

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
MEETING MINUTES**

August 15, 2013

1. CALL TO ORDER

Chairman Rocky Burks welcomed everyone and called the meeting to order at 10:00 a.m. at the Department of Rehabilitation, 721 Capitol Mall, Room 252, 2nd Floor, Sacramento, California 95814.

The off-site meeting locations for teleconference were Communities Actively Living Independent and Free, 634 South Spring Street, 2nd Floor, Los Angeles, California 90014; Small Business California, 2311 Taraval Street, San Francisco, California 94116; and Department on Disability, 201 North Figueroa Street, Suite 100, Los Angeles, California 90012.

Chairman Burks reviewed the meeting protocols.

ROLL CALL

Commissioners Present: Rocky Burks, Chairman
Scott Hauge, Vice Chairman (Teleconference)
Lilibeth Navarro (Teleconference)
Betty Wilson (Teleconference)

Committee Member Absent: Sean Connelly, Office of Senator Corbett

Commissioners Absent: Guy Leemhuis

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

Also Present: Jodie Monaghan, Associate Mediator, Center for Collaborative Policy

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

2. APPROVAL OF MEETING MINUTES (July 18, 2013) – ACTION

A quorum was not established for the Executive Committee to take action.

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

There was no public comment.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

4. GENERAL BUSINESS ITEMS

a. Demand Letter Project – Update

Executive Director Castellanos stated staff continues to collect claims and letters on a daily basis. On July 31st, they posted data collected through the end of May, but have since added the data through June, for a total of 1200 letters and claims currently represented in the database. The additional month did not affect the top ten.

The next task, which will go to the Education and Outreach Committee, is to build education and outreach support onto the top ten, as required by law, to help people address compliance issues around the most commonly found violations as represented in the lawsuits. Staff will create proposals for the Commission, including tools that could be put on the website and any issues or strategies that can be utilized to address the top ten. The federal ADA (Americans with Disabilities Act) also maintains a top ten and has built a set of tools. Staff is researching what could be shared. The ADA National Network and their education resources will be involved. Staff will need to determine how to develop anything distinct to California.

There is a list of forty-nine key code items of violations, including programmatic issues. Staff has not addressed how to deal with programmatic issues as opposed to construction-related items. Some discussion on this will be necessary.

Staff is also discussing when to publish new data. They talked to the web developer about real-time posting and maintaining quality. At a minimum, data must be published quarterly.

Vice Chair Hauge asked if staff has received any feedback on the top ten items.

Executive Director Castellanos stated there has been feedback from a number of different sources, mostly business, that brought more attention to the issues. Staff has received calls, emails, and press contacts. Executive Director Castellanos has encouraged a greater use of CASp (Certified Access Specialist) inspection, and the Legislature has asked that information be posted on the site about the benefits of Senate Bills (SB) 1186 and 1608 and the protection they provide business owners.

Vice Chair Hauge stated he asked because he sent the website link to five thousand small businesses.

Executive Director Castellanos stated this makes people aware of the website, which is important because the website helps people receive the support they need.

Action Items

- No action items.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

b. Strategic Planning Project – Update

Jodie Monaghan, the Associate Mediator of the Center for Collaborative Policy (CCP), stated, since the last Executive Committee meeting, the CCP has received a fully-executed contract with the CCDA and has begun work.

The CCP has created a draft work plan. They held a kick-off meeting on August 5th with Commissioner Wilson, Executive Director Castellanos, Staff Member Jemmott, Adam Sutkus of the CCP, and Ms. Monaghan, where they drafted goals and desired outcomes, discussed the makeup of the Strategic Planning Design Team, and reviewed the work plan. The draft goals developed from this meeting were:

- To develop the organization to implement and achieve the goals of SB 1608 and 1186, particularly in regard to outreach and education
- To create programs to assist with compliance
- To build relationships with and between the disability and business communities
- To reduce to the number of claims

The draft desired outcomes from the strategic planning process developed from this meeting were:

- The creation of a governance structure to guide future work of the CCDA
- The creation of an action plan to implement compliance programs, educational programs, and outreach activities
- The creation of next steps to bolster the efficacy of the Commission and the CCDA organization
- The creation of programs to increase compliance and reduce the number of claims and letters

The purpose of a Design Team is to assist the CCP in ensuring that they consider the broadest population of stakeholders. The Design Team would identify people to interview with assessment interviews and who can participate in the two-day strategic planning meeting. The team would also develop questionnaires.

