



COMPLIANCE REVIEW REPORT

BOARD OF STATE AND COMMUNITY CORRECTIONS

Compliance Review Unit
State Personnel Board
September 4, 2019

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INTRODUCTION

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Effective July 1, 2012, the Governor's Reorganization Plan Number One (GRP1) of 2011 consolidated all of the functions of the Department of Personnel Administration and the merit-related operational functions of the State Personnel Board (SPB) into the California Department of Human Resources (CalHR).

Pursuant to Government Code section 18502(c), CalHR and SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." CalHR and SPB, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Board of State and Community Corrections' (BSCC) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Regulations
Personal Services Contracts	Union Was Not Notified of Personal Services Contracts
Mandated Training	Ethics Training Was Not Provided for All Filers
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Incorrect Application of Salary Determination Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Out-of-Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Positive Paid Employees Authorization Complied with Civil Services Laws, Board Rules, Policies and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

¹ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

Area	Finding
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Were Not Provided for All Employees Whose Leave Balances Exceeded Established Limits
Policy and Processes	Department Does Not Maintain a Current Written Nepotism Policy
Policy and Processes	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy and Processes	Performance Appraisals Were Not Provided to All Employees

A color-coded system is used to identify the severity of the violations as follows:

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

BACKGROUND

Established in 2012, the BSCC is an independent statutory agency that provides leadership to the adult and juvenile criminal justice systems, expertise on Public Safety Realignment issues, a data and information clearinghouse, and technical assistance on a wide range of community corrections issues. (Pen. Code, §§ 6024-6025). In addition, the BSCC promulgates regulations for adult and juvenile detention facilities, conducts regular inspections of those facilities, develops standards for the selection and training of local corrections and probation officers, and administers significant public safety-related grant funding.

The BSCC is charged with developing and maintaining data and information on Realignment programs and practices so that local entities can access information about promising practices and innovative approaches. In addition, the data clearinghouse will allow researchers to assess the success of the programs as they develop over time.

The BSCC also inspects for compliance of standards and directs funding for construction of local adult and juvenile detention facilities and ensures that the local jail projects meet recent Legislative mandates to provide program space to rehabilitate offenders.

The BSCC's work involves extensive collaboration with stakeholders, including local probation departments, sheriffs, county administrative offices, justice system partners, community-based organizations, and others. The BSCC sets standards and provides training for local adult and juvenile corrections and probation officers. It is also the administering agency for a host of federal and state public safety grants, including evidence-based practices to fight gangs, and it works to address the overrepresentation of youth of color in the juvenile justice system.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the BSCC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if the BSCC's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, the CalHR's policies and guidelines, and the CalHR's Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the BSCC's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the BSCC provided, which included examination plans, examination bulletins, job analyses, and scoring results. The BSCC did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the BSCC's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the BSCC provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The BSCC did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the BSCC did not make any additional appointments during the compliance review period.

² Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

The BSCC's appointments were also selected for review to ensure the BSCC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the BSCC provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for out-of-class assignments. During the compliance review period, the BSCC did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, arduous pay, bilingual pay, or monthly pay differentials.

The review of the BSCC's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The BSCC's PSC's were also reviewed.³ It was beyond the scope of the compliance review to make conclusions as to whether the BSCC's justifications for the contracts were legally sufficient. The review was limited to whether the BSCC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The BSCC's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors were provided supervisory training and sexual harassment prevention training within statutory timelines.

The CRU also identified the BSCC's employees whose current annual leave, or vacation leave credits, exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Additionally, the CRU asked the BSCC to provide a copy of their leave reduction policy.

The CRU reviewed the BSCC's Leave Activity and Correction Certification forms to verify that the BSCC created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected a small cross-section of the BSCC's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the

³If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

BSCC's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. The CRU reviewed a selection of the BSCC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the CRU reviewed a selection of the BSCC's positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

Moreover, the CRU reviewed the BSCC's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the BSCC's policies and processes adhered to procedural requirements.

