

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

October 16, 2013

1. CALL TO ORDER

Chair Rocky Burks welcomed everyone and called the meeting to order at 10:05 a.m. at the Department of Consumer Affairs, First Floor Hearing Room, 1625 North Market Blvd., Sacramento, California 95834.

ROLL CALL

Committee Member Present: Sean Connelly, Office of Senator Corbett

Commissioners Present: Rocky Burks, Chairman
Scott Hauge, Vice Chairman
Christopher Downey
Jean Fuller
Guy Leemhuis
Lillibeth Navarro
Michael Paravagna
Anthony Seferian
Greg Thompson
Chester "Chet" Widom
Betty Wilson

Commissioners Absent: Tom Ammiano
Connie Conway
Ellen Corbett
Douglas Wiele

Staff Present: Stephan Castellanos, Executive Director
Angela Jemmott, Program Analyst
Steven Funderburk, Office Technician

Also Present: Steve Dolim, Certified Access Specialist Institute
(Teleconference)

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

PLEDGE OF ALLEGIANCE

Chair Burks led the Commission in the Pledge of Allegiance.

HOUSEKEEPING ITEMS

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Chair Burks reviewed the meeting protocols.

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

There was no public comment.

3. GENERAL BUSINESS ITEMS

a. Review/Approval of Meeting Minutes - (July 24, 2013) - Action

Commissioner Leemhuis noted that, on page 6, Disability Determination Services should be the Department of Developmental Services.

MOTION: Commissioner Leemhuis moved to approve the July 24, 2013, California Commission on Disability Access Full Commission Meeting Minutes as amended. Vice Chair Hauge seconded. Motion carried unanimously with three abstentions.

b. CCDA Introduction of New Commissioner and Swearing in of Office

Commissioner Seferian led the swearing in of office for new Commissioners Christopher Downey, Michael Paravagna, and Greg Thompson.

Chair Burks and Executive Director Castellanos welcomed Commissioners Downey, Paravagna, and Thompson to the Commission and stated they looked forward to working with them.

c. Status of Commissioner Appointments - Update

Executive Director Castellanos stated the Commission is short two governor-appointed business appointments. The governor's office is currently reviewing applications for those positions. Staff is in contact with the governor's office regarding several Commissioner rollovers for terms that expire at the beginning of next year.

Vice Chair Hauge asked about the status of Regina Dick-Endrizzi's application. Executive Director Castellanos stated staff will verify that the governor's office received Ms. Dick-Endrizzi's application.

Chair Burks expressed his appreciation to the governor's office and to Commissioners who helped in the appointment process.

Action Items

- Staff is to follow up with the governor's office on the status of Regina Dick-Endrizzi's application.

d. Election of Officers

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Chair Burks stated the Commission had suspended the Bylaws to continue with the current chair and vice chair until additional Commissioners were appointed. With the appointment of four new Commissioners, the suspension was removed. Chair Burks noted that the Bylaws specify that the chair position must be held by a member of the disability community, and the vice chair position must be held by a member of the business community.

Commissioner Leemhuis stated his interest in serving as the chair of the Commission. The important work of the Commission is in a crucial developmental state. He stated, as a small business owner and a person with a disability, he provides a unique perspective to help bridge the gap between the business and disability communities with respect to access.

Commissioner Leemhuis stated he sees the position of chair as a facilitating job, navigating for the Commission and creating opportunities for everyone to continue to offer their talents. He stated the members of the Commission are a team and, if elected, he will facilitate the team and work together to deploy each person in a way that is effective.

Commissioner Wilson agreed. She stated she sees California as three different states - Northern, Central, and Southern California - and the Commission must be in touch with all three areas. She stated the chair of this Commission will have to be "right on the button" because of the uniqueness of this Commission and the attitudinal barriers, regardless of architectural barriers, that will need to be dealt with, including the elected officials at every level of government. She stated she has done consulting internationally and noted that other countries look to California as a model in disability access.

MOTION: Commissioner Wilson moved to elect Guy Leemhuis as chair and to reelect Scott Hauge as vice chair of the California Commission on Disability Access. Commissioner Navarro seconded. Motion carried unanimously.

Commissioner Navarro thanked Chair Burks for the great work he has done for the Commission, and stated she has enjoyed working with him as chair.

