience members and notified those participating remotely of their opportunity to engage in public comment via e-mail.

## **II. Review of the Agenda**

Chair Mandelbaum reviewed the agenda.

## **III. Approval of the Minutes**

Chair Mandelbaum called for a vote to approve the [minutes](#) from the September 16, 2013 meeting. The Council unanimously passed a motion to approve the minutes.

## **IV. Councilmember Reports**

Chair Mandelbaum reported that he and Councilmember Brodsky will co-present a panel presentation to be moderated by Director Cheng on April 26, 2014 at the State Bar Labor and Employment Law Section Annual Meeting/Public Sector Conference in Berkeley.

Councilmember Perez reported that she will co-present with a Department attorney an April 16, 2014 DFEH Webinar on sexual harassment prevention training.

Councilmember Schneiderman reported that he and Councilmember Franklin Minor will speak at the April 4, 2014 State Bar Fair Housing and Public Accommodations Subsection Annual Symposium at UC Irvine School of Law.

## **V. Department of Fair Employment and Housing Report**

DFEH Director Cheng reported on the current activities of the Department. The Department's educational partnerships won the State Bar's 2013 Education Pipeline Award. With the new cloud-based case management system, the Department received a significant increase in the number of discrimination complaints filed in 2013.

## **VI. Guest Speakers**

Chair Mandelbaum introduced guest speakers Noah D. Lebowitz and Harold Brody.

- A. Noah D. Lebowitz, Partner, Duckworth Peters Lebowitz Olivier LLP, San Francisco, and Board Member of the California Employment Lawyers Association (CELA), spoke on behalf of CELA, and emphasized the importance of clarity in regulations so that they could be easily followed by employees and employers and help resolve disputes and increase compliance.
- B. Harold Brody, Partner, Proskauer Rose LLP, Los Angeles, and Member of the Legal Committee, Employers Group, spoke on behalf of the Employers Group, and encouraged clarity, consistency and predictability in regulations for compliance by employers.

## **VII. Update on Changes Without Regulatory Effect**

Brian Sperber gave an update on the changes without regulatory effect, approved by OAL on October 3, 2013.

## **VIII. Proposed Amendments Requested by the Council in Adopting the Draft Amendments to the California Family Rights Act Regulations**

Chair Mandelbaum summarized the Council's process on the CFRA regulations. He introduced the topic for further discussion after the lunch break.

**IX. Presentation of Civil Rights Leadership Award to Governor Edmund G. Brown, Jr.; Acceptance and Address by Business, Consumer Services, and Housing Secretary Anna Caballero**

Chair Mandelbaum presented the Civil Rights Leadership Award to Governor Brown for his transformative role in strengthening the Fair Employment and Housing Act, as well as his ongoing support for and advancement of civil rights enforcement.

Chair Mandelbaum introduced Business, Consumer Services, and Housing Secretary Anna Caballero, who accepted the award and made remarks on behalf of Governor Brown.

The Council recessed for lunch at 11:20 am.

**LUNCH BREAK**

The Council reconvened at 1:15 p.m.

**X. Proposed Amendments Requested by the Council in Adopting the Draft Amendments to the California Family Rights Act (CFRA) Regulations**

Director Cheng reported that Agency had given preliminary approval for the Council to proceed with developing a regulatory package on [Proposed Amendments to the CFRA Regulations](#).

**a. Discussion**

The Council debated the merits of specifically incorporating the March 8, 2013 version of the FMLA Regulations into the CFRA Regulations versus the merits of incorporating a more generic reference to the “most recent version” of the FMLA Regulations.

**b. Public Comment**

Noah Lebowitz, on behalf of CELA, suggested that the Council develop new CFRA Regulations without incorporation by reference to the FMLA.

**c. Action by Council**

The Council unanimously voted to adopt the [Revisions to the Text of Proposed Amendments to the CFRA Regulations](#) from the September 16, 2013 Council meeting.

**d. Update on Timeline for Rules**

Chair Mandelbaum updated attendees on the rulemaking timeline. The adopted proposed amendments for the CFRA Regulations need to be approved by the Office of Administrative Law. The official notice, hearing dates and statement of reasons should be timely released before April 2014, the first of two hearing dates.

**XI. Report from FEHA Employment Subcommittee**

Councilmembers Brodsky and Perez gave an update on the ongoing drafting process for employment amendments to the FEHA Regulations. The Subcommittee projected that draft amendments would be ready by the Council’s February 6, 2014 meeting.

**XII. Report from FEHA Housing Subcommittee**

Councilmembers Schneiderman and Franklin Minor gave an update on projected new FEHA housing regulations under development.

**XIII. Future Council Meeting Schedule and Future Council Projects**

- February 6, 2014, meeting, San Francisco, Oakland, or Berkeley location to be determined.
- April 2014, meeting and hearing on Proposed Amendments to the CFRA Regulations, UC Irvine School of Law.
- June 2014, meeting and hearing on Proposed Amendments to the CFRA Regulations, San Francisco or Oakland, location to be determined.

In addition to the current regulatory projects being pursued by the subcommittees, Chair Mandelbaum discussed the future formation of subcommittees to address the other regulations within the Council’s purview, the formation of a Government Code section 11135 et seq. subcommittee, and the formation of a subcommittee focused on the other non-regulatory areas the Council has authority to address.

**XIV. General Comment Period**

Alfonso Ramirez and Dean Lan of the Civil Rights Coalition commented on public sector employment reporting issues.

**XV. Adjournment**

There being no further business to conduct, Chair Mandelbaum adjourned the meeting at 3:10 p.m.

Date: January 16, 2014

CHAYA MANDELBAUM  
Chair

JOSEPHINE BLUE  
Legal Secretary