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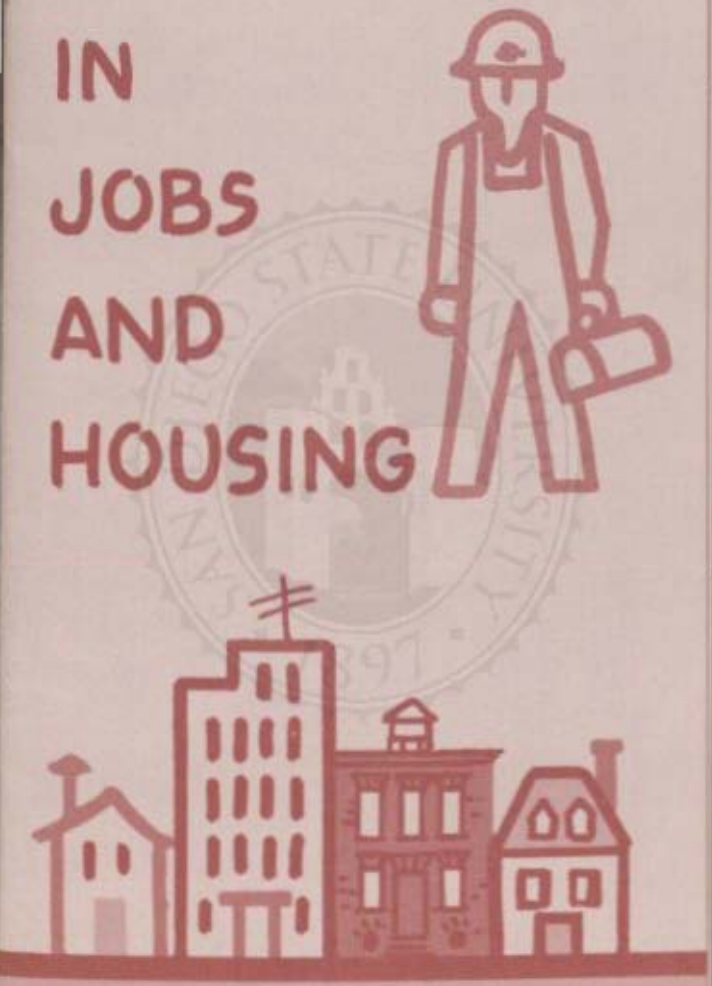
EQUAL OPPORTUNITY IN JOBS AND HOUSING



A guide to laws administered by the California Fair Employment Practice Commission

State of California, Ronald Reagan, *Governor*
Human Relations Agency
Department of Industrial Relations
Division of Fair Employment Practices,
Paul A. Meaney, *Chief*

FAIR EMPLOYMENT PRACTICE COMMISSION
Pier Gherini, *Chairman*
George C. Bond, C. L. Dellums, Mark Guerra, Catherine Montgomery, Stella Sandoval, J. M. Stuchen, *Members*

Information available at any of these FEPC offices:

San Francisco	Los Angeles	San Diego
455 Golden Gate Ave.	322 West 1st St.	1350 Front St.
557-2005	620-2610	232-4361

Fresno	Sacramento
2550 Mariposa St.	2751 Stockton Blvd.
268-7151	445-9918

THE California Fair Employment Practice Commission and the Division of Fair Employment Practices were created in 1959 through enactment of California's first fair employment practice law.

THE FEP Act declares that it is the public policy of California to protect and safeguard the right and opportunity of all persons to seek, obtain, and hold employment without discrimination or abridgement on account of race, religious creed, color, national origin, or ancestry, and recognizes equal opportunity as a civil right. It empowers the Fair Employment Practice Commission to administer its provisions.

ON September 20, 1963, the Rumford Fair Housing Act became law. It empowers the FEP Commission to administer housing provisions in much the same way that it does those pertaining to employment. The Fair Housing Act declares that discrimination because of race, color, religion, national origin, or ancestry in housing accommodations is against public policy, and establishes methods of preventing and remedying violations.

THE COMMISSION

The Fair Employment Practice Commission, consisting of seven members appointed by the Governor, is the governing body of the Division. The commissioners serve part-time and are charged with the dual responsibility of enforcing the fair employment and fair housing laws and of broadening opportunity for minority groups through affirmative action, education, and conciliation. The Division chief, also appointed by the Governor, is the Commission's principal executive officer. The Division is the administrative agency which assists the Commission in the fulfillment of its responsibilities by providing essential staff services.

FAIR EMPLOYMENT LAW

Generally, the law forbids private employers, employment agencies, labor organizations, and units of state and local government to make any discrimination or specification as to race, religious creed, color, national origin, or ancestry, in:

- Hiring
- Upgrading
- Discharge
- Terms or conditions of employment
- Job application forms or interviews
- Help-wanted advertising
- Classification of applicant by employment agencies and referral to openings
- Admission to union membership, dispatching, etc.

No person may aid, abet, incite, compel, or coerce the doing of any of these forbidden acts.