There should be eight or nine members on the Design Team. Commissioner Wilson will represent the disabled community and the Commission in her role as the Education and Outreach Committee chair. The CCP will ask a second Commissioner from the business community to join, and will limit it to two Commissioners because of the Bagley-Keene Open Meeting Act requirements. The CCP also hopes for an external representative from the disabled community, an external representative from the business community, Executive Director

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

Castellanos, Staff Member Jemmott, and representatives from the DOR and the DSA.

As soon as the Design Team is formed, they will put together assessments, questionnaires, and surveys. The plan at this point is for the assessment interviews and surveys to be conducted during October and November, with the findings report completed by the end of the year. The strategic planning meeting will be early 2014, and the final strategic plan after the validation workshops will be ready for the Commission's approval in May or June of 2014.

Commissioner Questions and Discussion

Commissioner Wilson stated it is important to set the schedule for the Design Team to meet as soon as possible, for a two- or three-day meeting to develop the goals and objectives for the Commission's strategic plan.

Executive Director Castellanos stated he would follow up with the DOR today. Dennis Corelis, the deputy state architect from the DSA, has been appointed by the state architect to serve as the DSA representative for the Design Team. Tom Ammiano's senior legislative assistant, Wendy Hill, is also anxious to join this effort as a representative from the Legislature.

Executive Director Castellanos stated after contacting DOR today, staff will organize a meeting of the Design Team to design the process and set a schedule. He added that the strategic plan will be in progress as it is in use. The directives in the strategic plan are a foundation. Developing a Design Team and focusing on bringing external resources into the process is part of the plan.

Executive Director Castellanos stated the meeting summary was emailed to Commissioners and encouraged them to comment on it, especially the draft goals of the plan and the desired outcomes.

Action Items

- Staff is to follow up with the DOR and organize a meeting of the Design Team.
- Commissioners are encouraged to comment on the August 5th planning meeting summary, especially the draft goals and desired outcomes.

c. Names Submitted for Education and Outreach Committee

Staff Member Jemmott stated staff received three names for the Education and Outreach Committee. Two were submitted by Commissioner Fuller, and one by Commissioner Wilson. At this time, they have been nominated but have not yet been solicited for resumes and paperwork.

Chair Burks recommended that he, Vice Chair Hauge, and Executive Director Castellanos discuss submittal of the names and do an initial review, and then have a conversation with those individuals on their interests based on their

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

background and experience. He asked staff to send one more interest statement to all Commissioners.

Executive Director Castellanos stated he has set up a round of meetings with potential members of the representative group on this important Committee. He has contacted the California Chamber of Commerce (CalChamber), the American Institute of Architects (AIA), and building owners. There is solid representation from people from the disability community.

Chair Burks suggested contacting interested parties to let them know their names have been received and the process is moving forward. Executive Director Castellanos stated staff will send out a letter.

Commissioner Wilson encouraged the Commission to ensure inclusion of Northern, Central, and Southern California. All three major areas of the state have different needs due to varying demographics, terrain, and attitude. She asked that Commissioners try to include in their recommendations people from all three major parts of the state.

Action Items

- Staff is to send an interest statement to all Commissioners.
- Staff is to send a letter to interested parties confirming that their names have been received and the process is moving forward.

d. Website – Update

Executive Director Castellanos stated the CCDA website went live July 31st. Vice Chair Hauge has been helpful in spreading word through his network of small businesses. Staff has received good comments and will be taking action and making improvements on the website, including adding more description to help with navigation.

Executive Director Castellanos has talked to the Department of Rehabilitation (DOR) and the Division of the State Architect (DSA) regarding what the CCDA website represents. It is the only website of its type in California where a business person or a person with a disability can, within one or two clicks, find the help they need. It is difficult for the DOR or the DSA to do the same thing, because they are multi-mission organizations. Their websites are dense and more difficult to navigate through. The CCDA website is providing them a service by developing links to their material through its portal.

The primary focus of the website is to get information to the consumer, the disabled citizens or business owner, local enforcement, architects, contractors, and everyone involved in Title III built environment issues that needs information.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

The Education and Outreach Committee will be instrumental in providing guidance and assistance in terms of content management for the website. The next phase of adding functionality to the website will be to add hosted forums to the site. It will pose a management problem that staff is discussing with the web developers. The content of the website will become more robust, and staff will change how the site is hosted to add functionality with forums, webinars, and other training.

