

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

January 10, 2018

1. CALL TO ORDER

Chair Guy Leemhuis welcomed everyone and called the meeting of the California Commission on Disability Access (CCDA or Commission) to order at 10:15 a.m. at the Department of Rehabilitation, 721 Capitol Mall, Room 242, Sacramento, 95814.

ROLL CALL

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

Commissioners Present:

Guy Leemhuis, Chair
Douglas Wiele, Vice Chair
Xavier Becerra, Attorney General,
represented by Anthony Seferian
Chris Downey
Brian Holloway
Celia McGuinness
Michael Paravagna
Tiffany Potter
Chester "Chet" Widom, State Architect,
represented by Ida Clair
Laurie Cohen Yoo (via teleconference)

Commissioners Absent:

Laura Friedman
Walter Hughes
Tom Lackey
Mitchell "Scott" Lillibridge
Betty Wilson

Staff Present:

Angela Jemmott, Executive Director
Dave Chung, Staff Services Analyst
Dharon Grayson, AGPA
Rhonda Valdry, Staff Services Manager 1
Matthew Wang, Staff Services Analyst

Also Present:

Eric Nelson, Ph.D., Co-Chair, Statewide Disability Advisory Council

PLEDGE OF ALLEGIANCE

Chair Leemhuis led the Commission in the Pledge of Allegiance.

HOUSEKEEPING

Chair Leemhuis reviewed the meeting protocols.

2. SWEARING IN OF NEWLY-APPOINTED AND RE-APPOINTED COMMISSIONERS – ACTION ITEM

Chair Leemhuis tabled Commissioner Lillibridge's swearing in to the next full Commission meeting.

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Commissioner Seferian led the re-swearing in of office for Commissioner Chris Downey.

3. INTRODUCTIONS BY NEWLY-APPOINTED COMMISSIONER

a. Mitchell "Scott" Lillibridge – appointed by the Governor

This item was tabled until the next full Commission meeting.

4. APPROVAL OF MEETING MINUTES (October 11, 2017) – ACTION ITEM

MOTION: Vice Chair Wiele moved to approve the October 11, 2017, California Commission on Disability Access Full Commission Meeting Minutes as presented. Commissioner Paravagna seconded. Motion carried unanimously with Chair Leemhuis and Commissioner McGuinness abstaining.

5. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA

No members of the public addressed the Commission.

6. CCDA GOVERNING AUTHORITY AND ACTS – UPDATE ITEM

a. Abolishment of Government Code: 14985 – 14985.11 replaces 8299 – 8299.11

Executive Director Jemmott stated Government Code Sections 8299 – 8299.11 have been replaced by Government Code Sections 14985 – 14985.11.

b. Bagley-Keene Open Meeting Statutory Amendments

Executive Director Jemmott referred to the Bagley-Keene Open Meeting Act update, which was included in the meeting packet. She read the added subsection (c)(1) of Section 11125.7, opportunity for public to speak at meeting.

Chair Leemhuis stated the CCDA generally tries to accommodate individuals. Typically, public comment goes over the two-minute time allotment.

7. PROPOSED REVISION OF CCDA BYLAWS – ACTION ITEM

- a. Section 1.2**
- b. Section 2.1.5**
- c. Section 3.1 – 3.5**
- d. Section 4.1 – 4.2**
- e. Section 4.3.8 – 4.3.9**
- f. Section 4.4.1**
- g. Section 5.3**
- h. Section 6.2 – 6.7**
- i. Section 7.2 – 7.4**
- j. Section 8.1**
- k. Section 9.1**

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Chair Leemhuis asked for a motion to table this agenda item until the next full Commission meeting to allow discussion with the Executive Committee prior to presenting it to the full Commission.

MOTION: Vice Chair Wiele moved to table the proposed revision to the CCDA Bylaws until the next full Commission meeting. Commissioner McGuinness seconded. Motion carried unanimously.

8. ADA COORDINATOR SURVEY STATUS – DISCUSSION ITEM

a. Results

Executive Director Jemmott stated there was poor participation in the 7-question ADA Coordinator survey sent to 80 agencies through Survey Monkey. Staff learned that many ADA Coordinators are not at management level and cannot respond to a survey about their job without management approval.

b. Next Steps

Executive Director Jemmott stated staff is working with the Department of General Services (DGS) on ways to get directors' buy-in so they will approve participation in the survey.

Questions and Discussion

Commissioner Clair asked what will be done with the survey results. Commissioner Paravagna stated the ADA was passed 27 years ago, regulation updates have occurred since then, transition Plans were due in 1992, and the self-evaluation was due in 1993. The purpose of the survey is to learn where state agencies are in complying to the ADA. Part of the role of the CCDA is to ask questions and, if necessary, advise the Legislature if laws are not being addressed. The survey is a step toward that end.

