

Civil Rights Council
MEMBER HANDBOOK
Approved March 21, 2024

Gavin Newsom, Governor
State of California

Tomiquia Moss, Secretary
Business, Consumer Services and Housing Agency

Kevin Kish, Director
Civil Rights Department

COUNCILMEMBERS

David Garcia, Chair
Denny Chan, Councilmember
Jonathan Glater, Councilmember
Hellen Hong, Councilmember
Adetunji Olude, Councilmember
Julie Wilensky, Councilmember
Kevin Kish, Ex Officio Councilmember
Vacant, Councilmember

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INTRODUCTION

The Civil Rights Council is a public body of seven volunteer members appointed by the Governor, confirmed by the Senate, and housed within the California Civil Rights Department (CRD, or Department). The Council's statutory duties include promulgating regulations interpreting California civil rights laws enforced by the Department, creating and providing technical assistance to civil rights advisory bodies throughout the state, and holding hearings and issuing reports to advance civil rights. The Council was created in 2013 as a successor to the former Fair Employment and Housing Commission.

Civil Rights Department

The [Civil Rights Department](#) (CRD) is the institutional centerpiece of California's broad policy against discrimination, harassment, and hate violence. Born out of a decades-long struggle to prohibit discrimination in employment, housing, and business establishments, CRD has been at the forefront of protecting civil rights in California since its inception. As of 2024, CRD operates virtually and through six offices in Bakersfield, Elk Grove, Fresno, Los Angeles, Oakland, and Riverside.

CRD's mission is to protect the people of California from unlawful discrimination and other civil rights violations in employment, housing, public accommodations (businesses), and state-funded and state-administered programs and activities, and from hate violence and human trafficking. To accomplish this mission, CRD receives, investigates, conciliates, mediates, and prosecutes complaints of alleged violations of the Fair Employment and Housing Act (FEHA), California Equal Pay Act, Unruh Civil Rights Act, Disabled Persons Act, Ralph Civil Rights Act, Trafficking Victims Protection Act, and statutes prohibiting discrimination in state-funded and state-administered programs and activities, among other civil rights laws.

In 2022, CRD's name changed from the Department of Fair Employment and Housing, the name of the department since 1980. CRD's new name more accurately reflects the department's role of enforcing a broad range of civil rights protections. The Council's name was also changed from the former Fair Employment and Housing Council to the Civil Rights Council.

The state's various civil rights laws empower CRD to:

- Investigate and initiate complaints of individual and systemic discrimination,
- Facilitate mediation and resolution of disputes involving civil rights,
- Enforce the laws by prosecuting violations in civil court,
- Promulgate regulations and issue guidance,
- Collect data on the pay, hours worked, and demographics of California employees working for private employers with 100 or more employees, and
- Engage in public outreach and provide training and technical assistance to stakeholders, such as employers and employees, business establishments and consumer groups, and housing providers and tenants, regarding their rights and responsibilities under the law.

To learn more about CRD, visit the department's webpage at: www.calcivilrights.ca.gov. The department's annual reports are available at:

<https://calcivilrights.ca.gov/legalrecords/?content=reports#reportsBody>

Statutory Authority of the Council

The Council shall adopt, promulgate, amend, and rescind suitable rules, regulations and guidelines as are necessary to interpret, implement and apply laws within its jurisdiction and as are necessary to carry out all of its other functions and duties. (Gov. Code Section 12935(a).)

The functions, powers, and duties of the Council shall also include, but are not limited to, the authority to:

- (a) Make inquiries into general discrimination problems and issue informal and formal findings, including published reports;
- (b) Establish such advisory agencies and councils as will assist in fostering goodwill, cooperation and conciliation among groups and elements of the population of the state through studies, conciliation, hearings, and recommendations to the Council;
- (c) Hold hearings and issue publications, results of inquiries and research, and reports to the Governor and the Legislature that, in its judgment, will tend to aid in effectuating the purpose of the Fair Employment and Housing Act, promote good will, cooperation and conciliation, and minimize or eliminate unlawful discrimination, or advance civil rights in the State of California.
- (d) Advise and concur with the Secretary of Health and Human Services in establishing standards and guidelines determining unlawful practices of state contractors under section 11135, et seq.

