

California Pay Equity Task force

July 22, 2016

MINUTES

CALL TO ORDER: Co-Chair Commissioner Lauri Damrell welcomes the members of the Task Force and members of the public and calls the meeting to order at 9:15 a.m. Commission Policy Director Bethany Renfree calls the roll. Those attending are Co-Chair Commissioner Julie A. Su, Co-Chair Commissioner Lauri Damrell, DFEH Director Kevin Kish, Kelly Jenkins-Pultz, Tamekia N. Robinson, Jeanna Steele, Jennifer Barrera, Victoria Pynchon, Leslie Simon, Kimberlee Shauman Ph.D., Daniel C.Y. Kuang Ph.D., and Jennifer Reisch. A quorum is established.

Commission Staff in attendance include Nancy Kirshner-Rodriguez, CCSWG Executive Director; Bethany Renfree, CCSWG Policy Director; Dr. Tonya D. Lindsey, CCSWG Senior Research Consultant; Stephanie Flores, CCSWG Communications and Outreach Adviser; Marian Johnston, CCSWG Staff Counsel; Chloe Kuske, CCSWG Policy Intern.

AGENDA: The Agenda is reviewed and confirmed by Task Force members. Leslie Simon motions to approve the Agenda. Jennifer Barrera seconds. The Agenda is approved by a unanimous vote.

INTRODUCTIONS: California State Librarian Greg Lucas gives opening remarks. Nancy Kirshner-Rodriguez, Executive Director of the CA Commission on the Status of Women and Girls welcomes the Task Force members, staff, and the members of the public in attendance. Commissioners Damrell and Su, co-chairs of the Commission's subcommittee on Gender Equity in the Workplace and Employment, and Task Force co-chairs, provide brief introductions. Each member of the Task Force was selected because of the work they do and the perspective they bring, all of which will help the Commission move the vision of its mission forward. Task Force members introduce themselves: DFEH Director Kevin Kish, Dr. Kimberlee Shauman, Victoria Pynchon, Dr. Daniel C.Y. Kuang, Jeanna Steele, Kelly Jenkins-Pultz, Leslie Simon, Jennifer Barrera, and Tamekia Robinson.

ROBERT'S RULES OF ORDER: Leslie Simon motions to adopt Robert's Rules of Order. Jennifer Barrera seconds. Robert's Rules of Order are adopted by a unanimous vote.

BAGLEY-KEENE OPEN MEETING ACT:

The Commission's staff counsel, Marian Johnston, explains Task Force communications and proceedings as each relates to the Bagley-Keene Open Meeting Act. Each member of the Task

Force has been provided a complete copy of the Act, which is one of the requirements of Bagley-Keene. Any communication between three or more Task Force members on issues under the purview of the Task Force, or items the Task Force will be taking action on, must be publically noticed pursuant to the requirements of Bagley-Keene.

PRESENTATIONS — CALIFORNIA FAIR PAY ACT:

Author's Message

Senator Jackson is recognized for her dedication and working for decades to achieve pay equity. Rochelle Schmidt, consultant to the California Legislative Women's Caucus, reads a special message from Senator Hannah-Beth Jackson, author of SB 358. She thanks the California Commission on the Status of Women and Girls for bringing together diverse interests, expressing how fortunate we are to have a Commission that is up and running and is at the threshold of some amazing accomplishments for the women and girls of this State.

Commissioner Julie Su –SB 358 Enforcement Perspective

Commissioner Su is recognized for dedicating her career to advancing workplace justice. She explains that the California Labor Commissioner has eighteen offices across California. The Office of the Labor Commissioner is charged with protecting workers and ensuring that honest employers get to be on a level playing field. Tools for Employers: The Task Force should create tools for employers who want to do the right thing to do so in California. She describes challenges: Transparency is a challenge to achieving pay equity. People don't know what others make in the workplace. Under the law, employees are given the right to inquire about pay, but employers are not required to share this information. The Task Force can find ways the new law can be an opportunity to encourage better workplace policies. Commissioner Su also explains that there must be a focus on the occupational pay gap—the reality in which women take certain jobs within a type of field with lower salaries than in fields dominated by men.

