

CALIFORNIA COMMISSION ON DISABILITY ACCESS LEGISLATIVE COMMITTEE

Teleconference Meeting Minutes
September 8, 2021

1. Call to Order

Chair Michael Paravagna welcomed everyone and called the meeting of the Legislative Committee of the California Commission on Disability Access (CCDA) to order at 10:00 a.m. Due to the ongoing health emergency, and consistent with Executive Order N-29-20, this meeting was conducted entirely by Zoom and teleconference.

Staff Member Brown reviewed the meeting protocols.

Roll Call

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

Commissioners Present:

Michael Paravagna, Chair
Tiffany Allen
Jacqueline Jackson
Scott Lillibridge

Staff Present:

Angela Jemmott, Executive Director
Kamran Qazi, Legal Counsel
Adam Barsanti, Associate Governmental
Program Analyst
Theresa Brown, Data and Research
Analyst
Stephanie Groce, Disability Access
Technician
Phil McPhaul, Operations Manager

Also Present:

Maria Arias
Angie Esquivel, Deputy Trial Counsel, State Bar of California
Dana Kizlaitis (phonetic)
Rita Loof
Stephanie Martinez
Corrina Roy, Legislative Consultant, Office of Administrative Affairs, California
Department of General Services (DGS)

2. Approval of Meeting Minutes (June 9, 2021) – Action

Motion: Commissioner Lillibridge moved to approve the June 9, 2021, California Commission on Disability Access Legislative Committee Meeting Minutes as presented. Commissioner Allen seconded. Motion carried unanimously.

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

Rita Loof, parent of children with disabilities, spoke about the lack of access to education for children with disabilities. The speaker stated there are law firms that file legal action against families with children with disabilities. The Office of Administrative Hearings (OAH) is not enforcing the Brown Act for special education. The speaker asked the Commission to send a letter to the OAH to seek verification of lawyers representing school districts and seeking legislation to make it clear to districts that the Brown Act applies to special education students.

Dana Kizlaitis (phonetic), non-legal guardian of children with disabilities, advocated for continuing to keep virtual attendance options for public meetings, such as school board meetings. Virtual meetings not only help individuals with disabilities and medical conditions and parents with disabilities, but virtual meetings make it easier for all parents and members of the public to voice their opinions in public meetings.

Maria Arias, parent of children with disabilities, stated they are co-founder of the YouTube movement that provides information for the education community in the Inland Empire. The speaker stated public entities provided remote access to public meetings over the last year during the COVID-19 pandemic. Offering attendance via teleconference or Zoom or having written comments read aloud allows individuals with disabilities to voice their concerns and perspectives to elected officials to school boards and other agencies. This is a vital right to all citizens; however, many public entities are now removing those options and returning to in-person meetings only. This is a severe hardship for individuals with disabilities. The speaker asked the Commission to help ensure that individuals with disabilities and their caregivers can access all public meetings in a virtual format to provide comments and perspectives that others cannot.

Maria Arias stated their child was sued but the school district was not informed. It therefore did not go before the school board for discussion and approval. The speaker urged the Commission to request the OAH to ensure that all litigations against special education children are first reviewed and approved by every board member.

4. CCDA One-Page Informational to the Legislature – Update and Discussion

a. Updated with Government Codes

Executive Director Jemmott reviewed the changes made to the One-Page Informational Sheet.

b. Working with Education and Outreach Committee for Potential Opportunities

Executive Director Jemmott stated the Education and Outreach (E&O) Committee made the following recommendations on types of outreach formats for the One-Page Informational Sheet and asked for additional suggestions and input.

- Developing a Legislative Roundtable presentation?
- Coffee Chat presentation of the CCDA Informational Sheet?

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- Emailing list of legislative directors from the Assembly and the Senate (provided by Legislative Director Danielle Parsons from Senator Jones's Office).

Questions and Discussion

Commissioner Lillibridge commended the Commission for putting this together and stated this sheet will bring better understanding about the work of the CCDA.

Commissioner Allen agreed and suggested ensuring that it does not go into the email recipients' spam folders.

Commissioner Jackson agreed. She suggested also mailing and handing out hard copies of the sheet to get this critical information out.

Commissioner Lillibridge asked about the difference between a round table presentation and a coffee chat presentation.

Chair Paravagna stated the coffee chats at the capitol in the past have included refreshments. Representatives from legislative offices dropped by informally. After a short presentation about the Commission, Committee Members and staff chatted with legislative representatives about ways to work together or on issues they were working on. The round table format includes a panel presentation to interested parties gathered in a room.

