

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
MEETING MINUTES**

January 23, 2019

1. Call to Order

Vice Chair Douglas Wiele welcomed everyone and called the meeting of the California Commission on Disability Access (CCDA or Commission) to order at 10:06 a.m. at the CCDA Office, Sacramento River Boardroom, 400 R Street, First Floor, Sacramento, 95811.

The off-site meeting location was 3685 Main Street, Suite 240, Riverside, 92501.

Roll Call

Staff Member St. Mary called the roll and confirmed the presence of a quorum.

Commissioners Present:

Douglas Wiele, Vice Chair
Xavier Becerra, Attorney General,
represented by Anthony Seferian
Ida Clair, Acting State Architect
Chris Downey
Jim Frazier, represented by Halley
Brian Holloway
Tom Lackey (via teleconference)
Scott Lillibridge
Michael Paravagna
Betty Wilson

Commissioners Absent:

Guy Leemhuis, Chair
Celia McGuinness
Tiffany Potter
Karla Prieto

Staff Present:

Angela Jemmott, Executive Director
LaCandice Ochoa, Operations Manager
Taylor St. Mary, Marketing and Outreach
Analyst
Dave Chung, Data and Research Analyst

Also Present:

Brandy Chappelle, DPPD, GIST, Azusa Pacific University Center for Public Affairs
Brent Jamison, Interagency Support Division, Department of General Services (DGS)
Jonette Banzon, DGS Office of Legal Services
Renee Webster-Hawkins, California Pollution Control Financing Authority

Pledge of Allegiance

Vice Chair Wiele led the Commission in the Pledge of Allegiance.

Housekeeping Items

Vice Chair Wiele reviewed the meeting protocols.

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2. Approval of Meeting Minutes (October 10, 2018) – Action

Motion: Commissioner Holloway moved to approve the October 10, 2018, California Commission on Disability Access Full Commission meeting minutes as presented. Commissioner Paravagna seconded. Motion carried unanimously.

3. Introduction/Swearing-In/Pinning Ceremony of Newly-Appointed and Reappointed Commissioners

Executive Director Jemmott congratulated Commissioners Betty Wilson and Celia McGuinness on their reappointments. She stated Commissioner McGuinness was unable to be in attendance. She asked the representative Commissioner from the Department of Justice, Commissioner Anthony Seferian, to render the reappointment oath.

Commissioner Seferian led the swearing in of office for Commissioner Wilson.

Executive Director Jemmott presented Commissioner Wilson with a CCDA pin with the CCDA logo and banner, "creating an accessible and barrier-free California."

4. Comments from the Public on Issues Not on this Agenda

No members of the public addressed the Commission.

5. Commissioner Community Updates – Comments from Commission Members

a. Chris Downey "60 Minutes" Interview

Executive Director Jemmott showed a video of the interview of Commissioner Downey by "60 Minutes." She stated the interview is also accessible as a transcript on the website.

Commissioner Downey stated it was an amazing opportunity to have that platform to share his story. He stated it was similar to the work of the Commission in bringing the disability and business communities and the community at large together to share in the common humanity. He stated he hoped that his story will connect and resonate with individuals in different situations around the country.

Vice Chair Wiele shared an experience he and Commissioner Downey had of taking Uber from the hotel to the Los Angeles City Hall for a meeting and being dropped at the back of the building with their luggage. He stated, while he had no experience with the blind, maneuvering around the block, he learned not about dealing with the blind but a lot about life from Commissioner Downey. Their experience was even more profound because, when they arrived at the front door of city hall, there was a union protest with approximately 300 individuals trying to get in. He stated he will never forget that day.

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He told Commissioner Downey that he is glad to know him and that he is part of this Commission. Vice Chair Wiele congratulated Commissioner Downey on his interview with "60 Minutes."

b. Recognition for Laurie Yoo

Executive Director Jemmott stated former Commissioner Laurie Cohen Yoo, who was unable to be in attendance, has termed out and will not be returning. She presented former Commissioner Yoo with a resolution in appreciation of her years of service with the Commission. Executive Director Jemmott stated former Commissioner Yoo, although unable to return for another term, expressed her desire to remain active with the Commission.

Staff member St. Mary read the resolution out loud for those present. Executive Director Jemmott asked Commissioners to sign the resolution and add their words of thanks during the lunch break.