Immediate Past Chair Burks stated he has enjoyed his tenure as chair. It has been both frustrating and rewarding to see the movement and the work the Commission is accomplishing. He expressed his gratitude to staff for their commitment and steadfastness to the Commission.

He stated he looks forward to accomplishing the objectives and the mission of the CCDA to address the litigation problem, and providing recommendations and solutions to the Legislature and the governor.

He stated his concern that, although the Americans with Disabilities Act (ADA) created the methodology to address civil rights in the courts, Californians are not supportive of people addressing their civil rights in the courts. This is a major

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disconnect. It is not just the small business owner's problem; it is a systemic problem that Immediate Past Chair Burks hoped this Commission would expose. He agreed with Commissioner Wilson that it is the attitudinal barriers that cause much of the litigation.

Immediate Past Chair Burks stated his hope that this Commission will continue to address the enforcement problem at the local level. Building plans are required to be compliant. Business owners rely on the professionals in the field of the built environment to comply with the California Building Code. This administration has achieved some hopeful signs of bringing the accessibility guidelines on the federal level and the state building code on the state level together, so there will not be multiple, conflicting codes to complete the building plans that are submitted to local jurisdictions. While local jurisdictions have held to one responsibility - enforcing California Title 24 - and they willfully do not enforce the ADA, government regulations mandate that a violation of state regulations is a violation of the ADA. This is another disconnect.

He stated his hope that the Commission will help reveal these disconnects and help the Legislature and the governor understand how serious these disconnects really are.

Immediate Past Chair Burks offered his congratulations to Newly Elected Chair Leemhuis and Vice Chair Hauge. It was decided that Chair Leemhuis would preside over the meeting after lunch.

e. Nomination of Public Members Education and Outreach Committee

Immediate Past Chair Burks stated the public members of the Committees are based upon the decision of the chair and vice chair of the Commission, and recommended that the chair and vice chair also ask for the Committee chair's input.

Newly Elected Chair Leemhuis requested this item be tabled until after the lunch break to allow him a chance to ask the chair of the Committee for clarification.

MOTION: Commissioner Paravagna moved to table this item until after the lunch break. Commissioner Navarro seconded. Motion carried unanimously.

Newly Elected Chair Leemhuis, coming back to this item after the lunch break and now presiding over the meeting, stated any organizational process benefits from institutional memory, and he will depend on Commissioner Burks's insights and experience to assist him as he assumes the role of chair of the Commission.

Newly Elected Chair Leemhuis stated the Education and Outreach Committee is at other times referred to as the Outreach and Education Committee. He asked for clarification on the name of the Committee.

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Executive Director Castellanos asked the Commission to make the final determination on the name. As there were several suggestions given by Commissioners, Newly Elected Chair Leemhuis requested this item be put on the next Executive Committee agenda for discussion.

Newly Elected Chair Leemhuis stated he has met with the chair of the Education and Outreach Committee regarding the nominations for the Committee. He stated two of the nominees had declined the nomination. The members of the Education and Outreach Committee are Jimmie Soto, who was nominated by Senator Fuller's office; Arnie Lerner, who was nominated by Commissioner Hauge; and Paula Pearlman, Stephen Simon, Richard Ray, and Yomi Wrong, who were nominated by Commissioner Wilson. This leaves one vacant slot, which he hoped would be filled by someone from the far north region of California. The vacancy should be filled by the next full Commission meeting in January.

Immediate Past Chair Burks suggested asking the nominees who were not chosen or that declined due to time constraints to attend the meetings as participants. Additional participants play a pivotal role in terms of their input and assistance, and they should be informed that their contributions will be valuable.

Newly Elected Chair Leemhuis stated he and Commissioner Wilson will send out a joint letter to all nominees thanking them and inviting them to continue to participate. He stated his excitement over the placement of the public members of the Education and Outreach Committee, who will help get information out and ensure the Commission works in effective ways throughout the state.

Action Items

- Chair Leemhuis and Commissioner Wilson are to send thank you letters to all nominees inviting them to continue to participate.

f. Committee as a Whole - Discussion

Newly Elected Chair Leemhuis, since he was the one who suggested the Committee as a whole when there were so few people, and given that there are four new Commissioners, recommended reinstating the original Bylaws.

He also recommended that the immediate past chair be an ex-officio member of the Executive Committee, as he can bring the guidance of institutional memory to the Committee.