Chair Leemhuis stated two areas of the strategic plan are that the CCDA will be a community-builder to bring communities of different perspectives together to get information, and that the Legislature will see the CCDA as a resource prior to creating legislation about disability access. He declared 2018 as a year of proactivity for the CCDA, including writing papers with recommendations from the CCDA to the Legislature, such as legislation to increase technology accessibility. He stated is time to pull together what the CCDA has gleaned during recent years in a functional way.

Commissioner Paravagna stated the survey is designed to gauge compliance in state government, but there is also the issue of building an infrastructure in state government so there is a compliance system, so individuals with disabilities know what to expect of state government as a role model. One of the issues the CCDA should push is that state government needs to be compliant with its own laws.

Vice Chair Wiele agreed. He shared an example of his redeveloping an historic property in downtown Monterey jointly with the National Trust for Historic Preservation, and the disparity between the California Building Code and the Health and Safety Code.

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9. DISABILITY ADVISORY COMMITTEE (DAC) PRESENTATION

Presenter:

Eric Nelson, Ph.D., Co-Chair, Statewide Disability Advisory Council

Eric Nelson, Ph.D., Co-Chair, Statewide Disability Advisory Council (SDAC), briefly shared his background of growing up with learning disabilities and processing disorders. He offered to come back as a guest speaker to share his list of solutions of how he learned to learn. Today he has earned six college degrees, including a Ph.D. from the University of California, Davis.

Dr. Nelson stated Government Code Section 19795 requires every state agency to establish a DAC. SDAC was established to provide technical assistance to state agencies to help set up and maintain their DACs, such as mentors, model bylaws, meeting curriculum, and guest speakers. He summarized the current SDAC activities, such as surveying agency directors whose agencies do not have a DAC, putting together a pilot program, and teaching DACs how to write an annual report. SDAC is working with three active DACs to create model annual reports, which can be rolled into an Annual SDAC Report in the future.

Questions and Discussion

Commissioner Paravagna stated he noticed on the areas SDAC wants to study is the number of candidates who request accommodation during the selection process. He stated many times a candidate may not know the activities that will be expected of them during the selection process so they cannot make an informed decision about whether they need accommodation to participate. He asked if SDAC has looked at that issue and if there is an ability to suggest procedures for appointing authorities to mitigate that.

Dr. Nelson offered to pose the question to the director of the California Department of Human Resources (CalHR). He asked Commissioner Paravagna to send him the question in an email. He stated he will also share the answer with SDAC.

Commissioner McGuinness asked if DACs typically think about the populations they serve or if they only think of their own employees with the goal of remedying historic inequities in hiring. Dr. Nelson stated some DACs may hold a National Disability Employment Awareness event and pass out materials, but have no contact with their agency director and are not involved in advising on policy. This describes many DACs. Other DACs meet regularly or annually with their agency director. Historic inequities cannot be solved in a day. SDAC is working to increase DAC contact with their agency directors to begin to move the needle in the right direction.

Executive Director Jemmott stated the CCDA is looking to send out an ADA Coordinator survey. She asked if SDAC membership is made up of ADA Coordinators or individuals with subject matter interest. Dr. Nelson stated approximately 50 percent of the individuals who attend SDAC meetings are parents of children with disabilities. Of the

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50 percent who attend in an official capacity, approximately two-thirds are DAC chairs and one-third are equal employment opportunity officers. He stated only very few SDAC members have described themselves as the ADA Coordinator. He stated there was not much training for ADA Coordinators in the past. He asked if that is still the case.

Commissioner Paravagna stated ADA Coordinators are typically appointed without training or information about their roles. Dr. Nelson stated the need for state-defined minimum qualifications for ADA Coordinators. He suggested talking to CalHR, which has a reasonable accommodation roundtable next week, and Disability Rights California, and putting together a subgroup focused on reasonable minimum qualifications for ADA coordinators to present to the state.

**10. DISABILITY SERVICES – EMERGENCY MANAGEMENT SERVICES
PRESENTATION**

Presenter:

Commissioner Tiffany Potter, AFN Emergency Coordinator, City of San Diego, Office of Homeland Security

Commissioner Tiffany Potter, Access and Function Needs (AFN) Emergency Coordinator, City of San Diego, Office of Homeland Security, discussed emergency management from a disability with access and functional needs (DAFN) standpoint. She provided an overview, with a slide presentation, of the background, the Federal Emergency Management Agency's (FEMA) Guidance on Planning for Integration of Functional Needs Support Services (FNSS), Assembly Bill (AB) 2311, county Emergency Operation Plans, and results and lessons learned from the city of San Diego's gap analysis and what is currently being done to mitigate those gaps.