(Gov. Code Sections 11139.5, 12935, 12946 and 12990.)

Reporting Requirements

Reports issued by the Council must adhere to the following requirements:

- Data acquired must be used for research or statistical purposes and may not disclose personal information that may reveal the identity of an individual. (Gov. Code Section 8010(k).)
- Comply with Government Code Section 9795, which enumerates specific requirements pertaining to the publication and distribution of the reports to the Legislature and the public. (Gov. Code Section 8010(m).)

COUNCILMEMBERS

Membership

The Council shall consist of seven members, to be known as council members, who shall be appointed by the Governor, by and with the advice and consent of the Senate, and one of whom shall be designated as chairperson by the Governor. (Gov. Code Section 12903.)

Ex-Officio Members

The Director of the Civil Rights Department serves on the Council as an ex officio nonvoting Councilmember. (Gov. Code Section 12903.)

Department Staffing

Upon appropriation in the annual budget act, CRD will appoint staff to assist the Council with operations and the execution of its duties. As of 2024, the Council is supported by the CRD Director, Deputy Director of Executive Programs, Assistant Chief Counsel of CRD's Legislative and Regulatory Affairs Unit, and additional legal counsel and support staff assigned as needed.

Term and Removal

Members are appointed for terms of four years.

Vacancies occurring prior to the expiration of a term shall be filled by appointment for the unexpired term. (Gov. Code Sections 12903(c), 12904.)

Any member of the Council may be removed by the Governor for inefficiency, neglect of duty, misconduct, or malfeasance in office, after being given a written statement of the charges and an opportunity to be heard thereon. (Gov. Code Section 12906.)

Resignation

If it becomes necessary for a Councilmember to resign, the Councilmember shall send a letter to the Governor's Office with the effective date of the resignation. Written notification is required by state law. (Gov. Code Section 1750(g).) A copy of this letter shall also be sent to the Council Chair and the CRD Director.

MEMBER ON-BOARDING & TRAINING

On-boarding

Councilmembers must submit to CRD the following no later than 30 days after their swearing-in:

1. Oath of Office
2. Councilmember Service Agreement
3. I-9
4. Race/Ethnicity Questionnaire
5. Emergency Notification Information
6. Form 700 – Statement of Economic Interest
7. Payee Data Record (STD.204)
8. Authorization to Use Privately Owned Vehicles on State Business (STD.261)
9. Incompatible Activities Statement
10. Acceptable Use Statement

Required Trainings

Councilmembers must complete the following required trainings within 30 days of their swearing-in and periodically thereafter:

- Sexual Harassment Prevention Training (This training must be taken once every two years. Councilmembers who receive legally compliant sexual harassment prevention training from their employers may provide documentation of that training to CRD instead of taking CRD's training. Such Councilmembers shall be given, and required to read and to acknowledge receipt of, CRD's anti-harassment policy.) (Cal. Code of Regulations Section 11024(b)(6).)
- IT Security Training (annual)

Orientation

CRD staff will provide Councilmembers with access to the following documents to review within 30 days of their swearing-in, or in advance of the next regularly scheduled Council meeting after their appointment:

1. Civil Rights Council Handbook
2. CRD Organizational Chart
3. Overview of governmental ethics and disclosure rules (Governor's Office memorandum)
4. Office of Administrative Law training materials
5. Copies of the laws enforced by CRD and their implementing regulations
6. The Bagley-Keene Open Meeting Act and training materials
7. The California Public Records Act and training materials

CRD staff will meet with the Councilmember to discuss these materials and to generally introduce CRD and the Council. However, Councilmembers are expected to review and become knowledgeable about these materials.

Within the first quarter, the Chair or other designated Councilmember will reach out to welcome the Councilmember to the Council.

Before the first meeting

- All Councilmembers must subscribe to CRD's listserv to receive important communications on important civil rights matters being handled by CRD, such as litigation updates, guidance, and educational materials. To subscribe to the listserv, visit the Council's website at <https://calcivilrights.ca.gov/civilrightscouncil/>.