Jennifer Reisch – Introduction to SB 358 for Employees and Advocates

Jennifer Reisch, Legal Director at Equal Rights Advocates, is a lead advocate and sponsor on Senate Bill 358. She offers background and details on the process of Senate Bill 358, how it evolved, and why it is so important. From the advocate's perspective, the law as it existed prior to SB 358 presented or exacerbated a number of barriers to achieving equal pay. One of those barriers is the overall lack of pay transparency in the vast majority of private sector jobs in this country. In non-unionized workplaces, pay is something workers know only on an ad-hoc basis. She adds, the California Fair Pay Act is a law that sought to address a part of a very broad problem—a gender wage gap that drains the economic security of millions of working women and their families, especially many women of color. She explains, women not getting equal pay

for substantially similar work is part of the problem, but not the entire problem. Structural issues about our economy, such as the way we value different kinds of work – and especially, the way we undervalue the work that women do or traditionally have done (e.g., caregiving) is a problem.

She explains that the law is already having an impact on enforcement agencies. Equal Rights Advocates has been working to help support efforts to coordinate enforcement and outreach. She says her organization has seen a tremendous uptick in inquiries about fair pay issues. Groups of employees are also looking for help, she adds, asking how they can use this law to start a general dialogue with their employers and shine a light on compensation practices, find out or make sure they know what other people are being paid and how that pay is being determined.

Jennifer Barrera – Senate Bill 358 from a Business Perspective

Jennifer Barrera is a policy advocate with the California Chamber of Commerce and was instrumental in building collaboration around the California Fair Pay Act. She describes the California Chamber of Commerce involvement and support of SB 358. She explains that there are a substantial amount of women in the workforce, and a substantial amount of women in the workforce who are business owners, who are themselves employers trying to navigate California labor and employment law and who also need direction and guidance on this issue. She explains that working on the bill was a reasonable balanced approach on both sides, in terms of strengthening California equal pay laws while providing employers with the discretion to still have differences in pay for other reasons that are not based on gender, such as a business necessity, and other bona fide factors. She says that the Task Force is very important to maintaining the balance the stakeholders tried to create in Senate Bill 358 by addressing the wage disparity but also giving employers the objective, clear guidance they need to comply at the outset.

Commissioner Lauri Damrell – Introduction to SB 358 for Employers

Commissioner Damrell travels throughout California and the country presenting her expertise on pay equity as a management-side employment law attorney. She explains that SB 358 is a proactive law and, that other states, such as Maryland, are following suit with pay equity legislation. She discusses challenges to interpreting and adhering to the law. It is also critical for employers to be keeping and maintaining their records so that they can prove they meet their burden of proof in accounting for a pay differential. She explains that articulating and analyzing the different factors and circumstances that affect individual pay decisions is important.

QUESTION, ANSWER, & DISCUSSION

Task Force members Commissioner Lauri Damrell, Jennifer Reisch, and Director Kevin Kish discuss the question, *Now that the burden has shifted to the employer under SB 358, what does the employee have to first prove?*

Task Force members Jennifer Reisch and Task Force staff, Doris Ng, address the question: *How do you analyze classifications in traditional male-dominated jobs versus classifications in female-dominated jobs?*

Task Force member Jennifer Reisch discusses the following: *A question is asked regarding the details of the Wal-Mart class action case in terms of the difference between cashiers and loading dock workers.*

Task Force member Jennifer Reisch responds to the following: *A question is asked about how the market plays into issues of equal pay (i.e. women's soccer, universities and different departments, etc.).*

Task Force members Jennifer Reisch and Jennifer Barrera respond to the following: *A question is asked about union vs. nonunion workers doing the same job and being paid more?*