In response to Immediate Past Chair Burks's question, Newly Elected Chair Leemhuis asked staff to put changing the Bylaws to include the immediate past chair in the composition of the Executive Committee for the following year on the agenda for the next Executive Committee.

MOTION: Chair Leemhuis moved to reinstate the Committee structure Bylaws. Commissioner Navarro seconded. Motion carried unanimously.

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g. Schedule Yearly Calendar - Proposal

Executive Director Castellanos stated the need to put an annual calendar in place to allow people to plan ahead, and to be mindful of the budget when planning meetings for the year. He noted that the proposed calendar does not include the meetings for the Strategic Plan Workgroup.

Commissioner Wilson recommended that Commissioners use Calendar Monkey to input the days and times they are available for meetings.

Immediate Past Chair Burks recommended that the Executive Committee meet monthly at the least. He stated his concern that meeting quarterly may lose the importance of the role of the Executive Committee, and noted that the Bylaws empower the Executive Committee to act in the absence of the full Commission. He recommended that the chair and vice chair sit down with the Executive Director to discuss the structure and frequency of the Executive Committee meetings. He also recommended that the chair meet with the chair of the Education and Outreach Committee to discuss the structure and frequency of the Education and Outreach Committee meetings.

Newly Elected Chair Leemhuis agreed that the Executive Committee needs to meet monthly. He recommended working on the calendar at the next Executive Committee meeting. He suggested that calendared meetings sync with disability rights events or some important legislation that can also be an outreach or publicity opportunity. He also recommended speaking with the members of the Legislature who are on the Commission to verify that the second Wednesday for CCDA full Commission meetings works with their calendars. He stated the need to post the annual calendar on the website so the community can have time to make their schedules available to attend meetings.

Commissioner Navarro asked if it is feasible to have meetings webcast so that Commissioners can have increased interactive communication. Immediate Past Chair Burks stated the one full Commission meeting held in Los Angeles cost around \$30,000, including the webcasting and travel.

Immediate Past Chair Burks asked if Commissioners agreed with the January 8, 2014, date for the next full Commission meeting in Sacramento. Newly Elected Chair Leemhuis suggested the Executive Committee explore the date and location of the next full Commission meeting. Immediate Past Chair Burks cautioned that all meetings need to comply with the Bagley-Keene Open Meeting Act.

MOTION: Chair Leemhuis moved to empower the Executive Committee to establish an annual calendar within the next thirty days. Commissioner Wilson seconded. Motion carried unanimously.

Action Items

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- The Executive Committee is to establish an annual calendar within the next thirty days.

h. Attendant Reimbursement Policy Adoption

Immediate Past Chair Burks stated the Commission had no clear guidance as to the covered costs for attendant services for a Commissioner to attend a meeting. He stated it is remarkable that many state agencies that staff investigated had no policy for attendant reimbursement. He suggested that the Commission send inquiry letters to state agencies, since it has been a requirement for approximately thirty years.

Commissioners Wilson and Navarro worked with staff to develop the CCDA Attendant Reimbursement Policy, and Chair Burks stated his hope that the Commission will help the state of California establish a universal policy.

The CCDA Attendant Reimbursement Policy is for Commissioner attendant care services in the line of duty as a Commissioner, as opposed to personal care needs. The Commission will pay the attendant accompanying the Commissioner a \$100 stipend along with any travel cost.

Immediate Past Chair Burks noted that "rental care" should be "rental car" in the fifth line of the Attendant Reimbursement Policy.

Commissioner Paravagna suggested adding the word "reasonable" in the second paragraph: "CCDA will reimburse reasonable PCA direct expenses ..."

MOTION: Commissioner Paravagna moved to adopt the Attendant Reimbursement Policy as amended and marked as Policy Memorandum 2013-1. Commissioner Navarro seconded. Motion carried unanimously.

Immediate Past Chair Burks thanked staff and Commissioners Navarro and Wilson for their work in creating the Attendant Reimbursement Policy.

Action Items

- Staff is to change "rental care" to "rental car" in the fifth line of the policy.
- Staff is to add the word "reasonable" in the second paragraph of the policy.

i. CCDA Budget Report

Executive Director Castellanos stated, now that the Commission will be entering into a strategic planning phase, budgeting will become a more critical function of the Commission. Staff will be working with the Executive Committee, as the Strategic Planning Workgroup and the Education and Outreach Committee begin their work to try to make the budget more of a companion piece to the planning document.