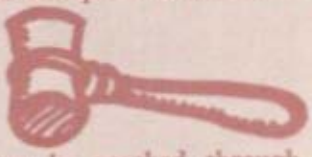
Exempted from the requirements of the FEP law are employers of domestic help; those who employ fewer than five persons; employers of agricultural workers residing on the farm where employed; social clubs and fraternal, charitable, educational, or religious associations or corporations not organized for private profit.

Filing of Complaints

Complaints of unlawful employment discrimination may be filed by persons claiming to be aggrieved, by the State Attorney General, or by employers whose employees refuse to cooperate with the law. Complaints must be filed within one year after the alleged act of discrimination, except that an additional 90 days may be allowed if the aggrieved individual first obtained information concerning such act after expiration of the year. Under authority of Section 1421 of the Act, requests may be made upon the Commission to initiate investigations of apparent unlawful practices and seek to eliminate them by conference, conciliation, and persuasion.

Investigation Procedures

Each case received is assigned to a member of the Commission who directs a staff investigation. If there is no evidence of discrimination, or insufficient evidence, the commissioner dismisses the case. If there is sufficient evidence the commissioner seeks, through private conference and conciliation, to bring about acceptance by the parties of a just and practicable remedy. Such remedies may include cessation of the unlawful practice; instatement or reinstatement of the complainant in a job; pay for time lost; promise of hiring or upgrading in the next opening for which the complainant qualifies; written commitment by the respondent—subject to later review—as to explicit steps he will take throughout his organization to bring it into full compliance with the FEP Act; or admission or restoration to membership in a respondent labor organization. To enhance the possibility of solving a matter without publicity or formal proceedings the act provides that there shall be no disclosure of what has transpired in endeavors at conciliation.



Hearings and Enforcement

If settlement cannot be reached through these private and informal processes, the assigned commissioner may call a public hearing. Such a hearing is held before a panel of other commissioners or an impartial hearing officer. The assigned commissioner may appear only

as a witness and may not participate in the deliberations of the Commission. The Commission may subpoena witnesses, compel their attendance, examine any person under oath, and require the production of any books or papers relating to any matter under investigation.

If, after a hearing, the Commission makes a finding of unlawful discrimination, it may serve upon the respondent an order requiring him to correct the practice complained of and to make his operation consistent with the law. The case goes no further if the respondent complies. If he does not, the Commission may seek a superior court injunction in support of its order.

Every final order or decision of the Commission is subject to judicial review in accordance with law.

Willful violation of a Commission order or willful interference with a commissioner or his agents in the performance of their duties is a misdemeanor punishable by up to six months' imprisonment or $500 fine.

Affirmative Action

Aside from receiving complaints and investigating alleged discriminatory practices, the Commission has established a special staff section to implement the objectives of the fair employment law through voluntary conferences with employers, employment agencies, labor organizations, and units of government. Assistance is offered in ways to promote equal opportunity in the work force through wide recruitment, by encouragement of minority youth, job seekers and employees, by provision of opportunities for upgrading, by issuing merit employment policy statements, and by other positive voluntary means.

Federal law also covers broad areas of employment, with administration charged to the U. S. Equal Employment Opportunity Commission.

FAIR HOUSING LAW

The Fair Housing Act forbids the owners of most housing accommodations, and their agents, to refuse to sell, rent or lease to any person or group of persons because of race, color, religion, national origin, or ancestry. Banks, mortgage companies, other financial institutions, builders and developers, and others in the business of housing, are similarly forbidden to practice discrimination. It is unlawful for any person to aid, abet, incite, compel or coerce any such discriminatory act.

Coverage of the Fair Housing Act includes public and redevelopment housing; publicly-assisted, owner-occupied, single-unit homes for sale, and apartments in structures of three or more units; all transactions by real estate brokers and salesmen; and, generally, transactions by persons or firms engaged in the business of housing or mortgage lending.

Among exempted housing accommodations are those operated by religious, fraternal, or charitable organizations not for profit; and sales of privately financed, single-family homes not involving a real estate office.

Filing of Complaints

Any person claiming to be aggrieved may file a complaint. Complaints must be filed within 60 days from the date on which the alleged violation of law occurred, except that an additional 60 days may be allowed if the aggrieved individual first obtained information concerning such act after expiration of the original 60 days. A copy of the complaint must be given to the respondent without undue delay.

In order to file a complaint with FEPC, the person claiming to be aggrieved must waive any rights to recourse in the courts under Section 52 of the California Civil Code (Unruh Act) and must sign a written waiver to that effect.

Investigation Procedures

Upon receipt of a complaint, the case is assigned to a commissioner. He proceeds, with the assistance of staff, in the same manner as with an employment case. Investigation must be prompt. If the commissioner determines after preliminary investigation that probable cause exists for believing the allegations of the complaint, he must immediately endeavor to eliminate the alleged unlawful practice by private conference, conciliation, and persuasion.

If, after preliminary investigation, probable cause is not found, the commissioner must dismiss the complaint. Notice of dismissal is sent to the respondent and complainant, and the complainant then has 15 days to file an appeal.