Chair Paravagna stated his preference that these presentations be in a combination virtual and in-person format. He stated there is value in sitting at the table and interacting, but virtual meetings open it up to a larger audience and have given the Commission the ability to reach across the state to individuals who could not otherwise participate.

Commissioner Allen suggested sending out the initial, foundational email with the one-page informational sheet and suggested following up with subsequent emails for a better outcome and then hold an informal coffee chat event. She stated the more formal round table discussion ranks third on her list.

Commissioner Lillibridge agreed with Commissioner Allen's prioritization order.

Public Comment

Maria Arias agreed with holding events in both in-person and virtual formats. She stated parents want to be involved in their children's education; yet, there are many limitations. The speaker suggested connecting with local school district community advisory committees that focus on special needs children and try to get the word out for agencies that can provide help.

Rita Loof echoed the previous speaker's comments and suggested extending education outreach efforts to school districts to remove artificial barriers to education.

Action Items

- No action items.

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5. Receiving California Title III Construction-Related Disability Access Legal Complaints – Update and Discussion

a. How to address non-compliance of mandated attorney case filings and case resolution report submissions to the CCDA

Executive Director Jemmott stated the strategic goal to work on for 2021 is to evaluate compliance with CCDA's data collection mandate by researching case filing and case resolution submission practices from the legal community within the federal and state court systems in California, and by outreaching to and educating the legal community to improve compliance with the five-day notification process requirements, as mandated in the law. She reviewed Civil Code, Section 55.32, which was included in the meeting materials.

Executive Director Jemmott welcomed the representative from the State Bar of California and stated she will join in the discussion on how compliance is being monitored within state government in terms of the status of CCDA's receiving Title III case resolutions and pre-litigation letters from the legal community. She asked the representative from the State Bar to discuss the disciplinary and research efforts of the State Bar.

Angie Esquivel, Deputy Trial Counsel, State Bar of California, stated the role of the State Bar is to look into complaints received from members of the public or other agencies such as the CCDA indicating that an attorney has filed an Americans with Disabilities Act (ADA) complaint in court and has not complied with California Civil Code Section 55.32. Cases are processed from the Intake Unit to the Prosecution Unit.

Ms. Esquivel stated she has worked with staff in the past researching whether an attorney complied with the reporting requirements that complaints and case resolutions must be submitted to the CCDA within five days. She stated attorneys many times will say they were ignorant of the law and did not know that they had to report to the CCDA within the five-day time limit. The State Bar looks at the amount of lag time between when the complaint was filed and when it was reported to the CCDA and if the violations were mitigated.

Ms. Esquivel stated this is a great way to begin to build a relationship between the State Bar and the CCDA. The State Bar wants to avoid shakedowns of small businesses in particular where oftentimes there may be an attorney that is filing frivolous lawsuits on behalf of a client. The State Bar seeks to ensure that there is a client that is associated with these cases, that the attorney is authorized to practice on behalf of this individual, and that the attorney is complying with the regulations set forth in Civil Code Section 5532.

Ms. Esquivel stated other issues that the State Bar looks into is to ensure that there are no frivolous filings, no fraud is being committed, and the attorney is not misappropriating funds. Attorneys may send demand letters to shake down clients. The State Bar works to avoid this in the future.

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Ms. Esquivel stated, in whatever form the CCDA decides to track the number of complaints or case resolutions being filed by an attorney, it would be helpful to the State Bar for the CCDA to provide a list of the cases where the CCDA thinks an attorney may be manipulating the system for gain. A list of these cases would allow the State Bar to investigate further.

Ms. Esquivel highlighted the issue of the lack of reporting requirements for website accessibility. There is currently no legislation or statutes written into law regarding the regulation of attorneys and the requirement to report to the CCDA within five days. Attorneys are getting away with this and the State Bar cannot regulate whether shake downs are occurring. It is easier for an attorney to do a shake down of businesses through website accessibility claims because an attorney can quickly run 100 or more cases within a day to see if particular websites are accessible to the visually impaired.

Questions and Discussion

Chair Paravagna asked what the Commission can do to help improve the system.

Ms. Esquivel stated sometimes attorneys report a different case number than what the CCDA has on file. She stated it would be helpful to the State Bar for staff to note, besides the case number, the cases that are being reported to the CCDA. It would also help to track the dates of the filing of the complaint and the case resolution so the State Bar can see when the attorney reported to the CCDA.