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Staff Member Jemmott stated the Commission has officially received the budget for 2013-2014. She noted the fiscal year is July through June. The budget this year is \$415,000, an increase over last year's budget of \$401,000.

Immediate Past Chair Burks noted this Commission had an initial budget of \$80,000 in 2009; it went to \$500,000, but it is now at \$415,000 due to the budget cuts across the board. He stated the need to keep better track of the budget this year due to the larger number of Commissioners.

Commissioner Navarro noted that "personal services" should be changed to "personnel services." Immediate Past Chair Burks stated that it is a budget line item that is structured in the way the state identifies staffing and cannot be changed. Staff Member Jemmott agreed, but stated staff could change the word to personnel for the report to the Commission.

Immediate Past Chair Burks stated the Commission contracts with the Department of General Services (DGS) for accounting services. It has been difficult for staff to retrieve accurate, up-to-date figures to report to the Commission. For instance, Staff Member Jemmott noted that the First Quarter Budget Reporting to the Commission only reflects figures for the months of August and September, but does not include the month of July.

Executive Director Castellanos stated his dissatisfaction with the First Quarter Budget Reporting and apologized for the inaccuracies. He stated staff is in contact with the DGS almost daily on the problems of getting uploaded information, but staff continues to receive inaccurate accounting.

Commissioner Widom stated the need for accurate budget information.

Chair Burks agreed that the figures as represented on this report are misleading, but staff is reliant upon the accounting provided to them by the DGS. He added that the Memorandum of Understanding with the DGS states accounting services are based upon the DGS's capacity and workload, and they have gone through a number of staff changes.

Executive Director Castellanos noted there are encumbrances and carryovers from last year that are not displayed on this report, such as \$90,000 from salary savings last year that will fund the strategic planning effort and the website redesign. Staff has been unable to get an accurate accounting of that money, where it is, or how it is being billed against, but the DGS assures that those funds are in the system.

In answer to Commissioner Paravagna's question, Staff Member Jemmott stated the report was titled First Quarter Budget Reporting because the report was given at the first quarter full Commission meeting.

Commissioner Widom disagreed with the titles "First Quarter" or "October," but noted that financial statements cut off on a particular date - for example, August

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31, 2013. The fact that the DGS accounting skips the month of July does not make sense and needs to be corrected. If the Commission is going to make any major decisions relating to budgets, it needs to know where the funds are, and those funds need to be accurately presented.

Newly Elected Chair Leemhuis recommended that strategic budgeting be put on the next Executive Committee agenda.

Action Items

- No action items.

j. Executive Director Report

Executive Director Castellanos stated the Strategic Plan Design Committee, while it was a little slow in taking off and getting the individuals that were to be appointed on the Committee and underway, recently met and had a great session that resulted in a number of focus group meetings that will occur around the state in the next three to four weeks, likely a northern session, a southern session, and one in the Central Valley. The Committee is finding locations and considering doing a day-long activity with different groups of people. The consultants have been retained to pull together the necessary information for the foundation for what the strategic planning effort will undertake over the next several months.

The Committee also put together a schedule - it is nearly a year-long effort, but a large part of the work will be done by the end of January, to coincide with the report to the Legislature on the Commission's activities. This group will also be helping to pull together that first reporting on the activities as well as the activity currently underway, Senate Bill (SB) 1186 data collection. The data collection is supported by volunteers, but also by the Department of Finance (DOF) through a budget change proposal. This will help the Commission with the SB 1186 reporting in terms of appropriate staffing.

There was some discussion about bringing in subject matter experts, but the effort itself is not a permanent project of the group; it is instead staffed at a relatively low level, with volunteers and consultants. When the project wanes, those individuals will move to other implementation activities.

Another part of this effort, which the law requires, is the development of educational modules. The Education and Outreach Committee will work with the chair to schedule a meeting quickly to put some of the finishing touches on these modules. Staff has done a great amount of work already on what should be contained in these modules and how best to present the information. Commissioner Paravagna has supported that effort and provided more information on how best to address that.

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The Commission's relationship with the Department of the State Architect (DSA) and the DOR continues to improve. The leadership of the three groups has agreed to meet on a monthly basis to share issues and provide suggestions for each other in order to support mutual activities and the activities of this Commission.

