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

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<td>January 21, 2022</td>
<td>California Children and Families Commission - First 5 California</td>
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3. Organizational Placement (Division/Branch/Office Name)

Executive Office

4. CEA Position Title

Chief Counsel CEA A

5. Summary of proposed position description and how it relates to the program's mission or purpose.

(2-3 sentences)

Under general direction of the Executive Director, the Chief Counsel will, as a member of the First 5 California (F5CA) Executive Team, perform in the capacity of legal counselor and advisor, and assist the Commission and Executive Director on legal issues as they affect the overall policies, programs, and practices of First 5 California.

6. Reports to: (Class Title/Level)

Executive Director

7. Relationship with Department Director (Select one)

- [x] 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): 

8. Organizational Level (Select one)

- [ ] 1st  
- [x] 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.

As part of the Executive Team, consults with and provides oral and written legal advice on complex and sensitive legal issues to the Members of the Commission, the Executive Director, and Chief Deputy on the full range of issues affecting policies, programs and operation of the Commission. The Chief Counsel drafts legal and regulatory policies for discussion and presentation to the Commissioners; revises policies and procedures based on Commissioner directives; prepares letters, opinions, and orders on the most complex legal issues; reviews legal pleadings served on the Commission; and prepares briefs and other legal documents for sensitive litigation. Analyzes and applies principles of legal analysis applicable to statutes, rules and regulations, and court decisions affecting the functions and overall programs of the Commission in order to produce legally sound decisions and to minimize legal risks to the Commission, utilizing resources such as state and federal statutes and regulations, administrative decisions, and legal opinions of the California Attorney General.

Assists the Commission achieve its policy and programmatic objectives by reviewing and revising as necessary all contracts, requests for proposals, and funding applications for compliance with state and federal statutes and regulations, and administrative policies and procedures. Serves as the legal interface with Department of General Services (DGS), State Controller and other state agencies on related legal questions and issues, in order to produce contracts that are compliant with these authorities and facilitate approvals. Ensures contracts, request for proposals, and funding applications are written so as to minimize legal exposure.

Represents the Commission and Executive Director in connection with administrative and judicial legal proceeding, by acting as liaison with the Attorney General, in order to produce sound legal results and ensure minimized legal exposure to the Commission. Analyzes and provides recommendations to Commission and Executive Director regarding litigation strategy and settlements. Represents the Commission regarding such matters with control agencies such as the Department of Finance and State Controller as necessary.

Develops policy and procedures related to handling legal issues and other functions inherent in implementing the Proposition 10 statute and other statutes or regulations applicable to the Commission, particularly in the areas of conflict of interest, open meetings requirements, and public records act.
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 provision of on-going legal services and representation is highly critical to achieving the Commission's mission in a legally sound manner. Commission operation requires legal guidance on a daily basis, including in programmatic areas essential to the Commission's policy objectives, and the internal operations of the Commission such as personnel matters. As part of the Executive Team, the General Counsel will function with a high degree of program and policy knowledge in order to assist the Commission in designing and implementing legally sound policies and programs that meet its statutory purposes of serving children 0-5 years. In the absence of such legal guidance, the Commission will be stymied and delayed in achieving its mission, and may proceed in a manner that subjects it to unnecessary legal risk including potential monetary damages.
11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

Previously, one position was responsible for the duties of Chief Deputy and Legal Counsel. In December 2020, F5CA updated the Chief Deputy Director’s position to oversee the Evaluation Office, External and Governmental Affairs Office, and Program Management Division. In addition, the Chief Deputy has outward facing responsibilities to represent F5CA with external bodies such as the Legislature, and with other stakeholders. This role is sufficiently broad to require full-time commitment to the role and its responsibilities.

Previously, the Chief Counsel oversaw the Fiscal Services Office, Contracts and Procurement Office, and the Information and Technology Office. Over time, the position evolved, and is no longer overseeing these offices. In August 2021, F5CA established a new CEA A, Deputy Director to oversee the Administrative Services Office, Fiscal Services Office, and the Contracts and Procurement Office. The Information Technology Office currently reports directly to the Executive Director.

The Chief Counsel will be the sole individual employed by F5CA with responsibility to ensure it operates on a sound legal footing. The Chief Counsel will provide legal guidance and assistance to the F5CA Commission, the Executive Director and staff in all areas of F5CA’s operations. In addition to providing such legal assistance on a day-to-day basis, the Chief Counsel will assist in representing F5CA in administrative and judicial litigation matters that impact F5CA. Separating the functions of the Chief Counsel and Chief Deputy Director facilitates the ability of the Chief Counsel to provide objective legal guidance to F5CA as it addresses legal issues impacting F5CA operations. As with the Chief Deputy role, the responsibilities of the Chief Counsel are sufficient to require full time commitment to the role.

As this position will no longer oversee any staff or offices, F5CA is also requesting to downgrade from the CEA B level to the CEA A level.
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 Chief Counsel will be responsible for:

Developing and implementing policy and procedures for Commission compliance with its governing statute (Proposition 10, adopted 1998), as well as other statutes and regulations, including those in the areas of open meetings requirements, conflict of interest, and public records act. Compliance with these statutes and regulations ensure the public's ability to participate in the Commission's decision-making, and ensure such decision-making is free of conflicts that could improperly influence those decisions.

The Chief Counsel will be a key decision-maker with regard to administrative and judicial litigation involving the Commission - developing legal strategies and settlements where appropriate. Sound resolution of legal conflicts where they arise will protect the resources and reputation of the Commission, allowing it to carry out programs consistent with its statutory purposes and mission to serve and support children ages 0-5 years.

As part of the Executive Team, participates in development and implementation of policies and programs to carry out purposes of Proposition 10 in serving and supporting children ages 0-5 years in the areas of mass media communication, education, child care, and research and development, as prescribed by Proposition 10. The Chief Counsel ensures this state-wide work is carried out in a manner consistent with state and federal law. Compliance with legal requirements ensures that the work of the Commission is not interrupted by legal challenge, and the Commission's resources and reputation are not depleted.

Approves contracts, requests for proposals and funding applications for programs, typically of state-wide impact, that serve children ages 0-5 years in the areas of set forth in Proposition 10. By way of example, the Commission carries out a state-wide media campaign procured pursuant to a request for proposal for media services that inform the public on topics related to childhood development. Adherence to statutes and regulations related to these matters ensures the Commission is able to carry out it work.
C. ROLE IN POLICY INFLUENCE (continued)

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

The Chief Counsel acts as a key advisor on the Executive Team, providing advice and guidance on all legal matters of the Commission. In carrying out the responsibilities of the position, the Chief Counsel acts with a high degree of autonomy and decision-making authority in working with Commission staff and staff of local First 5 commissions to ensure that programs and activities are designed and implemented in a manner that is consistent with law, with other state agencies to facilitate necessary approvals and resolve differences as necessary to protect the interests of the Commission.

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

As part of the Executive Team, the Chief Counsel will advise and guide the Commission and its staff to ensure legal soundness as they develop new policy initiatives to ensure consistency with the purposes of Proposition 10. This guidance can include Chief Counsel suggestions of alternative means to achieve a policy goal when legal issues warrant such guidance. The Chief Counsel will also advise and guide the Commission and its staff when legal issues arise in connection with implementing an existing policy.