6. Presentation on Improvements to the California Capital Access Program (CalCAP) – Update and Discussion

Presenter:

Renee Webster-Hawkins, California Pollution Control Financing Authority

Renee Webster-Hawkins, Executive Director, California Pollution Control Financing Authority (CPCFA), provided an overview, with a slide presentation, of program enrollment, legislative updates, outreach, and participating lenders of the CPCFA's California Americans with Disabilities Act (ADA) Small Business CalCAP Loan Program (CalCAP/ADA).

Questions and Discussion

Commissioner Downey asked if it was a ten-year authorization for this program. Ms. Webster-Hawkins stated it was a one-time appropriation and is continuous.

Commissioner Downey asked why individuals may not want to take advantage of the program. Ms. Webster-Hawkins stated it is a serious proposition to take on any debt without seeing a way to pay it off. She stated everyone in the room would probably believe that there is a way to pay off the debt because, by becoming a more accessible place of business, they will open themselves up to a demographic that may not have been able to avail themselves to their business services before. The problem is that there are no economic return-on-investment studies to show shrewd businessowners and lenders that there will be a direct increase to revenue to cover the debt.

Vice Chair Wiele stated he was thankful to hear that the CPCFA is looking into the prospective correlation between the investment of improvements and the return on investment. He stated this should be a grant program, not a loan program.

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7. 2019 Commission Meeting Calendar and Locations – Discussion and Action

Executive Director Jemmott reviewed the proposed 2019 CCDA Meeting Calendar, which was included in the meeting packet, and asked Commissioners for suggestions on locations for the full Commission meetings.

Commissioner Lillibridge stated he has conflicts with the April and July meeting dates but he could attend by phone.

Vice Chair Wiele stated he has a conflict with the July meeting date.

A representative from Commissioner Lackey's office, stated Commissioner Lackey has conflicts with the April and July dates.

Vice Chair Wiele noted that the Commission has a duty to meet statewide but does not have the resources to meet that duty. He stated this should be discussed in the Executive Committee.

Executive Director Jemmott stated the Executive Committee will finalize the locations as staff seeks out potential opportunities with the dates accepted.

8. Executive Director Report – Update and Discussion

a. Administrative and Operational

Executive Director Jemmott stated the Commission moved to the 400 R Street location on an as-is basis; however, there were some tenant improvements within the budget. Most of that will go into the telecommunications room. She stated the meeting room door requires expanding for accessibility and staff has requested a break room in the facility. The report went to the fire marshal for review last week and it will take three to four months before they can respond due to a high workload.

Executive Director Jemmott stated one staff position is vacant. Staff has explored the idea of technical staff and is looking for a retired annuitant to fill this position.

b. Customer Service Inquiries

Executive Director Jemmott stated staff has been receiving an increasing number of customer service inquiries. She stated the number of calls is expected to increase even more as the CCDA becomes part of the Department of General Services (DGS) website. She played several examples of typical customer service phone messages on topics such as housing, public right-of-way, and products and services. There are special organizations that staff directs calls to, but staff needs a certain skill level to respond to these questions and connect individuals to the right resources.

c. Outreach Efforts and Partnering Events

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Executive Director Jemmott stated the CCDA budget was increased from \$680,000 in fiscal year 2017 – 18 to \$744,000 in fiscal year 2018 – 19, which is clearly not a level that will fund programs and services. She stated Brent Jamison, Deputy Director, Interagency Support Division, DGS, has been helping staff with the program need. The Division of the State Architect (DSA) funded the outreach efforts last year and will do so again this year.

Staff continues to form partnerships statewide who are willing to provide in-kind support.

d. ADA Mentorship Program Update

Executive Director Jemmott stated this program is an opportunity to show the CCDA's value and service by helping businesses learn how to use their Certified Access Specialist (CAsp) reports and how to provide customer service for readily achievable products and services that can be done while building accessible facilities. Elk Grove is the next area that will provide a mentor.

9. Review of CCDA 2018 One-Year Strategic Plan Goal Progress – Update and Discussion

LaCandice Ochoa, Operations Manager, presented the Review of CCDA 2018 One-Year Strategic Plan Goal Progress document, which was included in the meeting packet. She stated the document outlines the three 2018 one-year goals, detail on the goals, and current status of the goals.

a. Conduct Regional Listening Forums

This goal is on track to be completed in February of 2019. The CCDA has completed two out of three listening forums: the second forum on the DMV Placard Program in Sacramento (March) and the first forum for the restaurant industry in Fresno (November).

b. Establish an Electronic Document Management System (Phase 1)

This goal was completed in December of 2018.

c. Create an Electronic Database (Phase 2)

This goal was not completed in 2018 and has become a carryover strategic goal for 2019.