One of the projects that recently came out of these meetings, due to information provided by Commissioner Navarro, is in regard to a rollout of the Affordable Care Act (ACA) in California and the requirement that medical facilities be accessible. Commissioner Navarro's communication has resulted in the Certified Access Specialist (CASP) organization organizing its members to work with the consultant team and entities involved in the rollout of the ACA to try to ensure, over the next couple of years, that private operators and medical facilities receive the information they need.

Executive Director Castellanos has discussed accessible websites with the state information CIO and the DOR; staff will meet with them and others on a regular basis to talk about how the state has currently organized the network of ADA coordinators to work with the disabled community and civil employees on a uniform basis. There are policies in place, but the issues go beyond the notion of policies.

Lastly, staff has been working with the International Code Council and the DSA on the rollout of continuing education for architects, local building enforcement, and others, on the new access codes. One appropriate location is the Ed Roberts Campus in the Bay Area. The architects provided a brief video of their work on the Center, titled "Ed Roberts Campus - Building Community." The video highlighted the importance of universal design. Designers and architects should view the code requirements not as restraints but as an opportunity to be creative as they build an environment that will adapt to its users.

Executive Director Castellanos emphasized the goal of changing the way architects think about design. The video stated universal design is like green design or sustainable design - it is good business and integrated so that the use of the code is not seen as a barrier in itself.

Action Items

- No action items.

4. GUEST PRESENTATIONS

Newly Elected Chair Leemhuis stated it was decided that the Commission have a formal opportunity to get to know the newly-appointed Commissioners by allowing each of them to share about themselves and their backgrounds.

Christopher Downey

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Commissioner Downey stated he is an architect. He has been in the Bay Area since 1989, where he received his master's degree in architecture. He has practiced architecture since 1985. He stated his experience was typical and mainstream, doing a broad spectrum of work from aquariums and theaters to retail stores, restaurants, and private homes. All of that changed significantly about five and a half years ago, when he unexpectedly lost all sight as a consequence of surgery. He has since re-imagined his career by thinking about architecture through disability, specifically through visual impairment and blindness, as a different way of experiencing and interacting with architecture.

He has the unique situation of unexpectedly, innocently crossing the line between ability and disability or, as he likes to put it, those who do not have their disabilities yet and those who do.

His practice now is largely about buildings for the blind or visually impaired, or about issues specific to them, often in transportation. He also teaches a course on accessibility, an introduction to the ADA, and universal design at the University of California at Berkeley Department of Architecture.

Immediate Past Chair Burks welcomed Commissioner Downey and stated his pleasure to have an architect who has prior experience of design and construction and then of disability. Commissioner Downey will be able to address accessibility from both worlds.

Greg Thompson

Commissioner Thompson stated he is a licensed clinical social worker and has been living with a disability for over thirty years. He is the director of the public authority Personal Assistance Services Council of Los Angeles County (PASC), which works with the In-Home Support Services (IHSS) program.

He stated he is excited to be on this Commission for several reasons. Access goes beyond getting into a building, although he appreciates ramps and curb cutouts that were not in existence thirty years ago, when he had to crawl up stairs or go in back doors of restaurants. He stated he has spent his career trying to access life and teaching people how to succeed and live with a disability. To him, access is more of an attitude, gaining confidence and acceptance from people he deals with. He stated his hope that he can add value to this Commission in a broader sense of the term "access."

Vice Chair Hauge asked Commissioners Downey and Thompson how long they have known about the Commission, and what the perception of the Commission is among people they work with.

Commissioner Thompson stated, until recently, he looked at access and barriers as a challenge and tried to figure out his own ways to get around them. Over the last three or four years, he has gotten more involved with the IHSS and began to learn about the Commission. He loves universal design, but many people are not aware of

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it or do not know what to do about it or who to ask about access. In his experience, some people try, but, because they did not do their research, sometimes even when they try to create access they create barriers.

Commissioner Downey stated, although involved with accessibility and implementation of the regulations, he was not familiar with this Commission specifically. He suggested that there is much more that this Commission can do to be active in empowering and enabling better compliance.

Immediate Past Chair Burks welcomed Commissioner Thompson and stated Commissioner Thompson's experience with the IHSS would lead him to understand the importance of aging in place as opposed to institutionalization.