Task Force members Jennifer Reisch, Jeanna Steele, Commissioner Damrell, Commissioner Su, Leslie Simon, Dr. Shauman, Tamekia Robinson, Task Force staff Doris Ng, and a member of the public, participate in a discussion of the following topics: *wage compression, outreach, basis of classifications, unions, low-wage workers, industries, data to collect, pay equity analyses at the University of California, education of employees about the law, and company engagement.*

GOALS DISCUSSION:

The Task Force briefly reviews the Task Force Mission found in the *Action of the Commission Creating Task Force* as approved by the Commission on the Status of Women and Girls. Several goals are outlined, including:

- Understanding employers' perceived barriers to compliance and identifying what can be done to remove those barriers.
- Identifying and engaging employers taking proactive steps beyond the law.
- Outreach to and informing employees about equal pay protections and their rights.
- Producing a substantive guide, having a work product.
- Providing ongoing written guidance about the purpose of the law.

While Bagley-Keene requires groups larger than two to properly notice any communications as public meetings, there is nothing preventing each Task Force member from reaching out to their constituencies. The co-chairs encourage each member to reach out to those they represent, including businesses and employers, to help inform the work and goals of the Task Force.

SUBCOMMITTEE MEETINGS

Research staff, Dr. Tonya Lindsey, compiled a list of best practices from a content analysis of relevant literature to help structure the subject-matter subcommittees. The literature associated with the best practices is available online with live links ready for subcommittee and Task Force use. Questions about the research can be directed to Dr. Lindsey.

The work of each subcommittee can be done individually in between meetings of the Task Force, and, when needed, there can also be public convenings of the subcommittees. While the subcommittees will be doing the preliminary and day-to-day work, the larger Task Force will be weighing in on content at public meetings and making decisions as a group. Everyone's expertise is needed.

The Task Force breaks out into smaller subcommittee groups to begin an initial discussion of goals and priorities. Members of the public are invited to attend the small group discussions.

1) Evaluating Policies and Practices

Members:

Jennifer Reisch, Equal Rights Advocates

Leslie Simon, International Alliance of Theatrical Stage Employees Local 871

Staff: Bethany Renfree, CCSWG

The Evaluating Policies and Practices Subcommittee discussed guidance and practical tools that would be helpful for different audiences, including employers, workers and unions to implement the spirit and principles behind the California Fair Pay Act. These items included:

- Model language for collective bargaining agreements
- Information-sharing practices in the union and nonunion sector: defining jobs, information about compensation, rates, compensation scales. Tracking what people are making by gender and by race

- Best practices begins with defining jobs (real job descriptions not just hiring indiscriminately)
- How information could be tracked, recorded, shared. Under what circumstances it could be shared (i.e. internally, externally with advocates or candidates, etc.)
- Types of information that are relevant - compiling the information needed to evaluate (not only tracking compensation but also thinking about the sources of a company's employees, the pools from which they are hiring people.)
- Best practices for employers creating job descriptions that reflect skill, effort, and responsibility, expectations and performance or conduct of those jobs.
- Developing best practices and/or tips for thinking about the role of negotiation in the workplace and in setting pay. When and where to expect, require or permit.
- For employers already engaging in self-evaluation, how can we build in pay equity and fairness in analyses?
- Ways to access pay information about different types of jobs that could be made more readily available to all workers.
- Connecting pay equity with other interdependent practices such as hiring and recruitment.
- Recruitment practices. Addressing pipeline issues—understanding employee pools from which employers are drawing staff.
- Information-sharing practices in union and nonunion sectors. Tracking information about what people get paid. How shared and under what circumstances is it shared. Many employers and unions who may have general info about rates/scales may not be tracking what people are making by gender and race. What is the best way to track and post this information reliably (for example, evaluating average pay county by county per occupation by gender)?
- Help employers evaluate what their jobs are, such as what categories do people who work for them consist of. Best practices for coming up with job descriptions that actually reflect what people are doing; expectations; skills, responsibilities. Look at substantive content of jobs.
- The role of negotiations in the workplace. Providing information to employees/workers about best practices for negotiating pay.
- Making access to pay information more readily available.
- Landscape of current policies across industries.