Questions and Discussion

Commissioner Lillibrige asked about looking beyond the one-year planning process for planning and budgeting for the department. Mr. Jamison stated the way the DGS uses the term strategic plan is milestones toward a broader vision. Typically, a strategic plan long-term vision for planning and budgeting is three to five years. The advantage of the

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way it is structured at the DGS is it is meant to have a transparent accountability process on an annual basis.

Commissioner Paravagna asked how the DGS relates to or does not relate to the strategic plan put together by this Commission. Mr. Jamison stated it is important to clarify that the DGS works with the executive director and her staff to let them decide what they want the Commission's milestones to be in a given year and to have the DGS outline them.

Commissioner Paravagna asked if the DGS relates to the nine-goal strategic plan that the Commission has in place. Executive Director Jemmott stated one of the benefits of coming in with the DGS is that they had the one-year milestone process and the Commission already had a five-year strategic plan. It worked nicely to incorporate what the Commission was already working on into one-year milestones. It is important to note that the Commission is at the end of its five-year strategic plan. She stated the need to again convene a summit as part of the strategic planning process but this time incorporate the milestone concept.

Executive Director Jemmott stated Mr. Jamison is also helping the Commission by connecting staff to the DGS IT department to work on the creation of a database and to automate the information-gathering process. She asked Mr. Jamison for explain further.

Mr. Jamison stated the DGS has an IT governance process meant to prioritize the plethora of IT projects that come into the department. He stated Executive Director Jemmott put in a request on behalf of the CCDA to go forward with the database project 12 to 14 months ago. Unfortunately, the IT department was unable to get to it in 2018. He stated, because he did not want the Commission to wait another year for their project to rise to a priority level, he identified independent resources that can be utilized outside of the department. Hiring this outside talent will allow the database project to begin immediately. The DGS will continue to help the CCDA further its mission by identifying resources for various initiatives.

10. Committee Updates – Update, Discussion, and Action

a. Checklist

- **CCDA Northern California Community Gathering Event – February 26, 2019**

Commissioner Holloway, Chair of the Checklist Committee, stated the Listening Forum in Fresno last year was well-organized, successful, and helpful. The next Listening Forum, the second forum for the restaurant industry, will be held in Elk Grove on February 26th. He urged Commissioners and stakeholders to attend.

Executive Director Jemmott stated the Listening Forum will be live-streamed in San Francisco and in Humboldt as remote hosts.

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b. Education and Outreach

- **Website**

Executive Director Jemmott stated Chair Leemhuis had suggested greater visibility on individual projects. The Commissioner's Corner section of the website will be important as the Commission becomes more visible as a part of the DGS website. Commissioner Downey's "60 Minute" interview has been posted in the Commissioner's Corner, which is on the Homepage. Executive Director Jemmott urged Commissioners to submit their work and thoughts about accessibility to be posted in the Commissioner's Corner.

- **Public Service Announcement Project**

Commissioner Downey, Co-Chair of the Education and Outreach Committee, stated he participated in the creation of a public service announcement (PSA) with the Independent Living Resource Center in San Francisco last fall. He stated he learned the filming was done by students as a class project led by the professor. He stated the professor has agreed to work with the CCDA on the PSA project. He showed sample PSA work done by the students. He stated the need for Commissioners to determine what the message will be.

Commissioner Downey introduced Paula Lima, the professor of the class at the Academy of Art University, San Francisco, who discussed how the process would work. She stated she was excited to work with the Commission. It will be a great opportunity for the students.

Executive Director Jemmott suggested that the Education and Outreach Committee work on the message of the bigger picture of the CCDA. She suggested that the PSA should begin to overcome the stereotypes and limitations that business owners may have about making their establishments accessible.

- **Acceptance of Draft 10-Year Anniversary Gala**

This item was tabled to the next Commission meeting.

11. Committee Updates, Continued – Update and Discussion

a. Legislative

- **Developing Types of Learned Papers**

Commissioner Paravagna, Chair of the Legislative Committee, stated learned papers or white papers have been discussed by this Commission for some time, but there has not been a clear definition of what the Commission is looking for, such as a prescribed format or a variety of messages from different Commissioners. The Committee felt it would be good to bring it to the full Commission for a broader discussion as it is the intent that all Commissioners would contribute to this effort over time.