Michael Paravagna

Commissioner Paravagna stated he began working in issues related to people with disabilities in 1975. He worked for thirty-two years for the DOR and was formally trained as a rehabilitation counselor. The high point of his time at the DOR was the thirteen and a half years he spent as chief of the Disability Access Section. That section was designated by then-Governor Wilson to assist the state of California in complying with the ADA and similar civil rights statutes in California state government. He came away with the vivid notion that access is a state of mind. As the population changes, the Commission must help to make people aware of those changes so that they can successfully interact with people with disabilities in a variety of manners.

Immediate Past Chair Burks welcomed Commissioner Paravagna. He stated Commissioner Paravagna will bring his understanding of governmental practices and procedures, and the complexities associated with government playing a role in compliance efforts.

Newly Elected Chair Leemhuis thanked Commissioners Downey, Thompson, and Paravagna for sharing. He stated their resumes are incredible, with their on-the-ground background and knowledge that will equip this Commission in a strong and sustainable way to do the work it is charged to do.

5. DEMAND LETTERS/CLAIM FILING ITEMS - UPDATE

Executive Director Castellanos stated Staff Member Jemmott has coordinated this effort with the volunteers and has managed it from the beginning. Since he arrived in January, his work would not have been possible without Staff Members Jemmott and Funderburk. Staff has met all of the deadlines and reestablished the Commission to provide better focus and support. This project is an indication of the tireless effort that staff has put into collecting this data.

The number of lawsuit claims submitted to the Commission is on the rise and continues to climb. Very few demand letters are filed. The technology update allows

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staff to report in almost real time after going through conventional and quality review analysis. Most of these claims take two to three hours each of processing. That is one of the workload issues staff is facing and, unfortunately, the workload has increased tremendously.

Staff is also trying to keep the ten most common violations up to date. Those are available on the website. The data on the website is also searchable by location, type of violation, filer, plaintiff, and defendant.

Staff Member Jemmott stated the law does not require staff to collect amended cases, but it is difficult to determine which cases are amended. Staff has a system, which they are trying to automate, but further information comes in every day. The database is constantly evolving. This information is not yet on the website, because staff wanted lawyer support to ensure there are no privacy violations; however, it is available in the office.

Commissioner Navarro suggested securing law student interns to help with this work. Executive Director Castellanos stated staff continues to seek volunteers and the Department of Justice, through Commissioner Seferian, has been very supportive in this respect. Staff is exploring options to bring on more support.

In response to Vice Chair Hauge's question, Staff Member Jemmott stated the lawsuits are concentrated in Southern California.

Immediate Past Chair Burks stated the top ten demand letters and claims on the website will be a rolling top ten. He asked if staff are amalgamating the total numbers or updating on a quarterly basis. He also asked if the top ten differ by region or if they are consistent.

Commissioner Wilson stated she is also concerned about the three areas of the state being informed and participating in the process, and about how the materials will be presented. She asked if staff evaluated the website for accessibility. Executive Director Castellanos stated staff have tested the website and continues to do so. They have sent out requests to many entities to assist in the evaluation and have relied on the consultant team for the official testing.

Commissioner Downey asked about the breakdown of the top ten demand letters and claims and where they are coming from. He asked if there was a way to delineate between issues with new construction versus older buildings.

Executive Director Castellanos acknowledged that would be useful information, but lawsuit filings usually do not come in with those details. Staff is looking at other methods of data collection and will be talking with the Education and Outreach Committee about independent data collection outside of the lawsuit process. He is in a number of discussions with the American Institute of Architects (AIA), local enforcement officials, and the CASp organization to gather together for data collection on a number of these issues. He will bring proposals or thoughts on this back to the Commission in the future.

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Newly Elected Chair Leemhuis suggested a universal building and safety reporting system since some of the information about buildings is kept electronically countywide. He stated he would use the word "exception" instead of "protection," because the exception to the law is for buildings that predated the ADA and have had no new construction or are historical buildings; there is a separate code to look at those issues.

Immediate Past Chair Burks stated his concern about the ongoing allegations of drive-by lawsuits. He asked if the top ten demand letters and claims have anything to do with the interior of the building. Executive Director Castellanos read the top ten list.

Newly Elected Chair Leemhuis stated his belief that drive-by lawsuits are what has been alleged by some individuals in the community to spark the bill that was created to track the issue. He wanted to be sure that the community knows that it is not a term of art being created by any member of this Commission; it is in response to the ongoing charge that individuals are filing repeated lawsuits with one individual without looking at the particulars of the supposed violation or discrimination.