Commissioner Potter stated the FEMA FNSS guidance document is important for whole community planning. She stated the state of California is the only state that requires AFN considerations to be written into Emergency Operation Plans. There were a number of lawsuits filed nationally against large cities because the Emergency Operation Plans did not support the AFN of their communities.

Questions and Discussion

Vice Chair Wiele referred to the first slide and stated the logistics are staggering. He asked how emergency services would work with the 50 language groups in San Diego schools with similar needs. Commissioner Potter stated notification or alerts are triaged based on the last census and the threat analysis. The Office of Emergency Services has put together the Partner Relay Program that locates translators for the six major communities in San Diego who translate the emergency notifications using the Slack App platform. She stated she does not know how emergency notifications will be translated for all 50 languages in San Diego.

Vice Chair Wiele asked what can be done in an instance like Santa Rosa, where there is a three percent vacancy in housing stock and five percent of the housing stock burns

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down. Commissioner Potter stated housing is an ongoing challenge that is continually being worked on.

Commissioner Paravagna stated some parts of the community would be difficult to plan for, such as individuals in memory treatment centers, in medical facilities, or incarcerated in the county jail. He asked about the plan for these individuals. Commissioner Potter stated it begins with transportation and whether paratransit or a school bus is necessary for evacuation to a facility or shelter. There are no easy answers. Every case is different.

11. FISCAL BUDGET REPORT – UPDATE ITEM

a. Financial Narrative Report

Staff Member Valdry reviewed the Fiscal Year (FY) 17-18 Budget Highlights as of December 27, 2017, which was included in the meeting packet. She stated there was a total increase of \$23,000 to the budget. Staff continues to work with the DGS to reexamine the Commission's baseline budget.

Commissioner Holloway asked about the \$68,000 operating expense for DGS charges. Staff Member Valdry stated the DGS provides a variety of services to all state agencies, which pay a fee for certain services, such as real estate services.

12. DATABASE PROJECT – UPDATE ITEM

Executive Director Jemmott stated the database project has been the biggest challenge and responsibility that the CCDA has done and has tried to consistently provide in the annual report to the Legislature. She emphasized the magnitude of manual labor staff has done this past year on the database project of individually collecting data, maintaining accuracy and consistency, and reporting on what has been collected.

Staff Member Wang reviewed a chart of the 2017 cases compiled, which was included in the meeting packet. He stated 3,826 complaints were received in 2017, of which 2,365 were cases filed in federal or state court and 1,461 were prelitigation letters. From these 3,826 submittals, CCDA staff manually analyzed 10,608 different physical acts of alleged violations. Staff is working on a more automated database for attorneys and law firms to submit and analyze their cases directly onto an automatic site.

Staff Member Grayson stated staff has been working with the DGS Enterprise Technology Solutions Program to develop and ultimately implement a database that will capture and maintain all of the cases and records received from attorneys and law firms. The goals of the database are to reduce time spent manually entering cases and resolutions, reduce the amount of paper and storage space dedicated to case processing, enable clients to submit documents via a web interface, and reduce reliance on volunteer staff for case entry. She stated the database will have the ability to produce reports. She stated staff is currently waiting for the DGS Governance Council to approve the proposed database project. The Council is scheduled to meet at the end of January.

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Questions and Discussion

Vice Chair Wiele stated the number of cases filed has remained relatively flat over 2015, 2016, and 2017, but the number of prelitigation letters has almost tripled. He asked what that is attributed to. Chair Leemhuis stated one of the issues in previous years is compliance with the submission of prelitigation letters. More attorneys are now aware of that requirement, but the bill lacks an enforcement component.

Commissioner Hughes asked if there is a relationship between the number of prelitigation letters submitted and number of cases filed. Chair Leemhuis stated not necessarily. The number of cases should be lower than the number of prelitigation letters but there is a disconnect. There should be a correlation between prelitigation letters and case files. If it were being done correctly, there should be a minimum of 2,365 prelitigation letters, not less. Since the prelitigation letter compliance is not at 100 percent, not many conclusions can be drawn about the timeline between prelitigation and when a case is filed. Chair Leemhuis stated this is an example of an issue to write a learned paper on to the Legislature.

Commissioner McGuinness stated an additional factor that adds to that disconnect is that there is not a requirement to file a prelitigation letter when filing a case in federal court. She agreed that there are too many unknown factors at this point for the CCDA to draw many conclusions.

