



Civil Rights Department Civil Rights Council

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Attachment A

CIVIL RIGHTS COUNCIL

Minutes from Council Meeting on October 17, 2024, 10:00 a.m.

Civil Rights Department – Oakland Office
555 12th Street, Suite 2050 Oakland, California
Lake Merritt Conference Room

Members of the public joined remotely using the following information:

<https://us02web.zoom.us/j/84527549449>

or 1-669-900-6833 and Webinar ID: 845 2754 9449

Councilmembers Present

David Garcia, Chairperson
Jonathan Glater, Councilmember
Hellen Hong, Councilmember
Adetunji O. Olude, Councilmember
Julie Wilensky, Councilmember
Denny Chan, Councilmember

Civil Rights Department Staff Present

Adam Romero, Deputy Director of Executive Programs
Rachael Langston, Assistant Chief Counsel of the Legislative and Regulatory Affairs Unit
Mariel Block, Senior Legislative and Regulatory Counsel
Alexandria Sadler, Senior Legislative and Regulatory Counsel
Suge Lee, Senior Legislative and Regulatory Counsel

Others Present

An estimated 56 members of the public participated virtually.

I. Call to Order and Roll Call

Chair David Garcia

Chair Garcia called the meeting to order. CRD Senior Counsel Alexandria Sadler conducted roll call.

II. Welcome

Chair David Garcia

Chair Garcia welcomed members of the public and informed members of the public how to submit public comment.

III. Review of the Agenda

Chair David Garcia

Chair Garcia reviewed the agenda for the meeting.

IV. **Approval of Minutes**

Chair David Garcia

Chair Garcia reviewed the minutes from the July 18, 2024, meeting. He asked for edits, amendments, and public comment on the minutes and received none. The Council unanimously voted to approve the minutes.

V. **Councilmembers' Reports**

Chair David Garcia and Councilmembers

No Councilmember reports

VI. **Civil Rights Department Report**

Civil Rights Department Executives

Adam Romero gave the Civil Rights Department report. He highlighted the housing work the department has been doing which included a lawsuit filed against an apartment complex and a settlement reached against a homeless shelter. He announced the release of the data from the 2023 Pay Data reporting program and highlighted some of the findings. He then promoted the department's newsletter and encouraged people to sign up.

VII. **Consideration of First Modified Text of Proposed Modifications to Employment Regulations Regarding Automated-Decision Systems**

Councilmembers Hellen Hong and Jonathan Glater

A. **Discussion by the Council**

Councilmember Hong introduced the first modified text of the proposed modifications to employment regulations regarding automated-decision systems and explained where they are at in the rulemaking process.

Councilmember Glater explained the proposed modifications to the text.

No further comments or questions from Councilmembers.

B. **Public Comment**

Nidhi Sinha, Center for AI and Digital Policy: Ms. Sinha made recommendations to establish clear disclosure requirements and opportunities for job applicants and employees to opt-out where automated-decision systems are being used for employment decisions; establish simple contestability mechanisms and human oversight requirements; require bias audits or impact assessments as a precondition to deployment; and align the definition of automated-decision system with similar regulations at both the state and federal level.

CRD Senior Counsel Rachael Langston acknowledged the written comments the Council received. Ms. Langston noted that, for letters of comment to be included in the rulemaking file, commenters must resubmit these comments during the notice period (beginning October 17, 2024).

Claudia Center, Disability Rights, Education and Defense Fund (DREDF): Ms. Center expressed concern with the new definition of “adverse impact” and highlighted how automated decision-making systems can screen out people with disabilities based on disability-related traits. She stated her concern that the current definition of adverse impact, in particular the language “substantial disparity” and “works to the disadvantage of a group of individuals,” could exclude a category of discrimination for disabled people in many cases.

Ashley Hoffman, California Chamber of Commerce: Ms. Hoffman expressed her approval of some of the recent amendments but shared concerns about the revised definitions of “agent” and “employment agency.” She stated that she expected that the definition of “automated-decision system” would be further amended, and the obligations and liabilities of developers and deployers of such systems further defined, as the regulations moved through the rulemaking process.

Ken Wang, California Lawyers Employment Association: Mr. Wang stated he shared DREDF’s concerns regarding the definition of “adverse impact.” He also expressed concerns regarding the use of the phrase “substantial disparity” and with the definitions of “agent” and “proxy.” He also suggested that the lack of anti-bias testing could be evidence supporting a claim of discrimination.

Dylan Hoffman, Technet: Mr. Hoffman stated his concerns, including that the definitions of “automated-decision system” and “agent” were overly broad.

Austin Hayworth, The Internet Works Trade Group: Mr. Hayworth stated that he agreed with many of the comments made by the Chamber and by TechNet. He also expressed concerns that the definitions of “automated-decision system” and “agent” were overly broad and may have unintended impacts.

C. Action by Council

Councilmember Olude moved to approve the first modified text of the proposed modifications to employment regulations regarding automated decision-making systems and enter a comment period of at least 15 days. Councilmember Chan seconded. The Council unanimously approved the motion.

VIII. **Consideration of Proposed Modifications to Contractor Nondiscrimination and Compliance Regulations**
Civil Rights Department Executives

A. Discussion by the Council

Adam Romero provided context for the proposed modifications to contractor nondiscrimination and compliance regulations. He asked the Council to create a subcommittee to work with the Civil Rights Department on the rulemaking and to also authorize the department to notice this rulemaking to move it forward in the process.

Adam Romero explained the work requirements of the subcommittee to the Council. Chair Garcia and Councilmember Hong volunteered to join the subcommittee.

B. Public Comment

No public comment.

C. Action by Council

Councilmember Hong moved to create a subcommittee on the proposed modifications to contractor nondiscrimination and compliance regulations. Councilmember Glater seconded. The Council unanimously approved the motion.

Councilmember Wilensky moved to approve the proposed modifications to enter the formal rulemaking process, including a 45-day comment period. Councilmember Chan seconded. The Council unanimously approved the motion.

IX. **Subcommittee Updates**

Chair David Garcia and Councilmembers

A. **Discussion by the Council**

Councilmember Glater gave an update on the Government Code section 11135 subcommittee, explaining the subcommittee is reviewing the regulations to identify areas that may need further clarification in the future, and developing a plain language explainer on the regulations.

Councilmember Hong gave an update on the Outreach Subcommittee, highlighted their first joint forum with the Commission on the State of Hate, and discussed future possibilities for more collaboration.

Councilmembers debriefed on the joint forum with the Commission on the State of Hate.

B. **Public Comment**

No public comment.

C. **Action by Council**

Councilmember Wilensky moved to add the input from the joint meeting between the Council and the Commission on the State of Hate as an agenda item to discuss during the next Council meeting. Councilmember Glater seconded. The Council unanimously approved the motion.

X. **Further Public Comment**

No further public comment.

XI. **Adjournment**

Chair Garcia adjourned the meeting at approximately 11:13 a.m.

DATE: 1/22/2025

/s/DAVID GARCIA
Chair

/s/TAYLOR WHITNEY
CRD Outreach and Education Office Technician