Immediate Past Chair Burks stated continually blaming the disability community and/or the business community for failure to comply leads to outcomes from a variety of other professionals involved in the process. The federal law that says right to remedy is through the courts and California's position that right to remedy is causing problems through the courts are at odds.

The top five lawsuits are about parking. Most jurisdictions do not require permits for parking lots, unless it is new construction or a significant remodel. If a business does a slurry seal, chip seal, or overlay and has to restripe and remark the path of travel, the access aisle, the width and depth of the parking space, and the signage, it is outside the purview of the local enforcement authority. The Commission does not oversee parking re-strippers at any level and does not know what their level of understanding and requirements are in their local jurisdiction.

The last top five lawsuits are about issues inside the building. While there is a high number of parking complaints and there is no real oversight by local jurisdictions, there is a large oversight to the elements inside the building or the path of travel. Whether it is new or existing is another issue.

Immediate Past Chair Burks stated it is important to keep focused as the top ten reflect where to begin this process. He stated his concern over pitting the disability and business communities against each other when they need to be working together. That is the whole point of integration.

Newly Elected Chair Leemhuis suggested that the Commission consider that statute did not limit what the Commission could do with the top ten information, including calling the attorney who is filing the lawsuit or talking to one of the plaintiffs or small businesses and finding out from their perspective what is going on. There is

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also qualitative information, where a particular case may not represent the whole issue. He looked forward to pondering the extent of what the Commission can do that will be effective and informative.

Action Items

- No action items.

6. EDUCATION AND OUTREACH COMMITTEE - ESTABLISH CHARGE

Commissioner Wilson stated the Commission must be concerned with how it presents information so that the general public is able to understand it and to see what their responsibilities may or may not be. That is a very important outcome.

Education is a continuing process. One or two workshops will not do it. Neither will one or two pieces of material or website postings. Commissioner Wilson hoped the Commission and the Committee will develop a partner base in all three areas of the state to promote information and train trainers. An attitudinal change is a social change process. The idea of disability is a sociological concept. It will take a concerted effort on this Commission's part to make changes, but it must focus at the beginning on getting the word out and welcoming people asking questions.

Newly Elected Chair Leemhuis noted, under Section 8299.05(2), "full and equal access to public facilities" is not the charge of the CCDA. "Public facilities" means Title II cases; it does not mean "public accommodations" that are private businesses, which are Title III cases. The Legislature may have meant it more generically as something that is open to the public, but, in the federal law, there is a distinction between a public facility and a business, for example, that is open as a public accommodation. The context of the lawsuits includes public accommodations that are not necessarily what one would think of as a public facility, in terms of being covered under the Title II as opposed to Title III.

Immediate Past Chair Burks clarified that the Legislature understood the Commission is dealing with the Title III entity issues, but they did not want to close off the discussion of the Title II entities.

Newly Elected Chair Leemhuis recommended including public accommodations in addition to public facilities. He suggested adding "public accommodation" in parentheses, as clarification for this Committee, to ensure that people understand that the Commission is not limited to public facilities, but also includes public accommodations.

MOTION: Commissioner Burks moved to accept the Education and Outreach Committee Charge as amended. Vice Chair Hauge seconded. Motion carried unanimously.

Action Items

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
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- Staff is to add “public accommodation” in parentheses to the Committee Charter.

7. FUTURE AGENDA ITEMS

Newly Elected Chair Leemhuis asked that the following items be placed on the next Executive Committee agenda for discussion:

- The name of the Education and Outreach Committee
- The change of the Bylaws to include the immediate past chair in the composition of the Executive Committee as an ex officio member for the following year
- The establishment of an annual calendar
- The January 8th date and location of the next full Commission meeting
- The budget report and strategic budgeting

Commissioner Wilson suggested discussing meeting in other parts of the state.

Newly Elected Chair Leemhuis stated the next Executive Committee meeting is scheduled for November 14th and suggested changing the time of the Executive Committee meetings to 1:30 p.m. to 3:30 p.m.

8. ADJOURNMENT OF CCDA MEETING

MOTION: Commissioner Paravagna moved to adjourn the October 16, 2013, California Commission on Disability Access Full Commission meeting. Commissioner Navarro seconded. Motion carried unanimously.

Newly Elected Chair Leemhuis adjourned the meeting at 3:45 p.m.