

CALIFORNIA COMMISSION ON DISABILITY ACCESS WINTER EXECUTIVE COMMITTEE MEETING

Teleconference Meeting Minutes
January 12, 2022

1. Call to Order

Chair Chris Downey welcomed everyone and called the teleconference meeting of the Executive Committee of the California Commission on Disability Access (CCDA) to order at approximately 1:30 p.m. Due to the ongoing health emergency, and consistent with Executive Order N-29-20, this meeting was conducted entirely by Zoom and teleconference.

Chair Downey reviewed the meeting protocols.

Roll Call

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

Commissioners Present:

Chris Downey, Chair
Douglas Wiele, Vice Chair
Souraya Sue ElHessen

Brian Holloway
Guy Leemhuis

Michael Paravagna

Other Commissioners Present:

Drake Dillard
Brian Maienschein, Assembly Member,
represented by Michael Chen
Brian Jones, Senator,
represented by Nina Krishel
Janet Nguyen, Assembly Member,
represented by Preston Romero

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

Also Present:

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J.D. Mitchell
Shannon Mulhall, city of Fresno

2. Approval of Meeting Minutes (October 13, 2021) – Action

Motion: Commissioner Holloway moved to approve the October 13, 2021, California Commission on Disability Access Executive Meeting Minutes as presented. Commissioner ElHessen seconded. Motion carried unanimously with no abstentions.

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

No members of the public addressed the Committee.

4. CCDA Executive Director Report – Update and Discussion

Executive Director Jemmott presented her report:

a. Administrative and Operational

- The Governor’s Executive Order enabling public agencies to meet remotely during the COVID-19 pandemic has been extended through Mach 31, 2022.
- DGS is working with staff on a Team Smartphone system to help staff in their rotational telework during the COVID-19 pandemic. Extra work is being done to ensure the system is accessible. New phone numbers are expected this month.

b. Outreach and Partnerships

- Staff has been meeting with cities to discuss access improvements.
- Time will be carved out at the next full Commission meeting to acknowledge Commissioners who have termed out and to welcome new Commissioners.
- Rex Hime, who has been a champion for the CCDA, is retiring from his longstanding role as President and CEO of the California Business Properties Association (CBPA).

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Vice Chair Wiele stated a retirement reception will be held at the Sacramento Hyatt Regency on Wednesday, February 16th, from 4:30 p.m. to 6:30 p.m. Commissioners are invited to attend.

Motion: Commissioner Paravagna moved to create a resolution to be presented during Rex Hime's retirement reception, acknowledging his contributions and thanking him on behalf of the Commission. Commissioner Holloway seconded. Motion carried unanimously.

Vice Chair Wiele stated the biennial CBPA Awards Dinner will be held on March 24th at the Renaissance Hotel in Newport Beach, where Mr. Himes will be formally recognized for his contributions. He asked Executive Director Jemmott to attend the dinner and to speak on behalf of the disability community. He stated he will send further information to staff.

Action Items:

- Staff is to prepare a resolution to be presented to Rex Hines at his February retirement reception, and to acknowledge Mr. Hines's contributions and speak on behalf of the disability community at the March CBPA dinner.

5. Financial Review – Update and Discussion

a. Review Summary – Quarterly Review

b. High Frequency Litigant (HFL) Fund

Executive Director Jemmott reviewed the Year End Budget Highlights and the Financial Review Revenue Reporting documents, which were included in the meeting materials. Year-end budget totals are currently being calculated and will be reported upon completion. The CCDA has approximately \$120,000 in revenue collected to date. Commissioners had requested using this revenue for something special, such as the CCDA Accessibility Checklist application to provide users of the checklist with the most updated version at their fingertips. She asked the Committee for suggestions for other projects this revenue can be used for to recommend to the full Commission for approval.

Discussion

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Commissioner Paravagna suggested including other resources developed by the CCDA on the application along with the Checklist. It would help broaden the draw to the Commission and also be a tool in the hands of more individuals. He suggested including disability etiquette and terminology such as “people-first language” and other fundamental information on the app, and also including topics such as service animals and furniture placement.

Commissioner Leemhuis suggested creating an app that shows a proposed layout with error codes that pop up for obstructions in access. This could be used while business owners are waiting for a full Certified Access Specialist (CASp) inspection. He also suggested partnering with the private sector with a company that already does and maintains apps and has the infrastructure in place. He suggested creating an ad hoc committee under the Education and Outreach Committee for further discussion.

Commissioner ElHessen suggested using revenue funding for education and outreach such as increasing the number of hard copies made available or visual displays for cities, associations that deal with access issues, and educational institutions.

