

ARIZONA CIVIL RIGHTS ADVISORY BOARD

Minutes of Public Meeting
Wednesday, October 24, 2012

Board Members Present

Jeff Lavender, Chairperson
Beverly Dupree
Wendy Freeman
Daisy Flores
Robert M. Garcia
Juan Ciscomani
Ezra Loring

Board Members Absent

None

Staff Members Present

Sandra Kane, Executive Director
Jennifer Larson, Legal Counsel
Brian Kolosick, Administrative Assistant
Selenia Martinez, Office Administrator

I. Call to Order

Chairperson Jeff Lavender called the meeting to order at the Capital Center Basement Conference Room, 15 S. 15th Avenue, Phoenix, Arizona 85007, at 1:08 p.m. , with the following other board members present: Beverly Dupree, Wendy Freeman, Daisy Flores, Robert M. Garcia, Juan Ciscomani, and Ezra Loring.

II. Appointment and Introduction of Board Members

Jeff Lavender invited all board members to introduce themselves, and each board member briefly spoke about their background and stated their particular interest in civil rights. The staff of the Attorney General's Office also briefly introduced themselves and explained their roles on the Arizona Civil Rights Advisory Board.

III. Approval of Minutes of January 23, 2012 Meeting

Upon motion by Wendy Freeman, which was seconded by Beverly Dupree, the Board voted to approve the minutes of the January 23, 2012 Board meeting.

IV. Training and Orientation of Board Members

1) ACRAB, ACRD – What do they do? (Sandra Kane)

Sandra Kane explained the objectives of the Arizona Civil Rights Advisory Board ("ACRAB"), its relationship to civil rights enforcement, and encouraged board members to think about topics they feel would be relevant to discuss as they become more familiar with ACRAB. ACRAB is part of the Arizona Civil Rights Division of the Arizona Department of Law, and by extension, the Arizona Attorney General's office. The Board consists of seven members who are appointed by the governor. The statute that governs ACRAB specifies that no more than three members can belong to the same

political party. To have a quorum, four members must be present at a meeting. The Board Members have staggered terms. Sandra Kane noted that some of the current term limits are due to expire in January. Per her conversation with the Governor's office, the terms will be renewed; however, the Board Members will need to sign a new oath of office to retain their positions. Sandra Kane explained the term limits, dates of expiration, and supplemental handouts provided to Board Members. Ezra Loring informed the Board that he has been labeled as an independent. He indicated that he did not wish to be affiliated with any political party. Sandra Kane advised Mr. Loring that she would look into the issue. Sandra Kane encouraged the Board Members to create a contact list of people they would like to bring in as guest speakers and to add to the Board's email list.

Sandra Kane indicated that Board Members would receive communications by email. All Board meeting minutes are posted on the Attorney General's website after they are approved by the Board. Sandra Kane briefly discussed the Bylaws, which were included in the handouts. ACRAB generally holds at least four meetings each year. Most meetings are held telephonically. Meetings that involve planning or presentations on particular topics are usually held in-person. The public is notified of and can attend all meetings. Officers are elected during the first meeting of the fiscal year. Jeff Lavender is currently the Chairperson of the Board. Staff from the Civil Rights Section of the Attorney General's Office fulfill the position of Secretary.

ACRAB is an advisory Board that presents recommendations on various civil rights topics. ACRAB can make periodic surveys to determine the existence of discrimination on the basis of age, sex, race, color, religion, national origin, familial status, and/or retaliation in the areas of housing, employment, public accommodations, and/or voting. The Board is a conduit to the general public with regard to uncovering various forms of discrimination. Moreover, the Board may make recommendations regarding proposed legislation. The Civil Rights Division is currently a part of the Public Advocacy and Civil Rights Division, and has offices in Phoenix and Tucson.

Sandra Kane described some of ACRAB's activities in the past, including: supporting passage of civil rights related laws, holding public forums and conducting a survey on racial profiling, holding public forums on crime free housing and its impact on fair housing, sending letters to officials regarding discriminatory practices, and holding a hearing regarding community relations between police and the general public in Casa Grande, which resulted in the Casa Grande Mayor's creation of a Citizen's Review Committee for the police.

