

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

**A. GENERAL INFORMATION**

1. Date

09/01/2020

2. Department

Department of Fair Employment and Housing (DFEH)

3. Organizational Placement (Division/Branch/Office Name)

Enforcement Division / Employment Unit

4. CEA Position Title

Assistant Deputy Director (ADD)

5. Summary of proposed position description and how it relates to the program's mission or purpose.  
(2-3 sentences)

The Department of Fair Employment and Housing (DFEH) proposes to allocate the above position to the CEA category. The Assistant Deputy Director (ADD) would establish and maintain Enforcement Division polices and procedures and exercise broad responsibility for developing and implementing policies and functions as a senior-level staff member. The ADD would be responsible for providing leadership, vision, and strategy for the Employment Enforcement Program which serves to affirmatively investigate discriminatory practices within the State in accordance with the Department's statutory mandate and mission "to eliminate discrimination in California".

6. Reports to: (Class Title/Level)

Deputy Director of Enforcement / CEA B

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

The ADD will report directly and provide program support to the Deputy Director of Enforcement who is a member of the department's Executive Management Team. The ADD will have regular interaction with the Executive Management Team, including the department's Director, to discuss, make recommendations, and communicate changes to policy issues.

8. Organizational Level (Select one)

- 1st
- 2nd
- 3rd
- 4th
- 5th (mega departments only - 17,001+ allocated positions)

**B. SUMMARY OF REQUEST****9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.**

The Assistant Deputy Director (ADD) will perform as an assistant to the Department's Deputy Director of Enforcement. The primary function of the position is to assist with policy-making decisions and to assist with ensuring proper oversight and administration of the Employment Enforcement Program.

The ADD will be responsible for providing leadership, vision, and strategy for the Employment Program within the Department's Enforcement Division. The ADD exercises broad responsibility for developing and implementing policies and functions as a senior-level staff member. The Employment Program investigates complaints under the civil rights statutes enforced by the Department. The ADD would be charged with maintaining and establishing program policies, goals, and priorities, and providing leadership and guidance to staff to ensure proper enforcement of the statutes, timely investigations of complaints, and compliance with federal requirements. At the core of the Department's mission is the mandate to provide thorough, timely, and fair investigations of discrimination complaints received from the public. The ADD will work in tandem with staff at all levels across the Department to ensure complaints are processed and investigated accurately and timely. The ADD will also assist with complex case-related issues and problem resolution while ensuring consistency in policies, procedures, and communication across all offices statewide.

The ADD will be responsible for evaluating program performance and for implementation of business process improvements. The ADD will also ensure proper and accurate tracking and reporting of data and information related to the Employment Program and provide reports and recommendations to the Department's Executive Management Team. Additionally, the ADD will respond to external inquiries from interested parties, including members of the legislature, other governmental agencies, and the general public regarding Enforcement related matters. The ADD will be responsible for maintaining relationships with major constituent groups, both respondent and complainant oriented, and may serve as a liaison with the Department's federal partner, the US. Equal Employment Opportunity Commission (EEOC). They will assist in developing and implementing community education and outreach initiatives related to the Employment Program ensuring that the Department's civil rights mission is properly presented to the public.

The ADD will service as a senior-level member of the Enforcement Division Leadership Team and participate in decision-making that impacts the entire Enforcement Division, the Department, and the public. This includes the development and implementation of Division and Department wide policies and procedures and the Department's strategic and action plans.

**B. SUMMARY OF REQUEST (continued)**

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description:

The Department of Fair Employment and Housing (DFEH) receives, investigates, conciliates, mediates, and prosecutes complaints of alleged violations of the Fair Employment and Housing Act (FEHA), Unruh Civil Rights Act, Disabled Persons Act, Ralph Civil Rights Act, the California Trafficking Victims Protection Act, and Government Code section 11135 (prohibiting discrimination in all state-funded activities and programs). The DFEH also meets its statutory obligations by educating employers, businesses, housing providers, and the public as to their rights and responsibilities under the civil rights statutes enforced by DFEH and by affirmatively investigating discriminatory practices within the State in accordance with its statutory mandate "to eliminate discrimination in California."

At the core of the department's mission is the mandate to provide thorough, timely, and fair investigations of discrimination complaints received from the public. When the department finds a complaint has merit, the FEHA requires that DFEH file a civil complaint within 365 days from the date the complaint was filed. The DFEH Enforcement Division is charged with conducting these investigations. Thorough, timely, and fair resolution of complaints provides just outcomes for individuals and businesses, serves the business community by reducing the risk of litigation, and supports a social and economic landscape in California that is free of discrimination, retaliation, and harassment.

**B. SUMMARY OF REQUEST (continued)**

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

This new CEA position is being requested due to a reorganization of the Employment Enforcement Program in order to manage increased workload, varying workload types, and increased complexity of complaints being received.