In addition, newly appointed Councilmembers are strongly encouraged to:

- Review in their entirety the two Council meetings immediately preceding their appointment;
- Review a Council public hearing on a civil rights matter of interest; and
- Subscribe to CRD's training and resources listserv at <https://calcivilrights.ca.gov/subscriptions/>.

MEETING PROCEDURES

Council Meetings

Being a member of the Civil Rights Council is a solemn commitment to the people of the State of California. Councilmembers are expected to attend all scheduled Council meetings. If a Councilmember is unable to attend, the member must contact the Council Chair and CRD staff and provide a written explanation of their absence.

Meetings are subject to all provisions of the Bagley-Keene Open Meeting Act (“Bagley-Keene Act”). (Gov. Code Section 11120 et seq.) This Act governs meetings of state bodies, including the Council, and meetings of committees of those bodies where the committee consists of more than two members. It specifies requirements for public access as well as appropriate notice of meetings and agendas. It also prohibits discussing or acting on matters not included on the agenda. If the agenda contains matters which are appropriate for closed session, the agenda shall cite the statutory section and subdivision authorizing the closed session.

The Bagley-Keene Act governs communications broadly to include communication about official business, including e-mail communications. For example, an e-mail chain between three members about Council business may constitute a public meeting and be subject to the requirements of the Bagley-Keene Act. Additionally, the Bagley-Keene Act applies to indirect communication, such as member A speaking with members B and C independently and relaying information to B and C (“hub and spoke” communication) or member A relaying information to B who then relays that information to member C (“chain” communication.)

Through training given to the Councilmembers upon appointment, and through their own initiative, Councilmembers should become familiar with the general Bagley-Keene Act requirements. If Councilmembers have questions about the law, they should contact CRD staff.

Members can learn more about the Bagley-Keene Act requirements here:

<https://oag.ca.gov/open-meetings>.

Agenda Items

Councilmembers may submit agenda items for future Council meetings during the “Future Agenda Items” section of a Council meeting or directly to the Council Chair and CRD staff. To the extent possible, the Council Chair will calendar each Councilmember’s request on a future Council meeting. The Council Chair will work with CRD staff to formulate and finalize the agenda.

Notice of Meetings

Meeting notices, including agendas, for Council meetings will be sent to persons on the Council’s email list at least 10 calendar days in advance of the meeting, as specified in the Bagley-Keene Act. To sign up for the Council’s email list, visit: <https://calcivilrights.ca.gov/subscriptions/>. All Councilmembers shall subscribe to this email list.

Notices will also be posted online at <https://calcivilrights.ca.gov/>.

Notices shall include the name, work address, and work telephone number of a staff person who can provide further information prior to the meeting.

Record of Meetings

The business conducted in open session by the Council can be transcribed and/or audio- or video-recorded. When meetings are recorded, they may be made publicly available through the Council's webpage.

Minutes or a summary of the open session may be taken. They shall be prepared by CRD staff and submitted for review to Councilmembers. Council minutes or the summary will be considered and approved or disapproved at the next scheduled meeting of the Council. The Council may amend the minutes during the meeting prior to approval. When approved, the minutes shall serve as the official record of the meeting.

Properly convened closed meetings are required by law to have minutes taken of the closed session.

Recordings and minutes of each Council meeting shall be maintained in accordance with CRD's retention policy.

Robert's Rules of Order

The Council will use Robert's Rules of Order, to the extent that it does not conflict with state law (e.g., Bagley-Keene Act or other state laws or regulations) as a guide when conducting the meetings. The Council Chair shall become familiar with Robert's Rules of Order and apply them during Council meetings.

Quorum and Voting

The Council must have a quorum of members present to take an action. Four members of the Council constitute a quorum. (Gov. Code Section 12904.) The Council's policy on voting is as follows:

- Four members of the Council must be present for the Council to take an action or position on an item.
- A motion passes if a majority of those voting votes for the measure.
- Abstentions count as votes for purposes of establishing a quorum, but do not count as votes for or against the measure.
- Abstentions simply mean that the abstaining Councilmember will go along with the majority decision of the Council. For example, if seven voting members are present, and four members abstain from voting, then: a vote of 2 Aye, 1 Nay and 4 Abstain would mean that the motion passes (the majority vote is 2 versus 1, with 4 agreeing to go along with the majority of those voting).