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Commissioner Wilson suggested working with interns from universities, schools of architecture, and schools of law across the country on papers that discuss the accomplishments of the Commission that have brought changes and how this might impact future changes in architecture and the law.

Commissioner Paravagna asked Commissioner Wilson if she was suggesting papers that would define certain issues that need more study and affirmative action. Commissioner Wilson agreed and emphasized the need for action on how to effect these changes.

Commissioner Paravagna asked if issues should be vetted or reviewed by the Commission before they move forward to the website.

Commissioner Wilson stated one of the biggest issues she has seen since she began with the Commission has been having definitions that are loose enough yet firm enough to have meaning because many times architects interpret these laws differently and, therefore, there are different perceptions of access. She stated the need to give guidance to the general public.

Commissioner Paravagna suggested a glossary of terms. Commissioner Wilson agreed. She stated the need for education and comprehension; not everyone understands the laws.

Commissioner Clair asked how these suggestions would interface with the regulations as they were written in the California Building Code (CBC), which is designed to be interpreted by architects and jurisdictional entities. She stated it seems that the creation of a glossary or terminology may compete with the CBC. She suggested that the Commission review anything that is put forward so as not to create more confusion in serving the mission to advise.

Commissioner Downey suggested reaching out to business schools and working with students and professionals to better articulate a business argument that would speak to small business owners and unlock some of those issues. The laws and regulations are in place; the business community implementing them is a central part of that.

Commissioner Paravagna agreed and stated it would be a great support to the loan program.

- **ADA Coordination Research Project**

Commissioner Paravagna stated the Committee sent out a short survey, which received a poor response. Feedback informally received by individuals who chose not to complete the survey was that they did not know if the survey was sent to the right place, who was supposed to respond, or how much information should be disclosed. Staff then convened an ADA Coordination Meeting on September 27th in response to the CCDA Five-Year Strategic Plan Goal 6: Explore the development of a state-level ADA access office. The response was dramatic – the room filled up quickly and there was a waiting list of individuals looking for more information who, because of room capacity, could not be accommodated at the time.

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Commissioner Paravagna stated what was learned from the meeting is that there is a significant lack of continuity among the meeting participants representing a broad number of departments concerning grievance procedures, notices of compliance, and formatting for ADA self-evaluations and transition plans. There was a hunger on the part of the individuals in attendance regarding questions that might be seen as fundamental to ADA Title II compliance.

The Legislative Committee met after the ADA Coordination Meeting and discussed the need to have empirical data that could then be presented as a basis for positions the Commission could take regarding a more organized approach to ADA or disability civil rights implementation in state government. He stated Executive Director Jemmott found resources in the academic community. He welcomed Brandy Chappelle and asked her to introduce herself.

Brandy Chappelle, DPPD, GIST, Azusa Pacific University Center for Public Affairs, summarized her background and stated she looked forward to assisting the Commission with its research effort.

Executive Director Jemmott asked Dr. Chappelle to share the plan for the ADA coordination effort – how this year was spent developing a strategy to develop the funding to get the research implemented for next year's outreach opportunity.

Dr. Chappelle stated she spoke with colleagues at the university that strengthen the research design envisioned for the CCDA, particularly the Professor of the Master's Program in Applied Statistics and Analytics, who is interested in collaborating with Dr. Chappelle and the Commission to create something meaningful. She stated students would add value by providing a good data component to any level of work or interaction they would be engaged in. The intersection between the public administration policy and the statistical data piece would be competitive for funding resources that are publicized to faculty. She distributed a list of those resources for the Commission's review. She highlighted the diversity and variety of funding sources that academic institutions have access to.

Commissioner Paravagna asked about the research model that will be used.

Dr. Chappelle stated a mixed-method approach will be used. The research will be empirical and quantitative and also qualitative and will detail the narrative of what this Commission does and how it interacts with other entities and implements public policy.

Commissioner Paravagna asked about next steps. Executive Director Jemmott stated the next steps are identifying resources and assisting Dr. Chappelle with the language for the grant applications.

12. Legislative Bill Tracking – Update and Discussion

a. 2018-19 Tracked Bill Outcomes

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Corrina Roy, Legislative Consultant, Office of Administrative Affairs, DGS, summarized the CCDA Legislative Status Report on the bills being tracked by staff that passed last year, which was included in the meeting packet. She highlighted AB 190 and SB 73, which, she stated, is the same bill. It allots \$709,000 to CCDA for fiscal year 2019-20.

b. SB 53 (Wilk) – Open Meetings

Ms. Roy summarized the CCDA Legislative Status Report on the new bills being tracked by staff, which was included in the meeting packet. She stated these bills will continue to be watched.

