

DEPARTMENT OF INDUSTRIAL RELATIONS

DIVISION OF FAIR EMPLOYMENT PRACTICES

455 GOLDEN GATE AVENUE, SAN FRANCISCO

Address reply to: FEPC, P.O. Box 603, San Francisco, CA 94101

Administrative Office 557-2000

Complaint Section 557-2005



September 26, 1979

Mr. Thomas F. Coleman
Co-Chairman
National Committee for
Sexual Civil Liberties
1800 North Highland Avenue, Suite 106
Los Angeles, CA 90028

Dear Mr. Coleman:

Enclosed is a copy of Directive Transmittal No. 044, Revised.

Sincerely,

Joanne A. Lewis/clu
Joanne A. Lewis
Chief

JAL/clu

Enclosure

cc: Paul Hardman (w/Enclosure)



DIRECTIVE TRANSMITTAL

Transmittal Number

044, Revised

Date of Distribution

September 25, 1979

1. SUBJECT. UNRUH ACT AND GROOMING STANDARD CASES.
 2. PURPOSE. To create a procedure for screening grooming standard and Unruh Act cases to identify those requiring active involvement by the Division.
 3. ORIGINATOR. Office of the Chief.
 4. RESPONSIBILITIES. Consultants, senior consultants, area administrators, attorneys, Assistant Chiefs, and Chief.
 5. DISTRIBUTION. Consultants, senior consultants, area administrators, attorneys, clerical office supervisors, clericals, and headquarters administrative staff.
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6. BACKGROUND. The Unruh Civil Rights Act (Civil Code Section 51) expressly prohibits arbitrary discrimination by business establishments, including those selling or renting real property, on the basis of sex, race, color, religion, ancestry, and national origin. The Act has also been interpreted by the California Supreme Court to prohibit arbitrary discrimination by business establishments on any basis, whether or not that basis is enumerated in the Unruh Act itself. Thus, along with discrimination on the basis of race, sex, and the other listed bases, the Unruh Act covers, for example, discrimination in housing against people with children or criminal records, discrimination in restaurants against barefoot people, and discrimination in private hospitals against poor people.

In November, 1977, the Commission determined formally that it would exercise jurisdiction over sex discrimination cases involving employers' grooming standards based on male and female stereotypes. Examples of such grooming standards are requirements that women wear bras or dresses, and requirements that men have short hair or not wear beards or mustaches.

The Division has determined that it does not have the enforcement resources necessary fully to pursue all grooming standard cases or all of the infinite variety of possible Unruh Act cases, but it also recognizes that many such cases involve serious discriminatory practices, in light of the underlying purposes of the FEP and Unruh Acts, and therefore warrant full prosecution. This Directive establishes a consistent procedure for identifying these cases.

7. PROCEDURE.

- a. Intake and Referral. With the exception for physical handicap complaints (see 8.) the Division will accept complaints within our Unruh Act jurisdiction, i.e., complaints alleging discrimination on bases other than those enumerated in the Act or in the FEP Act or Rumford Act. This includes, for example, complaints alleging discrimination in housing against families with children, discrimination in housing against gay people, discrimination in restaurants against barefoot people, discrimination in housing against people who are welfare recipients, are mentally retarded or have pets, and discrimination in housing against people with criminal records or poor credit ratings. The complaint should be accepted and docketed in the regular fashion. The complaint should be served on the Respondent with the short form service letter in Attachment A to this Directive (Form F-100-68-1). A regular case file should be assembled and sent immediately to the intake consultant's area administrator.
- b. Screening. The area administrator will put the case on the agenda of the next executive staff meeting by submitting a copy of the complaint and a written summary of any relevant additional information on the case that does not appear in the complaint. The executive staff will discuss the case and the Chief will make a final decision whether to pursue the case.

The criteria to be used in this screening include the seriousness of the challenged practice in light of the central purposes of the FEP and Unruh Acts, the severity of the injury suffered by the complainant due to the challenged practice, the impact on available enforcement resources of pursuing the complaint and others like it, and the potential impact of the Division's decision on others subject to the same practice. The executive staff and the Chief will endeavor to apply these and similar criteria uniformly over time in order to develop a consistent set of priorities for the Division's treatment of Unruh and grooming standard cases.

- c. Further Action. If a decision is made to pursue a case, the compliance staff will proceed with the case in the ordinary fashion. If the case is not to be pursued, it should be closed under closure category 14, and the complainant should be sent, by regular, first class mail, the appropriate closure letter in Attachment B to this Directive, along with the appropriate right-to-sue notice.

DEPARTMENT OF INDUSTRIAL RELATIONS

FAIR EMPLOYMENT PRACTICE COMMISSION

455 GOLDEN GATE AVENUE, SAN FRANCISCO

Address reply to: FEPC, P.O. Box 603, San Francisco, CA 94101

Administrative Office 557-2000



September 26, 1979

Thomas F. Coleman
Susan McGrievy
American Civil Liberties
Union Gay Rights Chapter
633 S. Shatto Place
Los Angeles, CA 90005

RE: FEPC September 6, 1979 Commission Meeting

Dear Mr. Coleman and Ms. McGrievy:

On September 6, 1979, pursuant to my communication dated August 27, 1979, addressed to you, the Fair Employment Practice Commission awaited your attendance at its regular monthly meeting. The Commission finished the bulk of its business prior to 11:00 a.m. and waited until 11:15 a.m. for your attendance. This is to advise you that the Commission was and is deeply interested in the issues and concerns that you had expressed to the Commission in your communication dated August 8, 1979. The Commission regretted that you were unable to appear before them. If the failure to appear was at all caused by the lateness of the notice to you of the invitation to attend the meeting, I apologize for that.

At the September 6, 1979 meeting the Division, through Joanne Lewis, advised the Commission that it was dealing with the issue you had raised in your communication. I assume that you have received satisfaction and for this reason, have found it unnecessary to press the matter further before the Commission. If you require any further assistance, do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "David A. Garcia A.".

David A. Garcia A.
Executive & Legal Affairs Secretary
Fair Employment Practice Commission

DAGA/vg

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