

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

April 11, 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 10:03 a.m. at the California Victim Compensation Board, 400 R Street, Sacramento River Room, 1st Floor, Sacramento, 95811.

Roll Call

Staff Member Ochoa called the roll and announced a quorum was not present.

Commissioners Present:

Guy Leemhuis, Chair (via teleconference)
Douglas Wiele, Vice Chair
Xavier Becerra, Attorney General,
represented by Anthony Seferian
Jim Frazier
Mitchell "Scott" Lillibridge
Celia McGuinness
Tiffany Potter
Chester "Chet" Widom, State Architect,
represented by Ida Clair
Betty Wilson

Commissioners Absent:

Chris Downey
Brian Holloway
Walter Hughes
Tom Lackey
Michael Paravagna
Laurie Cohen Yoo

Staff Present:

Angela Jemmott, Executive Director
LaCandice Ochoa, Operations Manager
Dave Chung, Staff Services Analyst
Taylor St. Mary, Staff Services Analyst
Matthew Wang, Staff Services Analyst

Also Present:

Jonette Banzon, Office Legal Services, Department of General Services
Brent Jamiso, Interagency Support Division, Department of General Services
Corinna Roy, Office of Legislative Affairs, Department of General Services

Pledge of Allegiance

Chair Leemhuis asked Vice Chair Wiele to lead the Commission in the Pledge of Allegiance.

Housekeeping Items

Chair Leemhuis reviewed the meeting protocols.

Executive Director Jemmott dedicated the meeting to George Stephen Dolim, FAIA, the father of former Commissioner Steve Dolim, in acknowledgement of his service in

California Commission on Disability Access
Full Commission
April 11, 2018, Meeting Minutes

removing physical barriers for individuals with disabilities. She asked the Commission to observe a moment of silence in memory of his great work across the nation.

2. Swearing in of Newly-Appointed and Re-Appointed Commissioners – Action

a. Guy Leemhuis - appointed by Senate

Commissioner Seferian led the re-swearing in of office for Guy Leemhuis.

b. Mitchell “Scott” Lillibridge - appointed by the Governor

Commissioner Seferian led the swearing in of office for Mitchell “Scott” Lillibridge.

Chair Leemhuis welcomed Commissioner Lillibridge to the CCDA on behalf of the Commission.

Executive Director Jemmott presented Commissioner Lillibridge with a recently-created CCDA pin with the CCDA logo and banner, “creating an accessible, barrier-free California.”

3. Approval of Meeting Minutes (January 10, 2018) – Action

This item was tabled until the next full Commission meeting.

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

No members of the public addressed the Commission.

5. Protocols for Public Relations

Executive Director Jemmott stated there was a question at the last Executive Committee meeting about protocols within the Department of General Services (DGS) in the areas of media relations and legislative communications. She noted the policies are directed toward DGS employees.

a. DGS Administrative Order 12-01 – Media Relations, Social Media and Multimedia Policy

Executive Director Jemmott read the DGS Administrative Order 12-01, which was included in the meeting packet, to help the Commission develop internal language. She stated the Commission has opportunities to engage with the DGS Office of Public Affairs (OPA) in developing social media. Staff receives phone calls or requests by the media at various times to respond to issues. Administrative Order 12-01 includes the following policy: “All public media and social media content must be approved by DGS OPA.”

b. DGS Administrative Order 17-02 – Legislative Communications Policy

Executive Director Jemmott read the DGS Administrative Order 17-02, which includes the following policy: “DGS has designated the Office of Legislative Affairs to handle most legislative communications” She referred to the Legislative Members on Boards and Commissions exception section of Administrative Order 17-02, which states, “This policy does not apply to discussions with legislators serving on the State Allocation

California Commission on Disability Access
Full Commission
April 11, 2018, Meeting Minutes

Board by board staff about board business, and discussions with legislators serving on the California Commission on Disability Access by commission staff about commission business. However, discussions about current, proposed, or potential legislation shall be referred to the Office of Legislative Affairs.”

c. Protocols for the CCDA to take Positions on Legislation

Executive Director Jemmott stated the Commission created a policy prior to the CCDA moving under the DGS regarding protocols for members of the Commission to take positions on legislation. She read the policy, which was adopted in 2012, and stated the need to ensure it aligns with DGS Administrative Orders.