On August 15, 2019, an exit conference was held with the BSCC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the BSCC's written response on August 23, 2019, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931.) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application in the office of the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934.) Generally, the final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, December 1, 2017 through November 30, 2018, the CRU reviewed the 10 BSCC conducted, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Field Representative, Board of Corrections	Open	Education and Experience (E&E) ⁴	12/30/2017	15
Field Representative, Board of Corrections	Open	E&E	1/30/2018	1
Field Representative, Board of Corrections	Open	E&E	2/28/2018	1
Field Representative, Board of Corrections	Open	E&E	3/30/2018	4
Field Representative, Board of Corrections	Open	E&E	4/30/2018	1
Field Representative, Board of Corrections	Open	E&E	5/30/2018	3
Field Representative, Board of Corrections	Open	E&E	6/30/2018	2
Field Representative, Board of Corrections	Open	E&E	7/30/2018	4
Field Representative, Board of Corrections	Open	E&E	9/30/2018	5
Field Representative, Board of Corrections	Open	E&E	11/30/2018	2

FINDING NO. 1 – Examinations Complied with Civil Service Laws and Board Rules

The CRU reviewed the open examinations, which the BSCC administered in order to create eligible lists from which to make appointments. The BSCC published and distributed examination bulletins containing the required information for all examinations. Applications received by the BSCC were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found

⁴ In an Education and Experience (E&E) examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

no deficiencies in the examinations that the BSCC conducted during the compliance review period.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250 (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250 (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, December 1, 2017 through November 30, 2018, the BSCC made 22 appointments. The CRU reviewed eight of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	1
Associate Budget Analyst	Transfer	Permanent	Full Time	1
Field Representative, Board of Correction	Certification List	Permanent	Full Time	1
Research Analyst II	Certification List	Permanent	Full Time	1
Research Data Specialist I	Transfer	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager II (Managerial)	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1

FINDING NO. 2 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: Six probationary reports were not prepared, completed or retained.

Classification	Appointment Type	Number of Appointments Missing Probation Reports	Total Number of Missing Probation Reports
Accountant Trainee	Certification List	1	1
Associate Budget Analyst	Transfer	1	1
Field Representative, Board of Correction	Certification List	1	2
Staff Services Manager I	Certification List	1	1
Staff Services Manager II (Managerial)	Certification List	1	1
Total		5	6

Criteria: The service of a probationary period is required when an employee enters in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) A report of the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code of Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (Ibid.)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: For two of the six missing probationary evaluations, the BSCC had a supervisor vacancy. The BSCC did not inform the acting supervisor of the requirement to complete probationary evaluations. For the

remaining four of six probationary evaluations, the BSCC used its internal process and tracking mechanism to notify all supervisors and managers of probationary evaluation due dates. However, we did not consistently follow up with the supervisors/managers to ensure they submitted the required probationary evaluation reports timely.

Action: The BSCC revised its internal process for probation reports. However, the BSCC must continue to monitor probation reports to ensure conformity with Government Code section 19171 and the California Code of Regulations, title 2, section 599.795. Within 60 days of the Executive Officer's approval of the findings and recommendations, copies of relevant documentation including the revised internal process and tracking tool for probation reports must be submitted to the CRU.

FINDING NO. 3 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Summary: One NOPA was not retained in eight appointment files.

Criteria: As specified in section 26 of the Board's regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.)

Severity: Non-serious or Technical. Without proper documentation, the CRU could not verify if the appointments were properly conducted.

Cause: It is unclear why one NOPA was missing. SCO's process is to keep the unsigned NOPA pending in the SCO Personnel Specialist's file until a signed one is received. The BSCC never received the NOPA in question.