After a complaint has been filed, and the preliminary investigation has been carried out —or after a 20-day period has elapsed from the filing of the complaint and the preliminary investigation has not been completed—the respondent may ask a superior court to order the Commission to give the respondent a copy of any documentary evidence relating to the merits of the complaint, or to a defense thereto.

Conciliation

As in employment cases, commissioners and staff may not disclose what transpires during endeavors at conciliation. All matters connected with any conference, conciliation, or persuasion efforts are privileged and may not be received in evidence. For this reason, when an owner is contacted by commissioners or staff, he must be informed whether the contact is for the purpose of investigation or conference, conciliation and persuasion.

Hearings and Enforcement

At any time after a complaint is filed and probable cause is found to exist, the Commission may bring action in superior court to enjoin the owner of the property from taking further action with respect to the rental, lease, or sale of the property until the Commission makes its determination. Such a temporary restraining order may not be in effect for more than 20 days.

If settlement of the case is not reached through the informal processes of conciliation the assigned commissioner may bring the matter to public hearing before a panel of other commissioners. If the panel finds that the respondent has engaged in an unlawful discriminatory practice, the Commission states its findings of fact and issues an order requiring the respondent to cease such practice and take one of the following affirmative actions:

1. The sale or rental of the housing accommodation to the aggrieved individual, if it is still available.
2. The sale or rental of a like accommodation, if one is available, or the next vacancy in a like accommodation.
3. The payment of damages to the aggrieved person, in an amount up to $500, if neither of the previous remedies is available.

If, on the other hand, the Commission finds there has been no violation of the law, it must state its findings of fact and issue an order dismissing the accusation.

Any order issued by the Commission must include references to the rights of appeal of any party to the proceedings to whose position the order is adverse.

Affirmative Approaches

Again, as with employment matters, the Commission undertakes to implement the objectives of the fair housing law through pub-

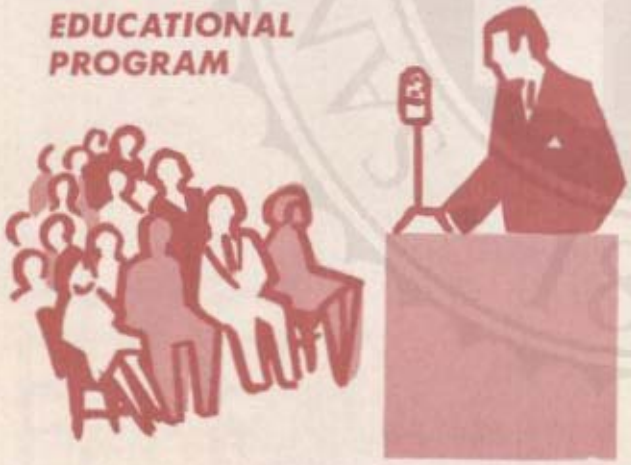
lished material and by conferences with property owners, public agencies, real estate brokers and associations, builders and developers, mortgage and financing companies, and others in the business of housing. By counseling them as to methods of applying equal standards to all home seekers, and by agreements concerning equal access to the purchase or rental of housing accommodations, the Commission seeks broad observance of fair housing practices in California.

Federal law and court decisions also affect equal opportunity in housing. Administration of certain aspects of this law is carried out by the U. S. Department of Housing and Urban Development.

EMPHASIS ON AFFIRMATIVE ACTION

The Commission agrees that all possible emphasis should be placed upon the affirmative action programs, and educational and conciliation aspects of the FEP and fair housing programs. Experience to date in California, and under similar legislation in other states, indicates that a combination of affirmative approaches, education, conciliation, and enforcement yields significant progress toward full equality of employment and housing opportunity in California.

EDUCATIONAL PROGRAM



The FEP Act and Fair Housing Act place responsibility upon the Commission for the promotion of good will and understanding among all segments of the state's population, and for educational programming designed to minimize or eliminate discrimination because of race, religion, or ancestry. Such programming is not limited to audiences in the fields of employment and housing, but is intended also for the general public, whose understanding and acceptance of the two laws are essential to their wide observance and effectiveness. Attention is given to informing minority groups and others of their rights and responsibilities, especially minority young people in schools and youth organizations who must prepare themselves for good jobs if the promise of fair employment and fair housing is to be fulfilled.

Among the methods used in the FEPC informational program are publications and reports, a newsletter, digests of the fair employment and fair housing laws, posters, news releases, exhibits and displays, television and radio announcements and appearances, participation in conferences and workshops, a speaker service and other informational activities. Establishment of advisory councils and cooperation with local human relations commissions and fair housing groups throughout the state help to increase the effective use of such materials and services, and to interpret the goals, methods and achievements of the Commission to all the citizens of California.

Among FEPC Publications Available

- You Have the Right (English and Spanish)
- Digest of FEP Act
- Text of FEP Act
- Guide to Lawful and Unlawful Pre-Employment Inquiries
- FEPC Rules and Regulations
- FEPC Employment Poster: Notice to Job Applicants
- Report on Affirmative Actions
- Fair Practices News (Newsletter)
- FEPC Annual Report
- Poster: The Law Prohibits Discrimination in Housing
- Notice: This Establishment Observes Fair Housing Laws
- Text of Fair Housing Law

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