Each year the number of complaints submitted and accepted by the Department goes up; in 2018 DFEH received 27,840 complaints with 5,395 investigations opened and in 2019 DFEH received 28,739 complaints with 6,600 investigations opened. The growth of the program is attributed to heightened media focus on high profile sexual harassment allegations as the #MeToo Movement has increased awareness and new laws passed by the California Legislature increasing civil rights protections such as the Fair Chance Act (AB 1008), the CROWN Act (SB 188), and the SHARE Act (AB 9) which extended the statute of limitations to file an employment discrimination complaint from 1 to 3 years. At this time, the Department plays a more critical role in civil rights enforcement than ever. This transformative moment leaves the Department as one of the only options available for strategic enforcement actions. Targeting resources to areas in which the federal government and the private bar are less capable of prosecuting, such as systemic litigation and strategic enforcement, is the current priority of many state and local government enforcement agencies. Without that shift, Californians will be more vulnerable to civil rights violations.

The Department's strategic vision is a California free of discrimination. As the volume of complaints trends up, efforts to prevent discrimination must be strategic, targeted, and forward looking. To carry out this mission-critical enforcement work at this crucial time, the Department must reorganize the Employment Enforcement Program by splitting it into two separate specialized teams based on case type. Currently the Employment Enforcement Program is responsible for the following case types: Employment (including Sexual Harassment and Disability complaints), Criminal History in Employment Decisions, Unruh, Disabled Persons, Ralph, Human Trafficking, Sexual Harassment Prevention Training, and State Contractors. Each of these case types include a wide variety of potential discrimination, harassment, or retaliation components that must be thoroughly investigated. This reorganization will divide the Employment Enforcement Program into two teams that would be responsible for different case types and case attributes. This split allows for the Department to focus on specialized training, procedures, and policies for each team to allow the staff to become subject matter experts in their assigned workload while enhancing the timeliness, accuracy, and consistency of the investigations that are performed.

The Department submitted a Budget Change Proposal (BCP) for the 2020/21 Fiscal Year to address the need for additional resources to fully fund cases for investigation. This BCP included this new CEA A position for the Employment Enforcement Program. This new position will enable the Department to address the increased volume of meritorious complaints, and investigate and litigate large scale, systemic discrimination cases in accordance with California civil rights laws.

### C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The ADD would be the principal policy maker over the specific case types that their Employment Enforcement Team is responsible for. Examples include:

1) Policy and business processing for managing cases/workloads.

There are multiple phases of the Employment Programs investigative process. Currently the work is divided amongst an intake and investigative team of staff and a hand-off occurs between these two phases. The ADD would have responsibility for reviewing the current policy/business process and considering changes such as having the case assigned to one investigator from beginning to end. Considerations include caseload levels for each investigator while ensuring intake appointments are not greater than 90 days in the future and that the investigations are completed within 365 days of the case file date. This decision making has a statewide impact on the Program as the ADD needs to determine the policy and set expectations for the investigative teams.

2) Policy for referring cases to mediation.

Mediation is a confidential process facilitated by the Department's Dispute Resolution Division (DRD) to help parties in dispute resolve their conflict. The Department's voluntary mediation is a free, cost-effective opportunity for parties to quickly resolve a complaint on their own terms, without going through the investigative process. The ADD would have responsibility for reviewing and updating the current Employment Enforcement Division policy for referring cases to DRD including timing of when the referral should take place and identifying pre-screening criteria for complaints to be referred to help find cases that might be more successful in mediation. This has statewide impact on the Program allowing for faster resolution of cases and can positively impact complainants and respondents providing an alternative to the investigation process.

3) Implementation of policies for newly enacted laws.

The ADD will have principal responsibility in creating new policies for new laws passed by the California Legislature. Laws passed over the past 2-3 years include Fair Chance Act (AB 1008), the CROWN Act (SB 188). These are examples of changes to FEHA that required new forms, system changes/updates, and new policies and training/procedures for staff. With heightened media focus on high profile sexual harassment allegations and the #MeToo Movement creating increased awareness, the Department anticipates additional civil rights protections to be passed in upcoming legislative cycles. There are currently a few already on the table for the new year including an expansion of protections under the California Family Rights Act which, if passed, will require additional Program policies for which the incumbent will be responsible for.

**C. ROLE IN POLICY INFLUENCE (continued)**

13. What is the CEA position's scope and nature of decision-making authority?

The Assistant Deputy Director (ADD) will perform as an assistant to the Department's Deputy Director of Enforcement (CEA B). The primary function of the position is to assist with policy-making decisions and to assist with ensuring proper oversight and administration of the Employment Enforcement Program.

The incumbent's decision-making authority includes maintaining, reviewing, revising, and creating policies for the Employment Enforcement Program specifically for the specialized case types that their team will be responsible for. This also includes providing policies and details about when a case can be closed either at the intake stage or at the investigation stage. The ADD will also have authority over appeals. They will assist the training manager to coordinate the roll-out of new policies, new laws, or updates to the FEHA. They will also have authority over business processes and changes/updates to the Department's case management system.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

Yes, the CEA position will be developing and implementing new policy, and interpreting and implementing existing policy. The incumbent must gain an understanding of existing policies and business procedures that impact the Employment Enforcement program and all of the regulations that relate to the case types that their Employment Program Team will be responsible for. They must also be aware of new laws that have been passed and that are being proposed by the California Legislature. They would work with the Department's Executive Team, the Deputy Director of Enforcement, their peers, and staff in other Divisions (Legal, Executive Programs, and Technology Services), and their team members (staff and subordinate supervisors) to establish the best policies for the Department. The incumbent must also be forward looking and be aware of what's on the horizon to ensure they are creating policies and procedures that are easily updated.