Questions and Discussion

Commissioner McGuinness stated the importance of continued conversations on this topic as there are areas of discrepancy and contradiction between the CCDA’s legislative mandate and policies and the DGS Administrative Orders. She asked about next steps.

Executive Director Jemmott suggested that staff bring recommendations to the next Executive Committee meeting for discussion.

Public Comment

Corinna Roy, Legislative Consultant, Office of Legislative Affairs, DGS, stated Administrative Order 17-02 is for DGS staff only and is not intended to advise individual Commissioners. She asked staff to consider the Roles and Responsibilities document distributed at the last Legislative Committee meeting.

Executive Director Jemmott thanked Ms. Roy for her comments and stated she will ensure that the Roles and Responsibilities document will be included in the process.

6. Fiscal Budget Report – Update and Discussion

a. DGS Budget Exercise

Staff member Ochoa reviewed the CCDA Fiscal Year (FY) 2017-18 Budget Highlights document for July through December of 2017, which was included in the meeting packet. She stated the five authorized staff positions have been filled as of March 19th. She stated the total projected shortfall for this FY is \$36,308, if spending remains consistent with the past six months.

Ms. Ochoa stated staff submitted a Budget Change Proposal (BCP) concept paper to the DGS Director on March 23rd, which included \$260,000 in Personal Services and Operating Expenses so the Commission can support the five staff positions. The BCP requested an additional \$286,763 for two new positions that would need statutory requirements. Those positions are for a Program Technician and an Associate Construction Analyst. She stated the DGS will be working with staff and the Department of Finance (DOF) on technical budget changes for the \$260,000 in Personal Services and Operating Expenses. The BCP concept paper was not approved for the two additional staff positions.

California Commission on Disability Access
Full Commission
April 11, 2018, Meeting Minutes

Executive Director Jemmott stated the DGS Budget Exercise that Ms. Ochoa highlighted showed that the Commission remains underbudgeted for the current staffing and operating expenses. She noted the staffing and operating expenses for this FY are supported through the Interagency Support Division. She stated Deputy Director Jamison, who was in attendance, has been working closely with staff to drill down to the needs of this FY, because the Commission is managing through their support due to the lack of funding to cover the budget. Deputy Director Jamison has worked with staff to create ways to augment the budget.

Questions and Discussion

Commissioner Lillibridge stated the Personal Services heading should be Personnel Services. He asked if the \$265,000 Budgeted Personnel Expenditures amount should be \$517,000 to reflect the \$13,000 shortfall. Ms. Ochoa stated the CCDA spent \$265,000 in Budgeted Personnel Expenditures as of December 31st. The \$530,000 is the amount projected to be spent in the next six months.

Commissioner Lillibridge stated the \$265,000 is the amount spent of the approved \$517,000 personnel budget, not the amount budgeted as the document states. Ms. Ochoa agreed.

Commissioner Potter asked why this month's full Commission meeting was not in Fresno and if that relates to a budget conversation. Chair Leemhuis stated it was because of an access issue.

Commissioner Potter stated her concern that the Central Valley is underrepresented if not represented at all.

7. Interagency Agreement with Division of the State Architect (DSA) – Discussion and Action

Executive Director Jemmott stated staff is working with the DSA to provide support for education and outreach efforts. She summarized the Proposed CCDA Educational Outreach Effort of 2018-19 document, which was included in the meeting packet.

Questions and Discussion

Commissioner Clair stated the DSA looks forward to providing financial and technical support to the Commission.

Commissioner McGuinness asked what is meant by the term "incubator session." Executive Director Jemmott stated, for someone to use a document or a consumer tool, they must have a stake in the game or must feel that they were part of creating it. The incubator sessions give stakeholders an opportunity to provide input in the creation of these consumer tools.

Commissioner McGuinness stated it is wise to ensure that the target audience for education materials participates in the process.

California Commission on Disability Access
Full Commission
April 11, 2018, Meeting Minutes

Commissioner Lillibridge recognized the hard work staff does to collect the data that goes into producing the statistics on the types of complaints and violations that are being filed. He stated the need to collect even more data points to help guide where the low-hanging fruit is in the process of trying to get all stakeholders around the table. He pointed out that three quarters of the violations are in the arena of sales and rental establishments and the service sector. He suggested that the Commission look into that as soon as possible. He suggested collecting more data to refine efforts to make the biggest difference in bringing down the number of violations.

Chair Leemhuis agreed that the Commission would like to gather additional information but does not currently have the budget to support it. The Commission continues to want to move in a direction where the data being received is more informative and can be captured.