Commissioner Wilson asked what steps have been taken to ensure the website is accessible to the disability community.

Executive Director Castellanos stated this is part of the contract with a consultant as a critical issue. The state policies are clear in terms of access. The website is in a testing process to ensure accessibility. Staying away from PDFs and offering multiple formats is important. Staff was concerned that what they posted on the claims and letters database was not as accessible as desired, but the web consultants claim it is limited by format.

Chair Burks suggested, since the Commission is already collaborating with the DOR, contacting the State Independent Living Counsel to see how they are coordinating with the DOR.

Executive Director Castellanos stated the goal is for the website to be a model of accessibility for consumer web usage.

Commissioner Navarro stated the Business section seems to stress protection. The message should be about protection through compliance. Executive Director Castellanos stated he would check the language in that section. He asked business people for input. Encouraging people to visit the site will help to change the perception that ensuring accessibility is bad business.

Chair Burks stated changing attitudes is an ongoing process. As a member of the disability community and in Title II and III entities, he has heard many people say it is not their problem until they are litigated, which ultimately leads to the small business person who does not know that the large business people are taking that attitude.

Executive Director Castellanos stated need to address attitude on the website. The benefits of fully accessible workplaces and businesses are more than just seeking protection. He spoke with staff at the CalChamber about rights to repair issues, who said it is unlikely to happen because, given the right to repair, people generally do not reply unless they receive a claim.

Commissioner Wilson suggested discussing the possibility of getting an award or certificate from the state of California or the governor's office for someone who complies. Chair Burks stated this could be a task for the Education and Outreach Committee. Executive Director Castellanos agreed that rewards will play a role at some point.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

In response to Chair Burks's question, Executive Director Castellanos stated the DOR's video is on the CCDA website, and the new DOR video will be added when it comes out in September.

Chair Burks stated he has referred several people to the video. He also recommended looking at the terrain differences across regions for litigations.

Executive Director Castellanos stated the database can be sorted by zip code quickly to compare regions to the statewide top ten and see how consistent they are.

Action Items

- Staff is to contact the State Independent Living Counsel to see how they are coordinating with the DOR.
- Staff is to check the language in the Business section of the website about protection through compliance.

e. Standing Committee Meeting Schedule – Discussion

Chair Burks stated he would like to delay discussing this item, primarily because the other two Commissioners who are on the Executive Committee would benefit from this discussion.

Executive Director Castellanos agreed that the discussion could be held over. At the last full Commission meeting, the Commission decided to use the current Commission make-up as a Committee of a whole for the Executive Committee.

Chair Burks stated the Executive Committee meeting is scheduled for the second Thursday at 10:00 a.m. He emphasized the importance of ensuring that everyone understands the necessity of a quorum.

Executive Director Castellanos stated this is one of the reasons for the frequency of the meetings being discussed. There will be more meetings to schedule as the Education and Outreach Committee ramps up and for the groups involved with the strategic plan.

Commissioner Wilson suggested scheduling the October Executive Committee meeting one day before the regular full meeting.

Chair Burks agreed and suggested holding a two-day meeting. Commissioner Navarro liked the idea of back-to-back meetings.

Action Items

- No action items.

f. Executive Report

Executive Director Castellanos stated he changed the format of the Executive Director Report based on Bagley-Keene training. On a monthly basis, he sends a

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

memo to each of the Commissioners about what has happened in the last month.

1. Task Matrix

Executive Director Castellanos stated this Executive Report represents specific business items or a response from requests from Commissioners to put before the Commission or the Executive Committee. The first one has been something Chair Burks asked for and referred to as the task matrix. This first draft task matrix list format is a work in progress. It identifies the topic or task and a timeframe. Resources and who is responsible will be added. What staff has done so far is to identify and refine what is ongoing. Issues like the strategic plan will include a long list of items with multiple deadlines and due dates. He asked Commissioners for input.

Commissioner Navarro asked which staff member will be the point person when it comes to changes about legislation. Executive Director Castellanos stated Staff Member Jemmott has been monitoring legislative and regulatory activities. Executive Director Castellanos monitors the Disability Rights California, the AIA and the CalChamber websites.

Chair Burks asked to ensure that, if there are items that have been placed on Committee action for consideration that are not on the matrix, Commissioners alert staff so they can put them on the matrix. The reason for the matrix is to ensure that the Commission is following up on issues. This is of importance to members of the Legislature. They have some concerns in terms of past actions of the Commission. He believed the Commission is moving forward in its statutory obligations.