Action: The SCO on behalf of the BSCC has a process in place to ensure that NOPAs are retained. However, the SCO must continue to monitor NOPAs to ensure conformity with the California Code of Regulations section 26. Within 60 days of the Executive Officer's

approval of the findings and recommendations, copies of relevant documentation including the tracking tool for retention of NOPAs must be submitted to the CRU.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the Director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

FINDING NO. 4 – Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the BSCC's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Director of the BSCC. In addition, the BSCC has an established DAC, which reports to the Director on issues affecting persons with disabilities. The BSCC also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff. Accordingly, the BSCC's EEO program complied with civil service laws and Board rules.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state's authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC's achieve cost savings for the state. PSC's that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include but are not limited to private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC's, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, December 1, 2017 through November 30, 2018, the BSCC had eight PSC's that were in effect. The CRU reviewed those seven PSC's, which are listed below:

Vendor	Services	Contract Dates	Contract Amount
Sacramento Notary Public	Notary Services	7/1/2018 - 6/30/2020	\$4,200.00
West Publishing Corporation	Electronic Library Services	7/1/2018 - 6/30/2020	\$4,752.00
Mother Lode Van & Storage, Inc.	Moving Services	8/15/2018 - 6/30/2020	\$9,635.00
Cooperative Personal Services	Training	7/1/2018 - 6/30/2019	\$44,359.96
Rapid Information Destruction Services	Document Destruction Services	2/1/2018 - 6/30/2019	\$2,630.00
Southside Unlimited	Recycling Services	4/4/2018 - 6/30/2020	\$1,305.00

Vendor	Services	Contract Dates	Contract Amount
Taborda Solutions	Service/Maintenance	3/1/2017 - 4/30/2019	\$497,122.00

FINDING NO. 5 – Union Was Not Notified of Personal Services Contract

- Summary:** Unions were not notified prior to BSCC executing seven PSC’s.
- Criteria:** The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132 subd. (b)(1).)
- Severity:** Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for work that their members could perform.
- Cause:** The BSCC did not retain documentation of union notification of PSC’s.
- Action:** The BSCC developed a procedure and tracking mechanism to notify unions of all PSC’s prior to the contract being executed. However, the BSCC must continue to monitor PSC’s to ensure conformity with Government Code section 19132 subdivision (b)(1). Within 60 days of the Executive Officer’s approval of the findings and recommendations, copies of relevant documentation including the procedure and tracking mechanism for union notification must be submitted to the CRU.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as “filers”) because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months

of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & 19995.4, subd. (b).)

Additionally, the training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

Within 12 months of the initial appointment of an employee to a management or Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biannual basis. (*Ibid.*)

The Board may conduct reviews of any appointing power's personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed all the training records for the BSCC's mandated training program that was in effect during the compliance review period. The BSCC's supervisory training was found to be in compliance. However, the BSCC's ethics training and sexual harassment prevention training were found to be out of compliance.

FINDING NO. 6 – Ethics Training Was Not Provided for All Filers

- Summary:** The BSCC did not provide ethics training to 17 of 44 existing filers. Additionally, the BSCC did not provide ethics training to three of three new filers within six months of their appointment.
- Criteria:** New filers must be provided ethics training within six months of appointment. (Gov. Code, § 11146.1) Existing filers must be trained at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).)
- Severity:** Very Serious. The department does not ensure that its filers are aware of prohibitions related to their official position and influence.
- Cause:** The BSCC previously developed a process to inform filers of upcoming deadlines for completing Ethics Training. However, we did not distribute consistent reminders, nor did the BSCC follow up with the filers' manager or deputy director to ensure that the training is completed.
- Action:** 14 staff completed the training after the compliance review. The remaining employees have been instructed to complete the training by September 2019. However, the BSCC must continue to monitor ethics training to ensure conformity with sections 11146.1 and 11146.3 of the Government Code.

FINDING NO. 7 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

- Summary:** The BSCC did not provide sexual harassment prevention training to one of four new supervisors within six months of their appointment. In addition, the BSCC did not provide sexual harassment prevention training to 25 of 39 existing supervisors every two years.
- Criteria:** Each department must provide its supervisors two hours of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subd. (a).) New supervisors must be provided sexual

harassment prevention training within six months of appointment.
(*ibid.*)

Severity: Very Serious. The department does not ensure that all new and existing supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to liability.

Cause: The BSCC previously developed a process to inform supervisors of upcoming deadlines for completing sexual harassment prevention training (SHPT). However, the BSCC did not distribute consistent reminders, nor did the BSCC follow up with the filers' manager or deputy director to ensure that the training is completed.