Commissioner McGuinness agreed. She stated the Research Committee discusses the concern that the data being collected does not tell the whole picture and that conclusions will be drawn from the data that are not warranted.

Executive Director Jemmott stated outreach to business districts will be included with working with restaurant associations.

8. Committee Updates – Update and Discussion

a. Research

This item was tabled until the next full Commission meeting.

b. Education and Outreach

Commissioner Wilson, Chair of the Education and Outreach (E&O) Committee, stated the Committee is working to get information on the website and the public service announcement from the Department of Motor Vehicles (DMV) that began running last week on individuals who violate the law by parking in disabled parking spaces. She congratulated the DMV for cooperating with the Commission and assisting in reinforcing that. She stated one of the suggestions for future Listening Forum topics was “drive-by lawsuits: are you losing money?” The next Committee meeting is April 26th.

Questions and Discussion

Chair Leemhuis stated it is offensive to refer to anything as a “drive-by.” It is about civil rights. To date, no lawsuit has been found that was filed frivolously. The judicial system has checks and balances in place to weed out frivolous lawsuits. Part of the narrative that the Commission has the challenge of addressing is to illuminate what is fact and what is fiction. Part of the community-building piece that has to occur is to discuss why a lawsuit was filed, not to perpetuate frivolous lawsuit language when there is no data to back it up. The Legislature asked the Commission to look at “high-frequency” litigants, which means lawyers who are filing larger numbers of civil rights claims. To date, there is no information to suggest that those civil rights claims were frivolous.

California Commission on Disability Access
Full Commission
April 11, 2018, Meeting Minutes

Commissioner McGuinness stated she has two data points on that. One comes from the Research Committee that the Commission has not found any lawsuits that have been identified as being frivolous in the legal sense, but they have been found to be without basis. The data has borne out that even the high-frequency litigants are identifying violations.

Commissioner McGuinness stated the second data point is that even entities that might be considered not friendly to Americans with Disabilities Act (ADA) lawsuits have not identified anything that could be considered a frivolous lawsuit. A representative from Citizens Against Lawsuit Abuse presented at a Commission meeting in the past and discussed a survey they had done on lawsuits filed in eastern areas of Los Angeles where patterns among small businesses had been identified. The representative was asked, based on their research and going out to small businesses, if it was found that the barriers had not existed. The response was that they found that the businesses were in violation of the regulations and they did have barriers to access. The representative's concern was mostly that the small business owners felt they did not have the resources and did not know how to respond.

Chair Leemhuis stated this shows the importance of having the E&O Committee because individuals are frustrated when they find they are in violation of the ADA. The issue is not that they are in violation. The issue is how to business owners address it and if there are resources available to assist business owners who cannot afford it. The E&O Committee can educate about resources and supports, and host Listening Forums to learn about resources and supports that would be helpful. He stated the need to break small business into smaller chunks because there is a big difference between a franchise and a mom-and-pop store that is not breaking even every year. There are different remedies based upon the entity being discussed.

Vice Chair Wiele stated there are bad characters out there that need to be weeded out.

Executive Director Jemmott stated the E&O Committee used the term "drive-by lawsuits" because it is the language people are familiar with. Adding "fact or fiction" is meant to draw individuals in to look at the statistics to help individuals understand that, if they are in violation, it is not fictitious, it is a reality. It is meant to help clarify the meaning or misunderstanding of the terms.

Chair Leemhuis stated he is not in support of that term. It is unconscionable that that term should be used for any purpose.

c. Legislative

This item was tabled until the next full Commission meeting.

d. Checklist

This item was tabled until the next full Commission meeting.

9. Executive Director Report - Update and Discussion

**California Commission on Disability Access
Full Commission
April 11, 2018, Meeting Minutes**

Executive Director Jemmott presented her report:

a. Operational and Administrative Updates

The lease has been signed. Staff will move into the new facility at 400 R Street next week, which is on the third floor of the building where this meeting was held.

The annual report to the Legislature was completed. Analysis on the data will continue. Staff has contracted with LexisNexis to compare a random sampling to ensure that collection and measurement of the data is done accurately.