- The Council Chair may determine to vote or not vote on any matter before other Councilmembers.
- In the event of a tie, the motion fails.
- Should a Councilmember recuse themselves from voting on a matter, that member is no longer counted for purposes of achieving a quorum. However, if the recusal results in a loss of a quorum, the person may participate under the “rule of necessity.” However, they should not participate in the discussion, and they should abstain from voting.

Invitations for Presentations at Meetings

To effectuate the goals of the Council, it may hold hearings or request presentations by individuals or entities to advance civil rights in California. CRD staff or individual Councilmembers may propose hearing topics or speaker invitations based on relevant civil rights issues faced by Californians. The Council may vote to form and disband subcommittees to plan and conduct hearings on specific topics.

The Council may also conduct hearings to publicly discuss proposed regulations prior to publication of the notice initiating formal rulemaking. Such public discussions may be particularly useful when proposed regulations are complex or voluminous. (Gov. Code Section 11346.45.)

Reasonable Accommodations

Meetings and other events of the Council shall be accessible to individuals with disabilities. Anyone who requires a disability-related accommodation or modification of policies or procedures to participate in the event, should contact CRD’s ADA Coordinator at (844) 541-2877 (voice or via relay operator 711) or TTY (800) 700-2320 or via email: accommodations@calcivilrights.ca.gov as soon as possible or at least 72 hours before the event.

OFFICERS AND SUBCOMMITTEES

Responsibilities of the Chair

The responsibilities of the Chair include:

- Coordinate regularly with CRD staff to: be abreast of day-to-day operations of the Council, establish meeting protocols, set meeting schedules, and set meeting agendas, including receiving agenda items from Councilmembers.
- Manage each meeting of the Council to ensure orderly and efficient review of each agenda item and receipt of public comment. Prioritize, move, and remove agenda items, as needed.
- Familiarize themselves with, and apply during Council meetings, Robert's Rules of Order.
- Represent the Council before external entities as necessary.
- Ensure the Council is in compliance with applicable laws, regulations, and policies, including the Bagley-Keene Act and the Public Records Act.

Subcommittees

The Council may form and disband subcommittees, as needed, to carry out its duties. A subcommittee consists generally of two Councilmembers but sometimes only one member. When forming a subcommittee, the Council shall determine its power and scope/duties. Subcommittees may be formed for a limited duration or indefinite duration. Each Councilmember is expected to serve on two subcommittees at a time. When circumstances permit, each Councilmember should endeavor to serve on one subcommittee with a focus on rulemaking, and one subcommittee with a focus on public outreach, education, and reporting.

REPRESENTING THE COUNCIL IN PUBLIC

General Rules of Conduct

All Councilmembers shall act in accordance with their oaths of office, and shall conduct themselves in a courteous, professional, and ethical manner at all times. Councilmembers shall conduct their business in an open manner, so that the public shall be both informed and involved, consistent with the provisions of the Bagley-Keene Act and all other Government Code and Civil Code sections applicable to similar public bodies within the State of California.

- Councilmembers shall comply with all provisions of the Bagley-Keene Act.
- Councilmembers shall maintain the confidentiality, privilege, and/or proprietary nature, as the case may be, of any confidential, privileged, or proprietary documents and information related to Council business or CRD.
- Councilmembers shall recognize the equal role and responsibilities of all Councilmembers.
- Councilmembers shall act fairly and be nonpartisan and consider diverse points of view in their roles.
- Councilmembers shall treat all individuals in a fair, professional, courteous, and impartial manner.
- Councilmembers shall not use their positions on the Council for personal, familial, or financial gain.
- Councilmembers shall abide by the Conflict of Interest Policy of the Council
- Councilmember shall abide by the Social Media, Incompatible Activities, and Acceptable Use, policies of CRD.

Communications with Other Organizations, Individuals, and Media

Communications on Behalf of the Council

The power of the Council is vested in the Council itself and not with any individual Councilmember. Consequently, communications on behalf of the Council as a whole to any individual, organization, or a representative of the media shall be made only by the Council Chair, the CRD Director, Deputy Director of Executive Programs, or their designees, unless otherwise authorized by the majority of the Council.