Also, because of the limited availability of the CalHR's SHPT webinar, the remaining five employees had not been able to complete it, due to scheduling conflicts.

Action: Most supervisors/managers completed the SHPT after the compliance review and the remaining five are enrolled to complete SHPT in September 2019. However, the BSCC must continue to monitor SHPT to ensure conformity with Government Code section 12950.1 (a). Within 60 days of the Executive Officer's approval of the findings and recommendations, copies of relevant documentation including the SHPT training certificates and revised internal procedure must be submitted to the CRU.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by the CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments

calculate and determine an employee’s salary rate⁵ upon appointment depending on the appointment type, the employee’s state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, December 1, 2017 through November 30, 2018, the BSCC made 22 appointments. The CRU reviewed eight of those appointments to determine if the BSCC applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accountant Trainee	Certification List	Permanent	Full Time	\$3,665
Associate Budget Analyst	Transfer	Permanent	Full Time	\$5,761
Field Representative, Board of Correction	Certification List	Permanent	Full Time	\$8,854
Research Analyst II	Certification List	Permanent	Full Time	\$3,377
Research Data Specialist I	Transfer	Permanent	Full Time	\$6,140
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,107
Staff Services Manager II (Managerial)	Certification List	Permanent	Full Time	\$6,951
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$6,605

FINDING NO. 8 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment

Summary: The CRU found one error in the BSCC’s determination of employee compensation:

⁵ “Rate” is any one of the salary rates in the resolution by the CalHR which establishes the salary ranges and steps of the Pay Plan. (California Code of Regulations section 599.666).

Classification	Description of Finding(s)	Criteria
Research Data Specialist I	Employee was entitled to last rate received. However, the BSCC issued incorrect salary. Employee was underpaid,	CCR tit. 2, § 599.674(c)

Criteria: Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. The BSCC failed to comply with the state civil service pay plan, by incorrectly applying compensation laws and rules not in accordance with CalHR's policies and guidelines. This results in a civil service employee receiving incorrect and/or inappropriate compensation.

Cause: At the time the employee was transferring from the prior agency, the transfer determination was made prior to the Merit Salary Adjustment in their prior classification. Upon appointment, the SCO Personnel Specialist failed to follow up with the SCO Analyst regarding the salary discrepancy prior to keying the transfer appointment.

Action: The SCO on behalf of the BSCC has submitted a corrective action plan. The SCO has training and processing procedures in place to ensure accurate salary determinations. However, the employee must be issued retroactive pay to correct the underpayment. Furthermore, the underpaid employee's employment and pay history must be corrected. Going forward, the SCO must continue to monitor salary determinations for accuracy and to ensure conformity with civil service laws and applicable salary regulations.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria.

(California Civil Service Pay Scales.) When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, September 1, 2017 through August 30, 2018, the BSCC made five alternate range movements within a classification that the CRU reviewed to determine if the BSCC applied salary regulations accurately and correctly processed employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Research Data Analyst I	Range A	Range C	Full Time	\$4,344
Research Data Specialist I	None	Range A	Full Time	\$5,737
Research Data Specialist I	None	Range A	Full Time	\$6,841
Staff Services Analyst	Range A	Range B	Full Time	\$3,381
Staff Services Analyst	Range B	Range C	Full Time	\$4,360

FINDING NO. 9 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found that the alternate range movements the BSCC made during the compliance review period, satisfied civil service laws, Board rules, and the CalHR’s policies and guidelines.