Public Comment

Shannon Mulhall, CASp, Americans with Disabilities Act (ADA) Coordinator, City of Fresno, stated apps are a lot of work to develop, maintain, and keep accessible, plus the ongoing promotion to encourage individuals to download and use the app. Someone must be designated to the promotion, marketing, and maintenance for the ongoing effort. Shannon Mulhall suggested using the revenue to do a parking signage campaign, since parking and signage is consistently in the top-ten access litigation areas.

Action Items:

- No action items.

6. CCDA Strategic Goal – Update and Discussion

a. 2021 – Summary of Completion

Executive Director Jemmott reminded Committee Members of the CCDA Strategic Goals for 2021. She deferred to Staff Member Brown to summarize the CCDA’s research findings.

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Staff Member Brown reviewed the CCDA Strategic Goals: 5-Year Strategic Plan 2021 Completion Review document, including research findings and a recommended Action Plan to Address Non-Compliant Submissions, which was included in the meeting materials.

b. 2022 – Projected 2022 Goals

Staff Member Brown reviewed the 2022-23 Strategic Goals document, which was included in the meeting materials. She noted that Strategic Goal #1 for 2022-23, Full Migration of Historical Data in the Legal Portal, is a continuation from last year, as it was a two-year goal.

Executive Director Jemmott reviewed Strategic Goal #2 for 2022-23, Accessible Parking Campaign, which was included in the meeting materials.

Public Comment

Staff Member Brown read a comment in the Chat Section from J.D. Mitchell asking why plaintiff firms and filers are not keeping up with the submissions to the state.

Executive Director Jemmott stated plaintiff firms and filers were unaware of this requirement, even though this requirement was mandated by law. The CCDA has been working with the State Bar and submitting information in their newsletter.

J.D. Mitchell stated, as a member of the public and as an attorney who encounters these suits regularly, the reason the legal community does not keep up with their submissions to the state is not that they are unaware of the law but because it causes more work with less reward for doing so. He noted that it is continually stated in the legal community that ignorance of the law is no defense – being unaware of this law is not an excuse.

Executive Director Jemmott stated increased marketing causes an increase in submissions.

J.D. Mitchell stated increasing marketing is a good idea to help more individuals understand and know about it.

Commissioner Paravagna asked J.D. Mitchell for suggestions on how the CCDA might improve the online portal to lessen the burden on the legal community.

J.D. Mitchell stated they are currently in the middle of a case where the plaintiff's firm has filed 812 lawsuits on behalf of one client in the last two

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years and over 4,500 of these suits in the last two years for ADA and UnRue Civil Rights Act violations. These cases are nearly identical. They keep going because they found incentivization under the statutory damage provisions. Having an online database and recognition would be great. The speaker suggested building a social media campaign that circles around the online portal.

Action Items:

- No action items.

7. Future Agenda Items

J.D. Mitchell asked if the CCDA is looking into or pursuing any way to curb the high-frequency litigation from lawsuit mills. There was a finding under Senate Bill (SB) 1186 that came out in 2012-2013, which referenced that 55 to 58 percent of lawsuits were filed by a handful of firms. The speaker stated this percentage has increased. A limited number of firms are filing the vast majority of these suits. The speaker asked if there is a way to impose a greater filing requirement such as increasing the filing fee.

Commissioner Leemhuis stated, over the last few meetings, involved parents of students with disabilities brought up important program access issues. Although those are important issues, the Commission's area of focus has traditionally been Title III, businesses and architectural access in the community, not Title II, school districts. He suggested a discussion at the next Executive Committee meeting on the Commission's role, scope of responsibility and oversight, and limits so Commissioners are on the same page when those items come up.

Commissioner Leemhuis suggested that staff and senior Commissioners present the background and history, include time for questions and dialogue, and to come up with a response to assist this group of parents by directing them to the right resources and entities that deal with the oversight of Title II issues and that can provide them with assistance and support.

Chair Downey asked for clarification if this suggested agenda item is for the Executive Committee's next meeting or for the full Commission meeting on January 26th.

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Commissioner Leemhuis stated, although the full Commission should have a conversation to allow the members of the public to provide input, it would be more efficient for the Executive leadership to have clarity and to be on the same page prior to sharing it with the full Commission.

Commissioner El-Hessen agreed that this important to have clear boundaries and definitions of how the Commission proceed as a body with regards to access and to be ready to refer individuals and groups to the correct venue to advocate for their issues. It is important to have collaborative partners who will be ready to step up to address these issues.

8. Adjourn

MOTION: Chair Downey moved to adjourn the January 12, 2022, California Commission on Disability Access Executive Committee meeting. Commissioner Leemhuis seconded. Motion carried unanimously.

There being no further business, the meeting was adjourned at approximately 3:00 p.m.