2) **Evaluating Systems And Functional Infrastructure**

Members:

Daniel C.Y. Kuang, Ph.D., Biddle Consulting Group, Inc.

Human Resources Seat

Staff: Tonya D. Lindsey, Ph.D.

The Evaluating Systems and Functional Infrastructure subcommittee discussed implementing practices and structured mechanisms to minimize bias, including:

- Structured mechanisms both at hiring and other decision-making points.
- Structured wage settings in hiring and promotion to remove those biases.
- Starting salary - structured wage setting - has a large impact - accounts for 60-70% of the variance. Next closest thing is time in company, which accounts for about 15% of variance.
- Based on longitudinal data studied by Dr. Kuang, a first adult paying job has lifetime effect on wages. A person's first adult job determines earning potential over their entire life. Lifetime effect because HR always asks your last salary. Perpetuates the problem. Major long-term trajectory effect. For promotion purposes, person's prior position determines what they will get paid.
- Create worksheet or guide for creating structured wage mechanism.
- What data points should employers be keeping:
 - time in job
 - time in company
 - performance
- Additional fields/criteria include education and prior experience, however, these usually play smaller role due to the fact that companies don't keep or have access to this information all of the time for every employee.

3) **MEASURING THE PAY GAP**

Members:

Kimberlee Shauman, Ph.D., University of California Davis

Daniel C.Y. Kuang, Ph.D., Biddle Consulting Group, Inc.

Staff: Tonya D. Lindsey, Ph.D.

- Is the disparity in pay a within-job problem or between-job problem?
- The ways to resolve the pay disparity are fundamentally different based on whether it is occurring within jobs or between jobs.

- Is it segregation of women in lower-paid positions?
- A between-job problem requires more systemic intervention.
- There is a need to ensure that access to higher positions is available to women.

4) **EVALUATING JOB CLASSIFICATIONS**

Members:

Kimberlee Shauman, Ph.D., University of California Davis

Tamekia N. Robinson, SEIU Local 1000

Staff: Tonya D. Lindsey, Ph.D.

The Evaluating Job Classifications subcommittee discussed data collection and the varying classifications and job categories based on size of organization, union/non-union, public vs. private, government/non-government.

- What are the job classification categories?
- What other organizations and external factors impact job classifications? For instance, regulatory agencies, licensing agencies, unions, non-government.
- Which categories are already used for reporting? Can union categories be useful for guiding?
- How are classification issues different for different sectors?
- What data are used to measure job classifications? For instance, there are available data such as O*net, Census, Current Employment Statistics. There are also organizational data that are collected or could be collected that could evaluate an organization's' job classifications. Organizations also report data to federal agencies in forms such as the EEO-1. Organizations have these data because they report them.
- What is the different methods companies use for job evaluation? What are the different ways to classify? For instance, union classification systems such as point systems.
- How do we identify where opportunities are blocked and opened because of the structure of such things as location? For example, in state service there are field offices and headquarters. In field offices a classification might only reach to a II level but in headquarters it might go up to a III level or present other career tracks. Or, there might be lateral blocks.
- Audits might be guided by the following questions: Here's what is? Here's the goal? How do we get there?
- Human resource questions could be consolidated to save for feedback from our HR experts.
- A poster could be created mapping the different ways to classify. It could begin with the type of organization such as union/nonunion. This may be a good starting place because all organizations will either be union/nonunion.