Vice Chair Wiele stated some of the 1,461 prelitigation letters may have resulted in a case being filed, so there are not necessarily 3,826 separate events but possibly a number less than that. Staff Member Wang agreed. He stated that is one of the issues because the only way to ascertain that is to manually match each case to a prelitigation letter. He stated, with an automated system, when an attorney submits a prelitigation letter that is followed up with a case, they will be tied together with the same record number.

Commissioner McGuinness stated concern about the chart in the meeting packet being in the public domain because erroneous conclusions may be drawn. She asked what is meant on the chart that CCDA staff manually analyzed 10,608 violations. Staff Member Wang stated, for each case, staff has a list of 52 different infractions. For each case, staff assigns codes for each type of infraction. It means that staff coded 10,608 different violations throughout the 3,826 cases.

Chair Leemhuis stated this is an example of the detailed level of work that staff undergoes to get the information to a meaningful place for the public and why the CCDA requires more staff time. Even greater detailed work is necessary to make it more meaningful.

13. EXECUTIVE REPORT – UPDATE ITEM

Executive Director Jemmott presented her report:

a. Operational and Administrative Updates

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There have been a number of staffing changes that directly impact the retired annuitant services:

- LaCandice Ochoa, Manager 1
- Dave Chung, Staff Services Analyst
- Another Staff Services Analyst position will be filled in February

Today is Staff Members Grayson and Valdrys's last meeting. Executive Director Jemmott presented them with plaques in appreciation for their service.

A new office space has been located at the California Public Employees' Retirement System (CalPERS) building on the second floor at 400 R Street. She stated the location comes with a conference room for staff and Committee meetings.

b. Review of Outreach Efforts

The State Bar invited staff to assist in conducting a webinar on February 14th as part of their education and outreach programs for attorneys.

Staff is working with the Division of the State Architect (DSA) on their access codes.

c. Combined Strategic Plan for CCDA/DGS 2018

Executive Director Jemmott stated, although the CCDA has been implementing its 2014 five-year strategic plan, as part of the transition to the DGS, the CCDA is required to submit an annual strategic plan to conform to the DGS's annual strategic plan format. She reviewed the three goals in the CCDA's annual strategic plan in the DGS format, which was included in the meeting packet. She noted that the goals are in line with the CCDA's 2014 five-year strategic plan.

Questions and Discussion

Commissioner Paravagna stated his concern about the original nine strategic goals of the 2014 strategic plan. There was an extensive amount of work done with the community in collaboration. Moving in a different direction will not help solidify community relationships that were built during the original strategic goal stakeholder process. He noted that some strategic plan activities are missing from the annual plan. He was concerned that documentation for those activities may get lost in the shuffle so CCDA ends up doing more work than was captured during the planning process.

Commissioner McGuinness agreed. She asked if the DGS agrees that the CCDA's nine goals are still in place and this document is a way to annualize priorities. She also asked if other initiatives that may come up during the year will not be considered priorities since they are not included in the first three goals. She asked for clarity on how this annual document affects the work that the CCDA does or if it is merely aspirational.

Executive Director Jemmott stated she has been in communication with the DGS regarding the CCDA goals that are not included in the annual list. She stated she only submitted what was possible for the CCDA to complete in a year.

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Chair Leemhuis asked to put the strategic plan on the Executive Committee agenda for review.

d. Annual Report

Executive Director Jemmott stated the Annual Report will be posted on the website on January 31st. She thanked everyone that contributed and provided information for the report.

14. LEGISLATIVE BILL TRACKING – REVIEW ITEM

Executive Director Jemmott presented her report:

a. AB 1379 (Thurmond D) Certified Access Specialist Program: funding.

Los Angeles has agreed to contribute their share of the business license fee.

b. AB 1553 (Cervantes D) Electronic development: Capital Access Loan Program.

Staff continues to help with webinars to get the word out to businesses about the Capital Access Loan Program. This bill expanded the definition of small business and the loan amount businesses can receive.

c. SB 611 (Hill D) Vehicles.

With this bill cities and counties are working with the CCDA to reduce the misuse of parking placards.

15. COMMISSIONER COMMUNITY UPDATES

Chair Leemhuis stated he was asked to be part of a panel for the 10th Anniversary Celebration of the Disability Rights Legal Center to discuss disability rights laws.

Commissioner McGuinness stated the U.S. District Court for the Northern District of California has a program called General Order 56 for ADA cases for faster outcomes and reduced expenses. The Chief Judge of the District Court has asked Commissioner McGuinness to be a member of an Advisory Committee to look at how the program is working and to make recommendations about how to improve it. Commissioner McGuinness stated General Order 56 is a potential model that could be applied in the State Court system and in other federal courts.

16. ADJOURN

There being no further business, the meeting was adjourned at 2:34 p.m.