The CCDA is in the same place financially as it was last year and is being supported by the DGS. Staff is continuing to develop a process to understand the budgetary needs. The Commission does not have technical personnel and must depend on outside resources. Staff receives technical calls about the codes and the law and also receives calls from individuals who do not know who to call. Executive Jemmott stated she would like the CCDA to be a light and a place where individuals can find comfort and know that someone is listening.

b. 2018 Commission Meeting Calendar

Executive Director Jemmott reviewed the changes in the meeting calendar.

Commissioner Potter stated the need for a concerted effort to hold meetings in the Central Valley. Fresno does not have the resources that a big city has. She stated, although there are transportation challenges, the need is still there. Stakeholders in the Central Valley deserve to have the Commission meet there to begin to build a relationship.

c. Outreach Efforts and Partnering Events

i. March 13, 2018, Listening Forum Minutes

ii. March 13, 2018, Listening Forum Draft Summary Report

The CCDA held the second Listening Forum on March 13th. There were over 30 individuals in attendance despite the stormy weather and over 40 individuals participated by phone.

Commissioner Wilson stated she has received calls from individuals who are more interested now that the DMV PSA has come out.

d. External Partnerships

The Commission continues to create opportunities to develop partnerships. Staff is starting to receive speaking invitations.

- Staff participated in a webinar with the State Bar; they have requested that staff give the same presentation as part of a panel in San Francisco at the end of the month.
- Staff has been on the ADA Shop Talk.

**California Commission on Disability Access
Full Commission
April 11, 2018, Meeting Minutes**

- Staff is developing a relationship with a faculty director at Azusa Pacific University. Their graduate school has agreed to help the CCDA with data analysis and research. They are particularly interested in long-term research.

Lunch Break

Vice Chair Wiele welcomed everyone back from the lunch break. He stated he will be acting as chair for the remainder of the meeting, although Chair Leemhuis will continue to participate in the meeting via teleconference.

10. Sexual Harassment Prevention Training

Executive Director Jemmott stated she plans to continue to bring educational opportunities before the Commissioners to help them make better decisions. Every two years, Commissioners are required by law to participate in classes on sexual harassment prevention and ethics, deterring harassment, and conflict resolution.

Presenter: Alice Baker, CPS HR Consulting

Alice Baker, a lawyer at CPS HR Consulting, distributed workbooks to Commissioners. She provided an overview, with a slide presentation, of the course description and objectives, federal and state laws, types of discrimination, who is protected, who can be a harasser, who can be liable, forms harassment can take, and federal and state definitions of sexual harassment.

11. Legislative Bill Tracking – Update and Discussion

Executive Director Jemmott directed the Commission's attention to the CCDA Legislative Status Report, which was provided in the meeting packet, and summarized the status of the bills currently being tracked by staff.

a. AB 1547 (Quirk-Silva) - California Americans with Disabilities Act Small Business Capital Access Loan Program

This bill is currently on the desk of the second House.

b. AB 2263 (Friedman) – State historical buildings: parking spaces

This bill is on the calendar to be heard on April 25th.

c. AB 2531 (Gallagher) – Access to judicial and nonjudicial proceedings: hearing impaired

This bill is at the first House. The last action was on April 10th.

d. AB 2958 (Quirk) - State bodies: meetings: teleconference

This bill was referred to committee.

e. AB 2994 (Holden) – Building standards: public restrooms: grab bars

This bill is in the first House and is calendarized for April 17th.

f. AB 3002 (Grayson) - Commercial property leases

**California Commission on Disability Access
Full Commission
April 11, 2018, Meeting Minutes**

This bill is at the first House.

g. AB 3158 (Mathis) - Disability access: construction-related access barrier: civil actions

This bill failed passage.

h. SB 984 (Skinner) - State boards and commissions: representation: women

This bill was heard on the 10th and passed with 7 yes and 3 no votes. It is currently in Policy.

i. SB 1038 (Leyva) – California Fair Employment and Housing Act: violations: personal liability

This bill will be heard on April 17th.

j. H.R. 620 (Poe) – ADA Education and Reform Act of 2017

The latest action on this bill was a motion to reconsider was laid on the table and agreed to without objection on February 15, 2018.

12. Commissioner Community Updates

Executive Director Jemmott stated Commissioner Downey was unable to be in attendance today because he was being interviewed by 60 Minutes in San Francisco. She stated Commissioner Downey just returned last Thursday from Saudi Arabia, where he delivered a keynote address and a workshop session at the Fifth International Disability and Rehabilitation Conference.

13. Adjourn

Vice Chair Wiele adjourned the meeting at 3:16 p.m.