



October 16, 2024

The Honorable David Garcia
Chair
Civil Rights Council
555 12th Street, Suite 2050
Oakland, CA 94607

Dear Chair Garcia:

On behalf of Chamber of Progress – a tech industry association supporting public policies to build a more inclusive society in which all people benefit from technological advancements – I write regarding the Council’s Proposed Modifications to Employment Regulations Regarding Automated-Decision Systems. These proposals, however well-intentioned, are misguided and redundant.

The Proposed ADMT Rulemaking Is Not Narrowly Tailored

The proposed definition of “automated-decision system” is overly broad, encompassing a range of technologies and decisions that extend beyond the intended scope of the Division’s authority.

The proposed definition encompasses "a computation process that makes a decision or facilitates human decision making," inadvertently including a wide array of technologies crucial to the modern work environment. This includes tools that automate work and track business metrics. The long list of exceptions in 11008.1.(a)(2) implicitly concedes the definition is so large as to be unwieldy. Moreover, the exceptions themselves only apply “provided that these technologies do not make a decision or facilitate human decision making regarding an employment benefit.” Thus workers and management alike would lack clarity on whether usage of, for example, a customer-relationship management tool that automatically sends email pitches to potential clients is covered or not.

This Effort Is Duplicative

The California Privacy Protection Agency (CPPA) has been undertaking an extensive examination of automated decision making tools, including their impact on the workforce. That process, begun in 2023, has generated a comprehensive public record. Chamber of Progress has repeatedly engaged CPPA concerning automated decision making tools and

the potential consequences, positive and negative, of its proposal. The Civil Rights Department should pause its proceedings until the CPPA completes theirs, which is presently engaged in a formal rulemaking process. If, afterwards, the Department identifies any gaps concerning worker protection in the CPPA's ultimate rules, the Department could turn its attention to filling them.

However, concurrent proceedings create redundancy. Worse, they may create confusion for employers and employees forced to sort through overlapping and potentially contradictory mandates.

For these reasons, we ask you to pause this proposal.

Sincerely,

Robert Singleton

A handwritten signature in black ink, appearing to read "Robert Singleton". The signature is fluid and cursive, with a large initial "R" and a stylized "S".

Robert Singleton
Senior Director of Policy and Public Affairs, California and US West