Out-of-Class Assignments and Pay

For excluded⁶ and most rank and file employees, out-of-class (OOC) is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810 (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810 (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. (Classification and Pay Guide

⁶ “Excluded employee” means an employee as defined in section 3572(b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

Section 375.) However, certain MOU provisions and the California Code of Regulations, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. (*Ibid.*) Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. (*Ibid.*) Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (*Ibid.*)

During the period under review, September 1, 2017 through August 30, 2018, the BSCC issued out-of-class pay⁷ to one employee. The CRU reviewed the one out-of-class assignment to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Office Technician (Typing)	BU 4	Staff Services Analyst (General)	10/16/2017 – 11/3/2017

FINDING NO. 10 – Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the out of class pay assignment that the BSCC authorized during the compliance review period. Out-of-class pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee’s time to ensure that the constitutional limit of nine months in any 12 consecutive months is not exceeded. The ATW method of counting time is used in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

⁷ Excluding bilingual and arduous pay.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days⁸ worked and paid absences,⁹ is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) the 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitation set forth are not exceeded.¹⁰ (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Additionally, according to Government Code Section 21224, retired annuitant (RA) appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June) without reinstatement, loss or interruption of benefits for all state employers.

At the time of the review, the BSCC had four employees on ATW, which the CRU reviewed to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Time Base	Time Frame	No. of Hours Worked
Senior Accounting Officer Specialist (RA)	Intermittent	7/1/2017 – 6/30/18	736
Field Representative, Board of Correction (RA)	Intermittent	7/1/2017 – 6/30/18	177

⁸ For example, two hours or ten hours counts as one day.

⁹ For example, vacation, sick leave, compensating time off, etc.

¹⁰ California Code of Regulations section 265.1 became effective July 1, 2017, and did not apply at the time of all of these appointments. The current regulation sets forth the method for counting time for temporary appointments. The cap under the current regulation is 189 days.

Associate Governmental Program Analyst (RA)	Intermittent	7/1/2017 – 6/30/18	480.25
Field Representative, Board of Correction (RA)	Intermittent	7/1/2017 – 6/30/18	960

FINDING NO. 11 – Positive Paid Employees Authorization Complied with Civil Services Laws, Board Rules, Policies and Guidelines

The CRU found no deficiencies in the documentation for the positive paid employees during the compliance review period. The BSCC provided sufficient justification for the use of ATW and adhered to applicable laws, regulations, policies and guidelines.

Administrative Time Off

ATO is a form of paid administrative initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) Additionally, ATO may also be granted when employees need time off for various reasons such as blood or organ donation; extreme weather preventing safe travel to work; states of emergency; voting; and when employees need time off to attend special events. (*Ibid.*)

During the period under review, September 1, 2017 through August 30, 2018, the BSCC placed 77 employees on ATO. The CRU reviewed five of those ATO appointments to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Days on ATO
Associate Governmental Program Analyst	12/26/2017 – 12/26/2017	1
Executive Officer	12/26/2017 – 12/26/2017	1
Staff Services Manager III	12/26/2017 – 12/26/2017	1
Field Representative, Board of Correction	12/26/2017 – 12/26/2017	1
Field Representative, Board of Correction	10/9/2017 – 10/18/2017	10

FINDING NO. 12 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies with the employees placed on ATO during the compliance review period. The BSCC provided sufficient justification for the use of ATO and adhered to applicable laws, regulations, and CalHR policy and guidelines.

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*) Accurate and timely attendance reporting is required of all departments and is subject to audit. (*Ibid.*)

During the period under review, June 1, 2018 through August 31, 2018, the BSCC reported 24 units with 271 active employees. The timesheets and pay periods the CRU reviewed are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	No. of Timesheets Reviewed
June 2018	100	5	5
June 2018	193	21	21
July 2018	193	19	19
July 2018	197	7	7
August 2018	191	13	13
August 2018	194	14	14

FINDING NO. 13 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the BSCC’s leave auditing and timekeeping. The BSCC kept complete and accurate time and attendance records for each employee and officer

employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

State Service

The state recognizes two different types of absences while any employee is on pay status; paid or unpaid. The unpaid absences can affect whether a pay period is considered to be a qualifying or non-qualifying pay period for state service and leave accruals.

An employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.¹¹(Cal. Code Regs., tit.2, § 599.608.) Full-time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service or continuous service. (Cal. Code Regs., tit.2, § 599.609.)

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit.2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit.2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹² shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit.2, § 599.752.)

Permanent intermittent employees also earn leave credits on the pay period following the accumulated accrual of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period, are not counted or accumulated towards leave credits.