Another aspect that is critical is staff and financial capability. This can be a tool to facilitate with the strategic plan efforts. It may be necessary to retrench a bit and to stay within statutory demands. Chair Burks stated this will give the strategic plan consultant some understanding of the conflicts with resource limitations, both financial and human.

Action Items

- Commissioners are to comment on the first draft Task Matrix format.
- Commissioners are to alert staff of items that have been placed on Committee action for consideration that are not on the matrix so staff can add them to the matrix.

2. Outreach Efforts

Executive Director Castellanos stated few outreach activities have been added since the last meeting, in order to place some focus on creating closer contact with the legislative Commissioners. Staff Member Jemmott has joined in this effort and Staff Member Funderburk has scheduled and conducted the

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

round of meetings with legislative members. It is important to keep them well informed.

Executive Director Castellanos will meet soon with the speaker's office about appointments. That has been scheduled and the efforts with the appointments office have led to productive discussion. One of the reasons for the meetings with the CalChamber and the AIA is to encourage them to identify constituents to submit names. There are applications coming in. He will continue to meet with the legislative members to talk about the kinds of issues they can lend support on.

Vice Chair Hauge asked if there is a letter for outreach. Executive Director Castellanos stated he has been working on a two-page letter that provides background, and identifies the Commission's authority and goals.

Action Items

- No action items.

3. Legal Support for Public Records

Executive Director Castellanos stated the Commission had an agreement with the DOR over legal support, but their workload changed before the agreement could be finalized. He met with their chief counsel and was advised to meet with her for legal support.

The first meeting with the chief counsel had to do with the Public Records Act. Staff anticipated with the posting of the first round of information from the data collection project that they would have a Public Records Act request. The DOR chief counsel was very helpful in determining what they have to do. She has also given them other tasks that they will bring to the Commission by October, such as establishing a policy on public records for the Commission. The Commission may need to develop regulation through the Office of Administrative Law (OAL) to deal with this issue. Right now, according to the on-loan counsel, it looks like the Commission will need to go through the OAL with a formal regulation on the Public Records Act. It is in statute and it is required. Staff successfully released the information to a reporter of the Orange County Register.

Chair Burks stated this will be a critical area of executive function, because of the transparency issues involved.

Commissioner Navarro stated, with regard to data collection, the Commission will need to see where the local governments are in their transition plans and their own compliance or implementation of Title II of the ADA.

Executive Director Castellanos stated staff has received a number of comments about what the state and local governments are doing with regard to compliance as Title II agencies. Currently, the statute that authorizes this

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

Commission does not specifically limit it, but the Commission has self-limited to Title III compliance where the lawsuits are occurring. It was clear that the perceived lawsuit crisis in California needed some attention. Currently, staff is trying to identify Title II agencies first. For example, in San Francisco, they are trying to identify the Title II agencies that are doing good work in terms of supporting small business in the area of compliance and therein developing relationships with small businesses. Title II agencies have specific requirements and different enforcement mechanisms, in many cases. The Commission is focusing on Title III compliance, particularly the lawsuit issues.

Commissioner Navarro mentioned the survey, because Title III compliance depends on Title II conduct.

Chair Burks stated the Commission desires to look at this, and it is probably one of the preeminent conflicts. However, with the way statutory obligations and responsibilities are structured, the Commission is focusing on helping small businesses achieve compliance outside of a means of litigation. He was amazed that the disability community continues to be maligned for asserting their efforts through the litigation process, which is what the ADA structured.

At the same time, the Commission is trying to address reducing litigation for failure to comply with state and federal accessibility codes. There may be some relief now that there is a potential combining of the ADA and Title 24 state building codes. That is going to help resolve some of the conflicts that this Commission is ultimately confronted with. There will be a process of outreach to Title II entities as the building code is implemented next year, but it will not address historical issues.

The other aspect that SB 1186 will address is what the Commission has helped to expose, through this process and through the statute, that, for all new negotiated leases, the leaseholder must be informed that their facility has or has not been CASp (Certified Access Specialist) inspected. That raises a question for the leaseholder of whether the owner has begun the process to correct deficiencies if the property is not compliant. That is outside of the Title II function, but therein lies the process of working with the DSA and their efforts with the business license renewal outreach and education coordination that should help diminish these violations.

