

Utah Antidiscrimination and Labor Advisory Council
Meeting Minutes
August 14, 2012
12:05 pm to 1:00 pm
Room 319

In attendance:

Sherrie Hayashi, Commissioner
Kerry Chlarson, UALD Division Director
Monica Austen-Smith, Employment Discrimination Case Manager
John Chindlund, Employer Representative
Sara Danielson, Commission secretary
Robert Wilde, Employee Representative
Monica Whalen, Employer Representative
Dan Singer, Fair Housing Case Manager

Council Members Excused:

Keith Nelson, Landlord Representative
Rick Thaler, Employer Representative
Barbara Toomer, Tenant Representative
Kevin Cote, Employee Representative
Paul Smith, Landlord Representative

Not in attendance:

Tony Montano, Employee Representative
Ralph Chamness, General Public Representative
Antonella Packard, General Public Representative
Bev Uipi, General Public Representative
Sonya Martinez, Tenant Representative

Commissioner Sherrie Hayashi called the council meeting to order at 12:05 pm. There was not a quorum present to approve the minutes.

Discussion Items:

1. New Division Director – Sherrie introduced Kerry Chlarson to the Council as the new Division Director of UALD. Kerry gave a brief background of himself and expressed his desire to continue an open door relationship with the members of the council.
2. Proposed Legislative Changes to the UALD Advisory Council – Sherrie explained that the Legislature is very interested in the number of advisory boards throughout state government. The Legislature sent out an online survey regarding each advisory board. The questions were about the number of meetings held each year, whether or not there was a quorum at the meetings and role of the council. The last

question was whether the statute establishing the council should be repealed. Sherrie stated that with the history of the UALD council not having a quorum at its meetings, she had to recommend that the statute be repealed. Sherrie stressed that the Commission is still interested in having the stakeholders involved in the process, but did not believe that the current framework was the best way to get that involvement.

Sherrie and Kerry presented a proposal for an annual meeting to present the statistical information about the past year and the vision for the coming year of the division. And then to create ad hoc groups to discuss issues as the need arises.

Monica Whalen stated that the frequency of meetings at once a year might not be sufficient. She also raised a concern about a method of receiving feedback needing to be in place and publicized for stakeholders.

3. Governor's Operational Excellence Project Update

Kerry explained that the Wage Claim Unit has gone through a review of its process to determine better efficiencies. Through this process, the average length of time for a wage claim has been reduced by 15%. This process is a continual process not just a one-time thing. The review will now move onto the Employment Discrimination case process and then to the Fair Housing cases.

Kerry explained that Brian Stewart has taken on the position of manager of the investigators of the wage claim unit and Richard LaJeunesse has taken the position of hearing officer for the wage claim unit. Kerry also mentioned that there has been a 20% increase in wage claim filings over the last couple of months.

4. New EEOC Guidelines on Criminal Records / Criminal Convictions

Kerry handed out the new EEOC Guidelines on Criminal Records / Criminal Convictions. He stated that the EEOC has not made a definitive statement as to whether or not it is okay to ask about criminal records or convictions, but the assumption is that you cannot ask. He stated that this information is just guidance.

5. Failure to Investigators to Deal with issues Raised by the Parties

Bob Wilde presented information regarding a situation where he as counsel for a claimant submitted a detailed statement of why pretext existing using the criteria that is used in federal court and the investigator did not mention any of it in the determination. He stated that if the division is issuing determinations with reasoning; that all issues raised should be dealt with in the determinations. He stated that the perception is that the only way to get a cause findings from the division is if the employer admits to the discrimination.

6. Other Business

Kerry mentioned that there will be an Open Meeting on August 22 where three UALD rules will be presented for repeal. They are 1) R606-3 Nondiscrimination Clause in State Contracts, 2) R606-4 Advertising, and 3) R606-5 Employment Agencies. Each of these rules is either not authorized by statute or handled elsewhere in statute.

Next Meeting – October 17, 2012 – this meeting may be the annual meeting to present the statistics and not an advisory council meeting per se.

Meeting Adjourned at 1:00 pm