13. Summary Presentation of CCDA 2018 Annual Report to the Legislature – Update and Discussion

• Commission Executive Staff

Staff member Ochoa provided an overview, with a slide presentation, of the 2018 accomplishments that were included in the 2018 Annual Report to the Legislature, which was included in the meeting packet.

Staff member St. Mary continued the slide presentation and discussed outreach efforts, partnerships, and statewide impact that was included in the 2018 Annual Report to the Legislature.

Staff member Chung continued the slide presentation and discussed the preliminary data gathering, 2018 top ten alleged violations, and received versus potential filings to be included in the 2018 Annual Report to the Legislature.

Questions and Discussion

Commissioner Holloway referred to Slide 11 on the complaints and pre-litigation letters received from 2014 to 2018. He asked what drove the sharp increase in federal complaints in 2018 over the previous years. Staff member Chung provided several anecdotal reasons for the sharp increase in federal filings in 2018:

- The definition of high-frequency litigant. The definition only applies to state court; this encouraged more filings in federal court to avoid being labeled.
- The federal court process resolves complaints in from one day to six months, whereas state courts may take a year or two to resolve cases.
- Federal judges are better informed about the ADA law.
- Federal court involves fewer jurors so decisions are rendered more quickly.

Commissioner Lillibridge stated he suspected the graphs represent that all the data is still not being submitted to the CCDA. He gave the example that the number of pre-litigation letters should be higher than the complaints, since a pre-litigation demand letter is required, which is clearly not the case in 2018.

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Executive Director Jemmott agreed and stated the lack of data causes many questions. That issue was shown visually in graph form as a statement to the Legislature. She stated staff spends a tremendous amount of time managing the paper operation. There is an inability to dive deeper until the automated system goes in.

Vice Chair Wiele stated it would be helpful to cite the data sources for complaints and pre-litigation letters – federal, state, and by category. There are several issues going on: compliance with reporting, noncompliance, and distortion in the data. As the Commission becomes more efficient in collecting the data, the trend lines look different. In some cases, data sources may be mixed. It would be better if that was documented.

Commissioner Paravagna referred to Slide 6 where the Listening Forums are listed. He suggested adding the session later in the day after the March DMV Parking Placard Listening Forum that involved legislators in the 2018 Annual Report to the Legislature.

Commissioner Seferian asked if the figure of roughly 10,000 complaints was derived from the lawsuits and pre-litigation letters. Staff Member Ochoa stated it is for alleged violations. She stated complaints can contain more than one violation. That is why that number is significantly higher than the total number of case files received this year.

Commissioner Seferian asked how the Lexis/Nexis Courtlink searches were conducted and what the search terms were. Staff Member Ochoa stated each Superior Court in California was searched for state civil rights complaints.

Commissioner Seferian asked if the state Superior Court databases distinguish between a general civil rights complaint and civil rights complaints that involve disability access. Staff Member Ochoa stated they do not. She stated staff does not have the ability to determine how many of the total cases found in Courtlink are truly complaints that would be under applicable laws that the Commission would receive complaints about.

Commissioner Seferian suggested that is an area where the state Judicial Council could get involved by asking courts to have litigants specify whether a civil rights complaint is based on disability access or some other type of civil rights violation. Staff Member Ochoa stated, in terms of the federal complaints, staff searched through the California District Courts for civil rights complaints filed under Code 446. Again, it is not possible to determine if they all truly are ADA construction related and applicable to the CCDA.

Executive Director Jemmott asked if there is an opportunity for staff to move forward with. Commissioner Seferian stated his understanding that currently litigants in state court are not required to specify within the general civil rights category whether their lawsuit is based on an alleged disability access violation. It could help reporting if litigants were required to specifically identify the nature of the civil rights violation.

Executive Director Jemmott asked if language could be added to the submittal form or how to go about doing that. Commissioner Seferian stated the Judicial Council is the body that is responsible for providing the forms that litigants fill out. It would rest within the authority of the Judicial Council.

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Vice Chair Wiele stated it should be acknowledged in the presentation that these are civil right violations but may not all be built environment, ADA-type violations.

14. Adjourn

Vice Chair Wiele adjourned the meeting at approximately 2:30 p.m.