2) What does the Arizona Civil Rights Act Cover? (Jennifer Larson)

The Arizona Civil Rights Act ("ACRA") covers the areas of housing, employment, public accommodations, and voting. ACRA prohibits discrimination in these various areas on the basis of age, sex, race, color, religion, national origin, disabilities, familial status and retaliation. Places of public accommodations include all areas open to the general public in which goods or services are sold. Private clubs, homes, or religious organizations are not places of public accommodations. An example of discrimination includes the failure to provide services to individuals on the basis of any of the

aforementioned protected classes. In some instances, private clubs have been challenged as to their status of being private. If private institutions provide services to members of the general public at any time, their private status may be called into question. Employment discrimination cases can only be investigated by the Division if the employer has more than 15 employees, except in sexual harassment cases where the Division can take the charge even if the employer has less than 15 employees. Examples of discrimination can include but are not limited to: failure to hire, harassment, different terms and conditions of employment, and failure to reasonably accommodate employees with a disability. Housing discrimination may apply to all forms of housing and housing related issues. Private owners renting out a room or unit in a home they occupy, religious institutions, and housing for older persons are exempt from enforcement of the statute. Sandra Kane elaborated on the requirements to qualify as housing for older persons. Jennifer Larson provided examples of housing discrimination, including but not limited to: refusal to rent/sell a dwelling, failure to make a reasonable accommodation based on disability, failure to allow a reasonable modification to a property based on disability, and harassment. Voting discrimination is described as obstructing an individual's right to vote on the basis of age, sex, race, color, religion, national origin, familial status, and/or ancestry. Examples of voting discrimination include denying a person the ability to register to vote or requiring some sort of litmus test to vote. Members of the public may file a complaint by either contacting the Division by phone, submitting an online complaint, or sending a completed intake questionnaire form to the Attorney General's office.

3) Travel Reimbursement and Per Diem (Selenia Martinez)

Office Administrator, Selenia Martinez, informed the Board Members that each Board Member will receive \$30.00 for every meeting they attend. In addition, there is a travel claim reimbursement form that Board Members can complete to receive travel reimbursement at \$.445 per mile. Selenia Martinez will mail the travel claim reimbursement form to each Board Member.

V. Old Business (School Bullying)

1) Summary of Board Action.

Sandra Kane reported that the Board previously held a public forum regarding effective methods of addressing school bullying. proposed certain types of remedies and/or expressed different concerns related to bullying. The Board then sent letters to Arizona Superintendent of Public Instruction John Huppenthal and others, indicating that current laws on bullying are designed to punish teachers and educators who do not report bullying; however, the language does not take a proactive approach to helping curb bullying in general. The letters encouraged Supt. Huppenthal to consider additional, more global approaches. The Board addressed issues which would help bullies as well as victims cope with interpersonal behavioral issues. Beverly Dupree recalled how the information provided in the forum prompted the Board to communicate with public officials. After sending the letters, ACRA received an invitation to attend a meeting with Supt. Huppenthal. Since then, Supt. Huppenthal has held two meetings to gather information for eventual recommendations to deal with

school bullying issues, but no recommendations have been made to date. In addition to the meetings, ACRA was invited to a screening of a film on school bullying, and Jeff Lavender, Sandra Kane and Jennifer Larson attended.

2) Comments on preview of Bully movie.

Jeff Lavender expressed a few concerns about the film. The graphic language of the film would exclude the film from viewership by his district, per school policy on profane language. The movie covered four different cases of bullying and its long term impacts. He stated that the film did a great job of depicting the inadequacies of school administrators in addressing real issues. He would not have any problem showing the film to administrators and educators; however, he is not confident that the film will change students' perceptions on the issue. The film was long, and Mr. Lavender felt that it would be difficult to maintain the attention of middle school children with such a lengthy film. Sandra Kane stated that the movie was difficult to follow at times, and the administrator's character in the film performed in an egregious manner. Board Members expressed frustration at the lack of movement on the school bullying issue given the information that is already at hand. After the August meeting with Supt. Huppenthal, Mr. Lavender had the impression that many groups in attendance were frustrated by their lack of access to school administrators. Mr. Lavender indicated that no practicing educators were invited to attend these meetings; Mr. Lavender, as an educational practitioner, was only able to attend through his status as the Chairperson of ACRA. Mr. Lavender mentioned that his school is going to hold a summit for students that have a passion for dealing with bullying.

3) Presentation regarding curriculum on school bullying.