¹¹ Except as provided in sections 599.609 and 599.776.1(b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

¹² As identified in Government Code sections 19858.3(b), or 19858.3 (c) or as it applies to employees excluded from the definition of state employee under Government Code section 3513(c) or California Code of Regulations section 599.752 subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

During the period under review, September 1, 2017 through August 30, 2018, the BSCC had four employees with non-qualifying pay period transactions. The CRU reviewed 18 of those transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time Base	No. Reviewed
Non-Qualifying Pay Period	Full Time	4
Non-Qualifying Pay Period	3/5 Time	12
Qualifying Pay Period	Full Time	2

FINDING NO. 14 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the BSCC’s service and leave transactions. The BSCC ensured employees with non-qualifying pay periods did not receive vacation, sick leave, annual leave, and/or state service accruals.

Leave Reduction Efforts

Departments must create a leave reduction policy for their organization and monitor employee’s leave to ensure compliance with the departmental leave policy; and ensure employees who have significant “over-the cap” leave balances have a leave reduction plan in place. (Human Resources Manual Section 2124.)

Applicable Bargaining Unit (BU) Agreements and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. “If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, “the employee may accumulate the unused portion.”¹³ (Cal. Code Regs., tit. 2, § 599.737.) If appears an exempt employee will have a vacation or annual leave balance that will be above the maximum amount¹⁴ as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off consistent with

¹³ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.

¹⁴ Excluded employees shall not accumulate more than 80 days.

operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation (Cal. Code Regs., tit. 2, § 599.742.1), ensuring employees maintain the capacity to optimally perform their jobs. For exempt employees, the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, unless exempted, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*Ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work-life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2017, 10 BSCC employees exceeded the established limits of vacation or annual leave. The CRU reviewed all 10 of those employees' leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

FINDING NO. 15 – Leave Reduction Plans Were Not Provided for All Employees Whose Leave Balances Exceeded Established Limits

Summary: Leave reduction plans for all 10 employees whose leave balances significantly exceeded established limits were not provided. Additionally, the BSCC did not provide a general departmental policy addressing leave reduction.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Field Representative, Board of Correction	S06	1,115	No
Staff Services Analyst (General)	R01	1,046	No
Field Representative, Board of Correction	S06	639	No
Field Representative, Board of Correction	S06	562	No
Field Representative, Board of Correction	S06	469	No

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Field Representative, Board of Correction	S06	450	No
Field Representative, Board of Correction	S06	310	No
Career Executive Assignment	M01	214.5	No
Executive Officer	E99	148	No
Field Representative, Board of Correction	S06	119	No
Total		5,072.5	

Criteria: It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. (Human Resources Manual Section 2124.) Therefore, appointing authorities and state managers and supervisors must: create a leave reduction policy for the organization and monitor employees' leave to ensure compliance with the departmental leave policy; and; ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place and are actively reducing hours." (*Ibid.*)

Severity: Serious. California state employees have accumulated significant leave hours creating an unfunded liability for departmental budgets. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.

Cause: The BSCC did not have a departmental Leave Reduction Policy (LRP) or procedure for providing leave reduction plans to all employees whose leave balances exceeded established limits.

Action: The BSCC developed a LRP and procedure for providing leave reduction plans to all employees whose leave balances exceed established limits. However, the BSCC must continue to monitor leave balances to ensure conformity with Human Resources Manual Section 2124. Within 60 days of the Executive Officer's approval of the findings and recommendations, copies of relevant documentation including the LRP and the new procedure for

providing leave reduction plans as required must be submitted to the CRU.

Policy and Processes

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) In addition, there may be personal relationships beyond this general definition that could be subject to these policies. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

FINDING NO. 16 – Department Does Not Maintain a Current Written Nepotism Policy

Summary: The BSCC's current written nepotism policy does not emphasize that nepotism is antithetical to a merit based personnel system. Nor does it state that the BSCC is committed to recruiting and hiring on the basis of merit.