- There is a discussion about using the hourly rate that is suggested in the Fair Pay Act and the potential of this being problematic.
- Identifying career ladders with classification schemes - ladders for men versus women, more rungs in the ladder for men?
- It is essential to understand what a class scheme is - operationalize the substantively similar jobs - what characteristics measured in these schemes account for the pay gaps?
- Collect more data on classification schemes in use now:
 - Public vs. private
 - Union vs. non-union
 - Career ladders (are there more steps in the ladders utilized mainly by women?)
- Before this subcommittee can figure out next steps toward best practices they want a better grasp on the available data from different sectors and organizations.
- Companies and data: Dr. Shauman did a basic literature review to identify if there are correlates with pay gap and the racial pay gap with pay differences. She found more on individual-level characteristics, such as education and years worked, rather than structural characteristics of the pay gap, which were focused too broadly on occupational gender and race category segregation.
- There is a lack of information/data from the private sector to work with and analyze.
- The subcommittee may consider interviewing companies to ask them how they go about defining their job classifications and to gather information on classification systems and pay scales. This would be a large research project in and of itself.
- The data CalHR has is not very specific. The jobs are lumped into approximately nine different board job classifications.
- There may be publicly available pay data at the UC. The UC is a good example because it has some union and some non-union classifications.
- SEIU International may have some pay equity data from the private sector.
- The subcommittee will present a clear rationale of what data are needed, why the data are needed, and why we need private companies to share data in addition to public sector and union/non-union. Some companies may already publish these data.
- Eleven percent of public and private industry nationally is union; California might be a little higher at around 14 percent.
- One task for these groups might be to “crosswalk” the categories so they are comparable.
- Deliverable subcommittee might evaluate the ins and outs of a white paper or how to present the crosswalk for public use. They might also evaluate mapping job classification consideration.
- There are different current issues with, for instance, union classifications and the UC, depending on history and other context-specific factors. These can vary by union/non-union, public/private, government/nongovernment, size of organization, etc.

- Definitions: Substantially similar is an important definition in what concrete requests for data will be and what drives pay assigned. It is important to know which characteristics will matter in calculating classifications and pay. A general definition might be best.

5) ENFORCEMENT AND PROCESS

Members:

Commissioner Julie Su or designee, DLSE

Kevin Kish, DFEH

Staff: Doris Ng, DLSE & Bethany Renfree, CCSWG

The Enforcement subcommittee discussed strategic enforcement and the need to focus Task Force resources on certain industries where the wage gap may have the greatest impact. The discussion focused on:

- Research as a prerequisite to strategic enforcement
- Industries or occupations: what's the gender makeup of the workforce, what are the pay scales in those industries?
- Analyzing job descriptions, which are substantially similar, etc.
- Tools to enforce gender equity. Dr. Kuang has created a compensation analysis tool. Could this be a Task Force deliverable? Does this provide access to publicly available data? Could employers use this tool?
- Megan Lane from the Senate Office of Research joined this subcommittee meeting. The Enforcement subcommittee can create a request for research on some industries, gender breakdown of workforce, salaries, and looking at women of color (what industries disproportionately have women of color).
- Identify industries/occupations where enforcing the law could make the most impact. Consider an in depth focus on particular sectors/industries to determine how to make progress.
 - Retail (departments where men concentrated vs. women)
 - Hotels (housekeepers vs. janitors)
 - Entertainment (script supervisors)
 - Airline
 - Agriculture (Farm Labor Contractors dividing workers by gender into separate teams but doing substantially similar work)
 - Finance (however, focusing on low income workers is important)
 - Those who engage in state contracting (e.g., construction); which contractors mostly contract with the State?
 - IT (even within the State)