Representatives from the Community Outreach and Education Section of the Arizona Attorney General's Office, Courtney Miller and Victoria Baugh, discussed a presentation that they have been making throughout the State. Their presentation describes the social dynamic of bullying and the barriers to bully prevention and outlines the short and long term effects of bullying. The presentation includes a video, lecture, question/answer period, and role play. In the role play, the children in attendance create a skit outlining an example of bullying. Immediately following, the children are asked what could be done differently to create the most favorable outcome, including walking away. The presentation is constantly evolving and adapting to the needs of the students. Ms. Miller indicated that Community Outreach is trying to collaborate and consolidate resources to increase their exposure to different target groups. Victoria Baugh explained how the interactive components of the presentation reinforce the content of the presentation by forcing the children to engage in the topic and formulate probing questions. The Board inquired as to what involvement the Homeschoolers Association has in the program. Community Outreach did not receive feedback or requests for the presentation from the Homeschoolers Association. Ms. Miller suggested that the presentation can be provided via webinar to such groups in the future upon request. Ezra Loring suggested that Community Outreach perform the presentation on Native American reservations. The Board inquired as to how many presentations Community Outreach is capable of handling at this time. Ms. Miller replied that there are five presenters currently qualified to offer the presentation and

outlined their availability through the end of 2012. Ms. Baugh indicated that it would be more time effective if presentation appointments were coordinated by geographic area. She explained that scheduling appointments with schools that are relatively close to each other will result in greater opportunities to present on any given day, especially in those locations that are more remote. Sandra Kane inquired as to quantifiable data which would measure the effectiveness of the presentation. Ms. Miller indicated that they only have anecdotal feedback as there are many barriers to getting surveys circulated in the schools.

4) Other proposals and initiatives regarding school bullying.

Mr. Lavender reported that his school has recently done a survey on school bullying that he can share with the Board.

VI. Planning for Goals and Priorities of Upcoming Year

The Board decided to continue the discussion on bullying in future meetings. Daisy Flores suggested looking into racial profiling as it relates to the passage of SB 1070 and requested an update from Lyle Mann on the issue. Specifically, the Board expressed an interest in the training being done for law enforcement to ensure compliance with the SB 1070 ruling and civil rights laws. The Board discussed which members of the public and/or government would be interested in learning more about this, such as the legislature and Dan Pochoda of the ACLU. Juan Ciscomani suggested the Hispanic Chamber of Commerce and stated that he could get in contact with them. Jeff Lavender suggested Alejandro Chavez as a person that could spread the word about the forum. The Board tentatively planned for a forum on such topic to take place sometime in early 2013. The Board discussed holding the forum in Maricopa County to increase attendance. Robert Garcia stated that he would like to see parental involvement on the school bullying issue via invitations to Homeschoolers Association groups and Parent Teacher Associations (PTAs). The Board suggested bringing in some special guest speakers to facilitate the forum or discussion. The Board discussed the connection between bullying and civil rights.

VII. Call to Public

No members of the public were present.

VIII. Division Report (Ann Hobart)

Ann Hobart described the enforcement of the Arizona Civil Rights Act by the Civil Rights Division. Ms. Hobart discussed the Harkins movie theater litigation, which resulted in the theater providing assistive devices to those with hearing impairments. The Cinemark litigation resulted in a similar outcome. Cinemark had volunteered to provide the assistive devices to those with sensory impairments, but had resisted putting in place video description devices until the Division was successful in its case against Harkins. In addition, Cinemark was required to provide neck loop technology, which is inexpensive and designed to work in tandem with hearing implants or other personal assistive devices. The Civil Rights Litigation Section successfully won a sexual harassment case against ASARCO, which involved pornographic graffiti, among other things, as a form of harassment. The charging party was awarded \$868,750 in punitive damages. Because the amount exceeded the cap amount available in punitive damages for this type of case, the judge reduced the amount to

\$300,000. ASARCO is appealing the ruling. Ms. Hobart also discussed the Division's mediation program as a critical component of the civil rights enforcement process.

The Board discussed the limited remedies of the Arizona Civil Rights Act compared to federal statutes. Ms. Hobart explained that it is common that claims filed with the Division work in conjunction with federal claims raised by the charging party. Sandra Kane pointed out that ACRAB has supported legislation to amend existing legislation to amend ACRA to allow charging parties to be awarded compensatory damages in employment discrimination cases as they are under federal civil rights law. Allowing compensatory damages would give the Division greater negotiating power in the mediation process. Ann Hobart and Sandra Kane spoke about the legal fees associated in private lawsuits and the benefit that the Division provides for those who cannot afford private attorneys. A housing discrimination case against Colorado City is presently being litigated by Sandra Kane. Ann Hobart explained that the case involves a family that allegedly was denied access to utilities because they are not FLDS members. Due in large part to the Division's lawsuit, the Department of Justice recently filed a similar lawsuit.

IX. Planning for Next Meeting

The Board determined that the next meeting will be held telephonically on December 3, 2012 from 2 to 3 pm.

X. Announcements and Current Events

The Board wishes Robert Garcia the best of luck in the upcoming election.

XI. Adjournment

Upon motion by Wendy Freeman, which was seconded by Daisy Flores, the Board unanimously agreed to adjourn the meeting at 3:42 p.m.

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