Executive Director Jemmott stated Civil Code Section 55.32 states that late submittals constitute a cause for discipline of that attorney by the State Bar. The issue is not that attorneys are late in their submissions to the CCDA, but that they do not submit their data at all. The CCDA online portal streamlines the process to make it easier for attorneys to submit their data.

Ms. Esquivel agreed that, if both offices streamlined the process, it would be easier for attorneys to comply with the requirements. It is difficult for the State Bar to assess the number of cases and what cases have been filed in state and federal courts because there are so many courts. She stated, when the CCDA has access to the complaints being filed by the attorneys and sends that list to the State Bar, it would be easier for the State Bar to further investigate to see if any violations occurred. Attorneys that are not submitting their data to the CCDA can be reported to the State Bar via the State Bar's online complaint system.

Chair Paravagna thanked Ms. Esquivel for her time and stated keeping the dialogue going between the CCDA and the State Bar will be of value to both organizations.

Public Comment

Maria Arias asked if legal actions to and from education such as due process complaints should also submit their filing data.

Ms. Esquivel stated members of the public who believe an attorney is violating some statute, rule, or law, can file a complaint on the State Bar's website and the State Bar will do a preliminary intake review of that case. If there is a plausible claim, it will be forwarded to the Prosecution Unit for further investigation.

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Action Items

- No action items.

6. Legislative Bill Tracking – Update and Discussion

Corrina Roy, Legislative Consultant, Office of Administrative Affairs, Department of General Services (DGS), summarized the CCDA Legislative Bill Tracking Report on the bills staff is tracking, which was included in the meeting packet.

a. Assembly Bill 29: State Bodies: Meetings

This bill was held in the Assembly Appropriations on the suspension file and will not be moving forward this year.

b. Assembly Bill 105: The Upward Mobility Act of 2021: Boards and Commissions: Civil Service: Examinations: Classifications

This bill is awaiting a final vote on the Senate floor. Because there were amendments in the second House, it will move back to the Assembly for concurrence in those amendments and, in all likelihood, will be on the Governor's desk soon.

c. Assembly Bill 580: Emergency Services: Vulnerable Populations

This bill awaiting a final vote on the Senate floor prior to moving back to the Assembly for concurrence.

d. Assembly Bill 1291: State Bodies: Open Meetings

This bill has been signed into law and will go into effect as of January 1, 2022.

e. Assembly Bill 1429: State Agency Records: Management Coordinator Duties: Personnel Training

This bill was held on suspense in Senate Appropriations and will not be going forward.

Ms. Roy stated AB 361 by Assembly Member Rivas is going through the process. It would codify the existing flexibility measures that are in the Executive Order into the Bagley-Keene Open Meeting Act through January 31, 2022.

Questions and Discussion

Chair Paravagna stated virtual meetings positively impact the disability and other communities because it enables individuals to participate who would not be able to travel because of the distance or because of a disability. He stated one could argue that, under the Title II Regulations of the US Department of Justice relative to the ADA, virtual meetings must be continued to enhance effective communication.

Ms. Roy agreed and stated state boards and commissions have found that meeting attendance increased when the Executive Order for virtual meetings went into effect. She stated virtual meetings will continue to be a topic of conversation between the Legislature and the Administration going forward.

Public Comment

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Rita Loof echoed comments made regarding accessibility to public meetings. The speaker stated the hope that AB 361 will also be extended to the Brown Act. It is important to support the increased participation that a virtual format allows.

Maria Arias encouraged the Commission to support legislation that increases the opportunity for public participation.

Stephanie Martinez, parent of children with disabilities, agreed that allowing virtual participation to public meetings including board meetings for school districts would be beneficial not only for increased participation but also to accommodate individuals and caregivers of children with disabilities. The speaker asked the Committee to speak to legislators to make it clear that the Brown Act applies to special education students in school districts. The speaker stated their school district sued families with special education students without school board approve. There are no checks and balances.

Action Items

- No action items.

7. Future Agenda Items

Chair Paravagna asked for suggestions for future agenda items.

Public Comment

Maria Arias suggested a future agenda item about providing access to children with special needs to local meetings that are not in-person. The speaker stated the need to provide access to CCDA meetings for non-English speakers by providing language translation services for meeting participants.

Rita Loof echoed the comments of the previous speaker. The speaker suggested a future agenda item about special education children who are being sued and taken through due process proceedings without official approvals. This deprives children of their rights under the Brown Act.

8. Adjourn

Chair Paravagna stated the meeting calendar will be distributed to Commissioners for review on October 13th at the Executive Committee meeting for a vote at the full Commission meeting on October 27th. He adjourned the meeting at approximately 11:30 a.m.