- Last month, and the United State of Women Summit at the White House, 24 employers took a pledge; how do we leverage that? What companies took the pledge?
- Employers within the 5 to 50 employee range may not have HR department at all. Is there a direct workplace analysis they can do to analyze their pay structure? What questions do they need to ask themselves? Does it create a failure to prevent problem? Or meet those basic criteria? Should include definitions (employers are looking for this):
 - Step 1: figure out various job descriptions;
 - Step 2: which ones are substantially similar;
 - Step 3: put salaries side by side
- To what extent is family leave (taking a bona fide and allowable one) related to wage disparity?
- What's a reasonable reason for pay disparity?
- Education (when is having a master's degree vs. bachelor's reasonable as a reason to pay someone more; does it relate to the job?)
- What's being marketed to employers as the solution?
- What's behind a pay audit? What's necessary for a functional, accurate audit?
- Infusing transparency about pay into work culture. As part of enforcement, it is important to create a culture of transparency about pay. Do we want to encourage employers to make disclosure to employees at the outset (e.g., employee handbooks); for example, if you come to work here, your salary will be disclosed because we embrace and disclose gender pay equity. The subcommittee could interview companies and find out how they've approached it.
- Other deliverables: Draft jury instructions; tools to help unions best ensure gender equity (and not reinforce disparities; outreach/education to potential complainants (encouraging complaints, understanding investigations)).

6) **CHALLENGES AND BARRIERS**

Members:

Jennifer Barrera, CalChamber

Jeanna Steele, Sunrun, Inc.

Staff: Tamara McDonald, DLSE & Bethany Renfree, CCSWG

The Challenges and Barriers subcommittee discussed barriers in implementing the provisions of Senate Bill 358 and potential challenges with best practices.

- Definitions and data collection: how do you define substantially similar? Providing examples; might be easier for hourly employees than exempt employees where duties change more, harder to quantify; wage rates (this is what statute says; so maybe it's not about overall compensation); what is wages - is it just wage rates? Or all compensation?
- Defining "reasonable" and "entire wage differential", producing a checklist for how to document pay differentials and make sure records are maintained for appropriate amount of time to show the differential is not based on gender.
- Making determinations is an easier task for hourly employees where job is more objective versus exempt.
- There is a need for guidance or best practices for correcting or remedying disparities when they are discovered. Once the audit is done and the employer is collecting this data, how do they mitigate - back pay, back comp, how do they attribute the releveling to a pay disparity? The risk of exposure to litigation is especially a concern to small employers who don't have legal counsel.
- Does the employer attribute the change in pay to a pay disparity or performance? Ensuring to document that the change in pay is attributed to the gender gap versus performance is an issue. If an employee wasn't a great performer but her pay was \$5k less than her counterpart, there is a need to relevel to address the gender pay disparity, but there is also the risk of misleading and giving the impression she was performing well. This doesn't mean there's no good way to take performance into account, but there is a need for guidance.
- For smaller employers, there is an important concern regarding confidentiality if an outside firm cannot be hired to protect the audit.
- There needs to be consistency among agencies to ensure the standards will be similar.
- There are challenges due to market driven hiring rates.
- Potential deliverables: Is there a checklist to create for smaller employers to navigate the data collection comparison on their own? Surveys for existing employees on what their jobs are to help them understand what jobs should be compared? Examples of what substantially similar is and is not.
- Plan of action items:
 - Survey and research to narrow the occupational idea of "substantially similar work".
 - What tools could be supplied by DFEH and the Labor Commissioner's Office to educate employers on self-audits.
 - Revenue vs. Risk as far as comparison.
 - Attempt to narrow the focus down to the hourly wage workers data.
 - Identify the research being used to study the successful employers who are explicit with their attempt to narrow the gender pay gap.

7) DELIVERABLES

Members:

Victoria Pynchon, She Negotiates

Kelly Jenkins-Pultz, U.S. Department of Labor Women's Bureau

Staff: Stephanie Flores, CCSWG & Bethany Renfree, CCSWG

The Deliverables subcommittee discussed how to collect information, which industries to focus on for outreach, and how to take the information created by other subcommittees and the entire Task Force and deliver it to employers and employees.