Executive Director Castellanos stated he has set up a meeting with the state architect and the director of the DOR to talk about this very issue. As far as state compliance, the director of the DOR is essentially the state's ADA compliance officer. Commissioner Widom of the DSA is the enforcement agency for state public buildings. The state's behavior is important, as it affects local behavior.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

The Commission is not ignoring the Title II issue, but is instead approaching it from the support side first, because of CASp, the DSA, and the DOR, and trying to figure out how to develop better support for local agencies.

Commissioner Navarro suggested, in terms of outreach and best practices, including examples of compliance as a model on the website, such as the presentation from the city of San Francisco.

Action Items

- No action items.

4. General Operations

Executive Director Castellanos stated the travel policy for attendant services has been rewritten to add clarity in its language and its intent.

Chair Burks asked, since a quorum was not present, that Commissioners address questions or concerns to Executive Director Castellanos and himself before the next meeting.

Action Items

- Commissioners are to address questions and concerns to Executive Director Castellanos and Chair Burks before the next meeting.

5. BUDGET UPDATE

a. Year End Report – Status

Executive Director Castellanos stated there is no year end report. The Commission has been waiting for the Department of General Services (DGS) to conclude their year end report, which is incomplete.

The plan was to fully expend the budget for 2013. Executive Director Castellanos stated he would like to see the report to make sure everything is posted correctly at the DGS. If it is, then staff will have a carryover budget for funds that were encumbered in 2013.

Executive Director Castellanos hoped to have the year end 2013 report and a starting budget at the next Executive Committee meeting. Staff Member Jemmott is developing new categories to monitor the budget more effectively for 2013/14.

Chair Burks stated the state may not have everything together by the September meeting. He cautioned that, if it is not done until the end of the first quarter of the new fiscal year, the Commission will have a more realistic understanding of 2013 at the October meeting.

Executive Director Castellanos added that the item discussed earlier, in terms of the meeting schedule for the Executive Committee and the Commission, is also a budget-related item. By the next Executive Committee meeting, he hoped to

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

have an opportunity to discuss that in more detail because, along with the official meetings, there will be strategic plan and Education and Outreach Committee meetings to budget for. Staff is behind on the number of meetings and locations; some of that money is held over from 2012/13, but, the sooner the Commission makes a decision on the number of meetings, the more able staff will be to fine-tune that budget.

Chair Burks explained funds that are held over are encumbered. It is an expenditure. The Commission has entered into a contract for a carryover that it is able to bill to that contract period.

Executive Director Castellanos stated there are savings in 2012/13 as a result of salary savings, travel, and a reduction in the number of Committee meetings, and that one-time savings has been utilized to bring in a couple of consultants. That money was encumbered in 2012/13 and it will become part of the 2013/14 budget for some of the work the Commission will be doing.

Chair Burks stated it would be helpful to set up a conference call with Vice Chair Hauge, Staff Member Jemmott, and Executive Director Castellanos, when the DGS provides the year end report.

Action Items

- Staff is to set up a conference call with Chair Burks, Vice Chair Hauge, Staff Member Jemmott, and Executive Director Castellanos, when the DGS provides the year end report.

6. FUTURE AGENDA ITEMS

Chair Burks asked members of the Commission to share any pressing issues with him and Executive Director Castellanos.

Vice Chair Hauge stated San Francisco would like to talk to the Commission about what they are doing with legislation, specifically about a parking issue, and expanding it statewide. Executive Director Castellanos stated he will contact the representative from San Francisco for further details.

Commissioner Navarro asked Chair Burks to review the appointments for those on the Committee to prepare ahead, especially in the light of the strategic plan.

Chair Burks stated most of the Commissioners will be continuing beyond December 31st. Based upon action taken at the full Commission meeting, the Executive Committee is comprised of all standing Commissioners plus Senator Corbett's representative, Sean Connelly. In terms of the full Commission, there are five Commissioners, ex officio members of the state agencies, and members of the Legislature. There are two Senate and two Assembly representatives, plus three agency representatives.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
EXECUTIVE COMMITTEE
AUGUST 15, 2013, MEETING MINUTES**

The Education and Outreach Committee is a formal Committee, and will be a fully open Committee process in terms of compliance with the Bagley-Keene Open Meeting Act. The Design Team will be a subcommittee of the full Commission on the strategic planning process comprised of two Commissioners to circumvent violation of Bagley-Keene.

7. ADJOURN

Chairman Burks adjourned the meeting at 11:56 a.m.