

Utah Antidiscrimination and Labor Advisory Council  
Meeting Minutes  
February 12, 2009  
12:10 pm to 1:10 pm  
Room 319

Council Members in attendance:

Alan Hennebold, Depute Commissioner  
Heather Morrison, UALD Division Director  
Ralph Chamness, General Public Representative  
Tony Montano, Employee Representative  
John Chindlund, Employer Representative  
Robert Wilde, Employee Representative  
Paul Smith, Landlord Representative  
Lisa Fine, Tenant Representative

Commission Staff in attendance

Sara Danielson, Council Secretary  
Brent Asay, Wage Claim Unit Manager  
Monica Austen-Smith, Employment Discrimination Case Manager

Not in attendance:

Rick Thaler, General Public Representative  
Marty Blaustein, Tenant Representative  
Monica Whalen, Employer Representative  
John Salazar Sr., Employee Representative  
Keith Nielson, Landlord Representative  
Sherrie Hayashi, Commissioner

---

Deputy Commissioner Alan Hennebold called the council meeting to order at 12:10 pm. Alan explained that Commissioner Hayashi had a family emergency and needed to be elsewhere at this time and had asked Alan to conduct the meeting in her absence. Alan also explained that because there were a few council members that were expected but not yet in attendance, that the information kind of items would be covered first and the action items would be dealt with when those members arrive

Current Legislative Issues

Alan distributed a legislative log listing the bills being discussed this legislative session that affect the Labor Commission. He pointed out the status of several bills that affect UALD directly.

HB 206 – Employers can no longer ask for social security numbers, birthdates or drivers license information until after an offer of employment has been made. Heather

explained that if a company has a written policy of doing background checks, then they could obtain the necessary information on the release to do the background check. She stated that she did not think that there would be much of an effect on the Division. This bill has been referred to the House Business and Labor Committee.

HB267 – Expands discrimination protections to cover gender identity and sexual orientation. This bill is still in the House Rules Committee.

SB194 – Non discrimination amendments – adds military service as a protected class in employment discrimination. This bill is in the Senate Rules Committee.

Alan requested that if any of the council members heard of pending legislation that they thought the Commission should know about, please contact him.

### Budget Concerns

Ralph Chamness asked about how the State's budget cuts were going to be effective the Commission and UALD in particular. Alan explained that as far as state funding of the Commission, the cuts are being dealt with by using a couple of special assessment funds that are funded by assessments to workers compensation premiums to fund the loss. Alan explained how these special funds currently operate and how they would be changed to cover the cost of workers' compensation activities at the Commission. This change in usage of the funds has been approved by the business community. Heather mentioned that we do not know what cuts the division will have to deal with on the federal funding side of the equation.

### New rules for the adjudication of Discrimination Claims

Heather explained that Richard LaJeunesse, Presiding Law Judge in the Adjudication Division, had presented new rules that Adjudication was going to be proposing for the procedures used in discrimination cases, at the previous UALD council meeting. Those rules are now in the comment period and are anticipated to become effective in March. She distributed a copy of the rule text and asked that the council review the proposed rule and file any comments they have regarding the rule with Richard.

### Introductions of Council Members

Paul Smith and Lisa Fine introduced themselves as the new members of the council. The rest of those present introduced themselves.

### Approval of Minutes for the Last meeting

A quorum of the council was not present, so approval of the minutes was tabled until the next meeting. (November '07, February '08, May '08, August '08, November '08 and February '09 minutes will be up for approval.)

### Discussion Issues

#### **Wage Claim Unit Reorganization –**

Heather explained that the number of wage claims has risen of the last several months; about 40-50% over last year. This rise in claims necessitated the reorganization of the Wage Claim Unit. Instead of one person handling the claim from start to finish, the unit

is now divided into 2 intake clerks, 3 investigators/settlement negotiators, one pre/post order clerk, and one ALJ.

It is hoped that this reorganization will make the process more efficient.

**Notice of wage claims to employers –**

Heather stated that there is frequently a problem with getting the correct employer named in wage claims. She stated that the Division has no desire to name people/companies that are not liable while at the same time there is the need to name all persons that are liable in wage claims. The cost of sending notice by certified mail is a lot. Discussion was held. The consensus was that sending notice by regular mail is the best way to provide notice of the claims.

**Uniforms –**

Heather reminded the council of the history of the uniform issue. She reminded the counsel that the Commission had determined that it did not have the statutory authority to define uniforms. She then distributed proposed statutory language, to allow the Commission to define uniforms. This change would be proposed for the 2010 legislative session. After the statute has been changed the rule regarding uniforms would also be changed. (A copy of the proposed language were distributed). Discussion was held as to the language in the rule regarding the amount an employer can ask for as a deposit – should it be per item or per uniform? Discussion was also held on the clarifying the language regarding the payment of Personal Protective Equipment governed by UOSH rules. This discussion will be continued after the statutory change has been approved.

**Potential Inconsistencies between Utah Code Ann. §§34-28-1 and -7 –**

Heather reviewed the potential inconsistency between Utah Code Ann. §34-28-1 and -7. The proposed language was distributed. This statutory change would be presented in the 2010 legislative session.

**Proposed amendments to the payment of wages statutes – Pay Cards –**

Brent explained the need for the rule change allowing pay cards. He reviewed how pay cards would work. The consensus was to go ahead with the rule change.

Other Issues

Heather stated that a request for a legislative audit had been received and that UALD was being scheduled for one. She stated that she did not know when or what the scope of the audit would be, but that she looks forward to the audit, not the work and inconvenience of it, but the results. If the audit can give suggestions as to how to do things better, she welcomes it.

Bob Wilde asked if a change in how Adjudication handled subpoenas could be proposed. He recommended that attorneys in good standing be allowed to issue subpoena in addition to the ALJs. Alan stated that this issue would be brought back at a later time so that the Adjudication Division could participate in the discussion.

Alan adjourned the meeting at 1:10 pm.

Next Meeting – May 14, 2009.