In the event that a Councilmember is contacted for a statement or position of the Council, the member should promptly inform the Council Chair, CRD's Communications Deputy, and CRD staff of the contact and relay any information supplied by the requestor. In addition, if the contact is from a media representative seeking information or comment from the Council, the member should promptly refer the media representative to the Chair, CRD's Communications Deputy, and CRD staff. In both cases, the member shall not speak on behalf of the Council without prior written authorization.

Communications on Behalf of Individual Councilmembers

Councilmembers have been appointed because of their professional experience, expertise, or specialized knowledge in the subject matter of the Council. They will predictably be contacted by individuals, organizations, and media representatives about areas within their expertise. Councilmembers may speak about their own work and personal goals for the Council. If they do so, they should clarify that they are speaking in their individual capacity, not on behalf of the Council as a whole.

In the event that a Councilmember is contacted by a media representative to comment in their individual capacity about an issue related to the work of the Council, the member should inform the CRD staff of the contact, including the contact information of the media representative and a summary of the comments provided by the Councilmember, if any.

When considering whether to adopt, amend, or repeal a regulation, Councilmembers may consult with interested persons before the Council initiates regulatory action. (Gov Code Section 11346(b).) However, once a notice of proposed rulemaking has been published in the Notice Register, Councilmembers should not discuss matters relating to the disposition of the rulemaking with any interested third party, or an attorney or agent for any such party, prior to the Council's decision, unless the discussion occurs during a public meeting of the Council. Councilmembers who are contacted by private parties wishing to discuss an active rulemaking should immediately notify CRD staff. Such communications may need to be summarized in the official rulemaking file.

Communications with the Members of the Public

At times, members of the public email or otherwise communicate with Councilmembers regarding their civil rights complaint being processed by the Department or another function of the Department that does not involve the Council. In these circumstances, Councilmembers should not respond because the Council does not have responsibility for the Department's work as a public enforcement agency. Upon receipt of such a communication, Councilmembers should forward relevant information, such as the email, to CRD staff for handling.

Additionally, members of the public at times email or otherwise communicate with Councilmembers regarding matters of general concern, and they sometimes do so by copying a range of CRD staff, Councilmembers, and others. The Council and Department must balance the need to efficiently manage Councilmember and staff time and public resources with a commitment to open access to government. That typically means that there is one point of contact for the member of the public who is reaching out, and everyone else who is copied should not respond. Councilmembers should feel free to forward such communications to CRD staff for handling.

If any communication to a Councilmember appears to be discriminatory, threatening, or violent, Councilmembers should immediately notify CRD staff for handling.

If a Councilmember is not certain whether to respond to a communication, the Councilmember should forward the information to CRD staff for advice or handling.

Personal Opinions

In all communications, Councilmembers are cautioned to not express their personal opinions as a Council policy or position or represent that the Council has taken a position on a particular issue when it has not.

Social Media Presence

Councilmembers shall adhere to the Social Media Policy set forth for employees of CRD. In general, Councilmembers shall not speak on behalf of the Council unless specifically authorized to do so by a majority of the Council. Councilmembers shall not share to the public or others on social media confidential, privileged, or proprietary information held by the Council or CRD.

OTHER POLICIES & PROCEDURES

Incompatible Activities

All Councilmembers shall adhere to the Incompatible Activities Policy of CRD. Members are prohibited from engaging in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to their duties as Councilmembers.

Conflict of Interest

A Councilmember may not make, participate in making, or in any way attempt to use their official position to influence a governmental decision, including any decision of or on behalf of the Council, in which they know or have reason to know they have a financial interest.

Any Councilmember who has a financial interest shall disqualify themselves from making or attempting to use their official position to influence the decision.

Any Councilmember who feels they are entering a situation where there is a potential for a conflict of interest should immediately consult CRD staff and/or the Fair Political Practices Commission.