Criteria: It is the policy of the State of California to recruit, hire and assign all employees on the basis of fitness and merit in accordance with civil service statutes, rules, and regulations. (Human Resources Manual Section 1204). All department policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

Severity: Very Serious. Departments must take proactive steps to ensure that the recruitment, hiring, and assigning of all employees is done on the basis of merit and fitness in accordance with civil service statutes. The maintaining of a current written nepotism policy, and its dissemination to all staff, is the basis for achieving these ends.

Cause: The BSCC created a written nepotism policy addressing all points required by the CalHR. It will include the BSCC's commitment to recruit and hire based on merit. The BSCC will distribute the policy to all staff in approximately September 2019 and incorporate it into the New Employee Handbook.

Action: Within 60 days of the Executive Officer's approval of the findings and recommendations, copies of relevant documentation including the new nepotism policy and updated New Employee Handbook must be submitted to the CRU.

Workers' Compensation

Employers shall provide to every new employee at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under Workers' Compensation law. (Cal. Code Regs., tit. 8, § 9880 subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of the employee's personal physician," as defined by Labor Code Section 4600. (Cal. Code Regs., tit. 8, § 9880 subd. (c)(7)(8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential liability for benefits to the injured employee. (Labor Code, § 5401 subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers' compensation coverage is not mandatory for volunteers as it is for employees. (*Ibid.*) This is specific to the legally uninsured state departments participating in the Master Agreement. (*Ibid.*) Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (SCIF) office to discuss the status of volunteers. (*Ibid.*)

In this case, the BSCC did not employ volunteers during the compliance review period.

FINDING NO. 17 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the BSCC provides notice to their employees informing them of their rights and responsibilities under CA Workers' Compensation law.

Performance Appraisals

According to Government Code section 19992.2, appointing powers must prepare performance reports. Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee's probationary period.

The CRU selected 22 permanent BSCC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

FINDING NO. 18 – Performance Appraisals Were Not Provided to All Employees

Summary: 21 of 22 employees were not provided with performance appraisals at least once in each twelve calendar months after the completion of the employees' probationary period.

Classification	Date Performance Appraisals Due
Associate Governmental Program Analyst	10/26/2018
Associate Governmental Program Analyst	2/20/2018
Field Representative, Board of Corrections	6/30/2018
Field Representative, Board of Corrections	4/30/2018
Field Representative, Board of Corrections	6/30/2018
Field Representative, Board of Corrections	4/30/2018
Field Representative, Board of Corrections	6/30/2018
Field Representative, Board of Corrections	6/30/2018
Field Representative, Board of Corrections	9/7/2018
Field Representative, Board of Corrections	9/30/2018
Field Representative, Board of Corrections	3/14/2018
Field Representative, Board of Corrections	12/1/2018
Field Representative, Board of Corrections	11/4/2018
Field Representative, Board of Corrections	6/30/2018
Field Representative, Board of Corrections	12/30/2018
Field Representative, Board of Corrections	7/1/2018
Information Technology Associate	11/30/2018
Office Technician (Typing)	1/31/2018
Research Data Specialist I	8/29/2018

Classification	Date Performance Appraisals Due
Staff Services Manager I	10/12/2018
Staff Services Manager III	5/31/2018

Criteria: Appointing powers are required to prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code § 19992.2 subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss overall work performance at least once in each twelve calendar months following the end of the employees' probationary period. (Cal. Code Regs., tit. 2, § 599.798 subd. (c).)

Severity: Serious. The department does not ensure that all of its employees are appraised of work performance issues and/or goals in a systematic manner.

Cause: The BSCC did not have a procedure for providing performance appraisals to all employees.

Action: The BSCC has provided a corrective action plan to ensure performance appraisals will be provided to all employees timely. However, the BSCC must continue to monitor performance appraisals to ensure conformity with Government Code section 19992.2, subdivision (a), and the California Code of Regulations section 599.798, subdivision (c). Within 60 days of the Executive Officer's approval of the findings and recommendations, copies of relevant documentation including the new procedure and tracking mechanism must be submitted to the CRU.

DEPARTMENTAL RESPONSE

The BSCC's response is attached as Attachment 1.

SPB REPLY

It is further recommended that the BSCC will comply with the afore-stated recommendations and submit documentation to the CRU within 60 days that shows the corrective actions have been implemented.