- How do we collect information (what occupations and industries)?
- Research the target audiences. Who is the information being delivered to? Identifying occupations and industries.
- How can the information be delivered efficiently?
- In what form should it be delivered - website, print, languages, what level of language, focusing on women and people of color, in which jobs categories, clerical, food industry, retail, fast food, waitressing, cooking, teaching, garment industry where undocumented workers and recent immigrants in skilled and unskilled industries.
- Essential to find partnerships with outside organizations as a means to better deliver on deliverables.
- What is going to be useful to employees? How do we develop useful tools such as a mobile app for employees to figure out whether others are doing substantially similar jobs? For example, for someone working as a cashier, it might not be a matter of finding average pay for cashiers, it may be about who is similar to them in the workplace.
- Does the Department of Labor have data such as median wage for cashiers or what's the typical starting salary and where it tops out?
- Connecting to low wage workers may not result in the need for a substantial guide. Rather, perhaps a notice of the issues. How will they find out about it? Low wage workers get information from their phones. The Task Force could create a guide, as well as, mobile app for pay equity.
- Connecting with an entity that can create an app. Enlist the help of an organization. For example, connecting with GIRLS WHO CODE in the Bay Area or the Girls Academic Leadership (Stem) Academy in Los Angeles (LA Unified School District).
- Suggested activities for women to get information. Break the taboo about discussing their salaries.
- United State of Women Summit at the White House: Look at the list of companies who signed the pledge and find those based in California.

- Other useful resources to connect with to assist with finding wage gap information: payscale.com and Glassdoor. Keeping in mind, as a data source, these organizations are employee generated.
- Definitions should be translated to the average person. Develop a consistent language and vocabulary. Translating the work product Definitions subcommittee.
- Develop an attractive method of learning one's market value.
- Answering questions about jobs and occupations and how they are substantially similar to men's in their occupation.
- Data: what relevant information would one need — occupation, area, age, level of education. Think of the variable to identify a legitimate pay disparity and identify an illegitimate pay disparity.
- Reaching out to employers: five things you can do to ensure pay equity. Resources you can use if you have questions.
- Create an app for employers. Something to simplify compliance for employers.
- Google's tool kit. Connect to existing resources.
- Providing simple information on the law.
- Federal law is vague and doesn't explain how to create equity, just what not to do.
- Perhaps borrowing from the Covered California model: extensive media campaign to enroll. Provide consumer/worker with enough information to know where the portals are so they can get to what they need. Is this an issue in your life? Where can you go?
- Facebook campaign. Small clips; "This is pay equity; if this is your experience see this resource."
- Consciousness-raising. To consider their options and their rights.
- In terms of strategy for deliverables, start with a sector-based focus, do it well and then expand. Focus on industry, and specialize to each job.
- Need to be inclusive of the various industries with specific guidelines for apprenticeship, pay, and career progress.
- Awareness of how shifts in industry can lead to further discrimination.
- Spanish language material.
- Lesson plan for ESL teachers. Partner with libraries, do a training session.
- Material should be culturally relevant. Connect with advocacy groups to translate.
- The employer side: reach out to associations; make materials specifically geared toward those industries.
- Generational approach: tell the kids to tell their parents.
- Posting: for employers to hang.
- Email notice to workers.
- Specialized plan of communication for each demographic.

DISCUSSION

The Task Force reconvenes for a group discussion about the subcommittee meetings.

The **Evaluating Policy and Practice** subcommittee talked about what kind of guidance and practical tools and information the Task Force could produce that would be helpful for different audiences—employers, workers, unions—in order to implement the spirit behind the Fair Pay Act. The subcommittee also thought more broadly about information sharing practices, tracking, best practices, the role of negotiation in the workplace, evaluating and defining jobs, understanding what policies and practices are already out there. The subcommittee acknowledged that current practices and policies might be different in different industries and with different types of employers by size, union/non-union, occupational/sector. They also discussed the role of unions in the hiring and placement process. Finally, the subcommittee discussed coming up with a way to create access to pay information about different types of jobs, which could be made more readily available to all workers.

The Evaluating Policy and Practice subcommittee sees their work as overlapping with the Outreach and Education (Deliverables) subcommittee as well as the Evaluating Job Classifications subcommittee – job classification is a big subcategory of what evaluating policy and practices would be about.