Councilmembers will predictably be employed by organizations, law firms, or other entities with expertise and interest in areas of law within the Council's rulemaking jurisdiction. As described in Section **Communications with Other Organizations, Individuals, and Media** above, once a notice of proposed rulemaking has been published in the Notice Register, Councilmembers should not discuss matters relating to the disposition of the rulemaking with any interested third parties, including their employer, co-workers, or clients.

To the extent a Councilmember's employer wishes to comment on the disposition of any Council rulemaking, those comments should be addressed publicly to the full Council as part of the regulatory process and will be included in the rulemaking file. Councilmembers are responsible for ensuring the existence of an ethical screen within their organizations to prevent ex parte contact between themselves and their employers and co-workers about the disposition of any active rulemaking. Councilmembers must disclose to CRD staff the existence of any such ethical screen and should immediately notify CRD staff about any contact or discussion in violation of the screen.

Councilmembers should notify CRD staff when they believe that the member has a conflict of interest. CRD staff can help refer the Councilmember to appropriate resources for assistance, including the Fair Political Practices Commission.

Service of Legal Documents

If a Councilmember is personally served as a party in any legal proceeding related to his or her capacity as Councilmember, they must contact CRD staff immediately.

Honoraria Prohibition

As a rule, members of the Council should decline honoraria for speaking at, or otherwise participating in, events, professional association conferences, and meetings in their official capacities as Councilmembers. Service as a Councilmember does not preclude members from speaking in their personal or professional capacities outside of their service on the Council.

Considering this prohibition, members should report all offers of honoraria to the Council Chair so that they, in consultation with CRD staff, may determine whether the potential for conflict of interest exists.

Public Records

The Council is a public body, the records of which are subject to the California Public Records Act (PRA). Under the PRA and other applicable statutes, a public record is broadly construed to include e-mail, data, paper records, computer hard drives, and audio and video recordings created, used, or retained by a government agency in the conduct of its official business. If a member uses their personal e-mail or computer to engage in Council activities, both may be subject to search for records responsive to a PRA request.

Generally, government records are disclosable to the public, though certain categories of records are exempt from public disclosure. CRD Directive 600 explains CRD's general process for responding to departmental records requests under the PRA, including what may be disclosed, when, how, and to whom and can be found here: <https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2018/04/DFEH-DIR600-PRAPolicy.pdf>

Through meetings with CRD staff and through their own initiative, Councilmembers should become familiar with the PRA. If Councilmembers have questions about the law, they should contact CRD staff.

Members can learn more about the PRA here:

<https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/prapolicy.pdf>

Compensation and Expenses

Councilmembers shall serve without compensation but shall receive one hundred dollars (\$100) for each day actually spent in the performance of their duties and shall also be entitled to expenses actually and necessarily incurred in the performance of those duties. (Gov. Code Section 12905.)

The following general guidelines shall be adhered to in the payment of salary per diem and reimbursement for travel and other necessary expenses:

- Councilmembers shall receive per diem compensation of one hundred dollars (\$100) for each day that the member participates in a Council meeting or public event. Travel time is not included in this component.

- Generally, members shall be reimbursed for travel and other expenses necessarily incurred in the performance of official duties. Travel expenses must adhere to CRD's travel policy. (See below.) Any other expense must be approved in advance by the Council Chair and Senior Advisor in order to be reimbursed.
- No salary per diem or reimbursement for travel-related expenses shall be paid to Councilmembers except for attendance at official Council meetings or events. Attendance at gatherings, events, hearings, conferences, or meetings (other than official Council or subcommittee meetings) in which a substantial official service is performed must be approved in advance by the Council Chair and CRD staff in order to be expensed.

Travel Policy

Councilmembers shall adhere to the Travel and Reimbursement Policy of CRD. The Department must approve all travel prior to traveling. All travel shall be performed most economically and efficiently that meets the Council's business needs. The trip duration must be within reasonable times before and/or after official business.

State guidelines generally prohibit reimbursement for hotel expenses if the meeting is less than 50 miles from an individual's home address, unless preapproval is secured. Councilmembers who wish to request an exemption to stay at a hotel less than 50 miles from their home must contact CRD staff to pursue this exemption at least two weeks before the meeting. The exemption must be approved by CRD before the meeting.