The **Evaluating Systems and Functional Infrastructure** subcommittee. Members emphasized the importance of structured mechanisms, particularly structured wage mechanisms. Identification of what the wage gap *is* is critical. Is it a within-job problem or a between-job problem?

The **Deliverables** subcommittee. This subcommittee will be taking the information created by the entire Task Force and deliver it to employers and employees. This subcommittee discussed how to collect information, and how to help with identifying certain areas and occupations where gender pay inequity is most prevalent for low-wage workers. They also discussed what would be useful for employers. They think that a mobile tool or mobile app and web trainings could be viable options. The subcommittee also discussed partnerships with outside organizations in regards to getting the information out. Partnerships will help further the outreach efforts.

The **Evaluating Job Classifications** subcommittee. This subcommittee discussed data about classifications, public vs. private, union vs. nonunion, looking at job evaluations, identifying career ladders and whether or not these ladders exist in careers that women work versus men.

It is really essential to understand what a classification is operationally, including between job-classifications.

The **Enforcement and Process** subcommittee. This subcommittee discussed identifying resources as a key requisite for enforcement. There is a need to focus Task Force resources. This involves identifying individual occupations where questions can be explored about where the gender pay gap of the workforce is and to look at pay scales within industries, such as retail, hotels, agriculture, and finance. It would also be useful to look at employers in the 5 to 50 employee range who are not going to be able to hire a law firm and may not have an HR department at all and so may struggle with what this all means.

The **Challenges and Barriers** in complying with Senate Bill 358 subcommittee. Smaller employers need confidentiality. They cannot hire law firms to conduct protected-audits. The Task Force may want to create a deliverable for those smaller employers. Employers also need legal guidance for documenting pay differentials. There are also challenges surrounding market-driven hiring rates. There is a barrier in implementing as far as what to do if it is determined there is a pay disparity. How do you attribute back-pay and back compensation to a pay adjustment and not merit? In terms of fixing a disparity and exposure to litigation, there are issues with whether the employer attributes the change in pay to a pay disparity under the Fair Pay Act, or to performance. Making sure to document the reason for the change in pay is attributed to the differential in the gender gap and not a performance issue is an important distinction to make.

QUESTION AND ANSWER

A discussion ensues regarding performance reviews, pay differentials and issues with back pay.

A discussion ensues regarding structured mechanisms within jobs and job classifications that aren't gendered.

Wanda R. Dorgan, Esq., a member of the public attending the meeting from Los Angeles, raises a question regarding remedies under the law.

A discussion ensues regarding remedies under the law if an employee who is similarly situated proves a pay inequity claim. How far back does the remedy cover?

There is a discussion regarding how far a claim can go back.

TIMELINE DISCUSSION:

The next Task Force meeting is scheduled for August 19, 2016 in Sacramento. The final 2016 Task Force meeting is on October 24th. Commissioner Damrell asks for a showing of hands from Task Force members who are interested in holding the next meeting in Southern California. It is also possible to have a public location in Sacramento while holding a meeting in Southern California. Approximately five members express interest. Meeting dates for 2017 will be identified by Task Force members and staff.

PUBLIC COMMENT: A member of the public comments that according to Labor Code provisions the statute of limitations can only go back for violations and for willful violations, based on when it occurs. Does this mean that if it occurs ten years ago the statute has run out? Jennifer Reisch clarifies that it is a new violation each time a worker is getting paid less than she should be getting paid as the result of an equal pay violation. A brief discussion ensues regarding the statute of limitations, remedies, and justifiable defenses. Issues surrounding the statute of limitations may be unresolved legal questions impacted by the new Labor Code provisions.

ADJOURNMENT. Upon motion duly made, seconded, and unanimously passed, the co-chairs adjourn the meeting of the California Pay Equity Task Force at 3:57 p.m.