LINDA M. PENNER
*Chair*KATHLEEN T. HOWARD
Executive DirectorEDMUND G. BROWN, JR.
Governor

August 23, 2019

Suzanne Ambrose
Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, CA 95818

Dear Executive Officer Ambrose,

The Board of State and Community Corrections (BSCC) appreciates the opportunity to provide feedback on the 2019 Compliance Review recently conducted by the SPB Compliance Review Unit. Our conversation was both fruitful and educational. While there were concerns shared with our team, we were able to have a productive exchange of ideas that better clarified expectations.

The responses that we have prepared serve to document steps being taken by the BSCC to meet our commitment to excellence and to address current practices outlined in the 2019 review findings. Moreover, it is our intent to implement measures to minimize, if not eliminate, any additional instances in the future.

The following is our commitment to address items identified by your staff:

Finding #2	Probationary Evaluations Were Not Provided For All Appointments Reviewed	SERIOUS
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Cause: In 2 of the missing 6 probationary evaluations, the BSCC had a supervisor vacancy. The BSCC did not inform the acting supervisor of the requirement to complete the probationary evaluations. For the remaining 4 of 6 probationary evaluations, the BSCC used its internal process and tracking mechanism to notify all supervisors/managers of probationary evaluation due dates. However, we did not consistently follow up with the supervisors/managers to ensure they submitted the required probationary evaluation reports timely.

Action: The BSCC revised the internal process to include notifying the acting supervisor/manager when there is a supervisor vacancy, consistently distributing reminders to the supervisors/managers, and proactively working with them to ensure they submit the probationary evaluations timely. The BSCC will also revise the tracking mechanism to include submission dates.

The State Controller's Office (SCO) will assist the BSCC with tracking probationary evaluations and provide monthly follow up for outstanding reports.

Finding #3 Appointment Documentation Was Not Kept for the Appropriate Amount of Time NON-SERIOUS/ TECHNICAL

Cause: It is unclear why one Notice of Personnel Action (NOPA) was missing. SCO's process is to keep the unsigned NOPA pending in the SCO Personnel Specialist's file until a signed one is received.

The BSCC never received the NOPA in question.

Action: SCO's current process requires the Personnel Specialist maintain a copy of the pending NOPA in their pending files until the signed NOPA is received. SCO implemented adding a copy to the Official Personnel File, to be replaced once the signed copy is returned. SCO will reiterate the process to the Personnel Specialist to ensure compliance with management expectations.

The BSCC will develop a tracking mechanism to ensure that all NOPAs are received from SCO, signed by the employee, and returned to SCO in a timely manner. The BSCC will also retain copies of all NOPAs.

Finding #5 Union Was Not Notified of Personal Services Contracts SERIOUS

Cause: The BSCC did not retain documentation of union notification of Personal Services Contracts (PSC).

Action: The BSCC has developed a procedure and tracking mechanism to ensure union notification of all PSC. This consists of including the notification in the contract package when routing contracts to the manager for approval. The notification will also be retained in the contract file.

Finding #6 Ethics Training Was Not Provided for All Filers VERY SERIOUS

Cause: The BSCC has not yet been able to corroborate the employees identified by the SPB as out of compliance. According to our records, 25 of the listed employees had not completed training at the time of review.

The BSCC previously developed a process to inform filers of upcoming deadlines for completing Ethics Training. However, we did not distribute consistent reminders, nor did the BSCC follow up with the filers' manager or deputy director to ensure that the training was completed.

Action: The BSCC addressed this issue. 14 of 25 staff completed the training after the compliance review. The remaining 11 staff have been instructed to complete it by September 30, 2019.

The BSCC revised the internal procedure to include not only informing filers of upcoming deadlines, but also distributing consistent reminders to both the filers and their manager or deputy director.

The BSCC will update the New Employee Handbook to include the requirement to complete Ethics Training by the respective timeframes.

New filers will receive an email notification within the first week of their appointment informing them that the Ethics Training must be completed within 6 months of appointment. All filers will be notified two months prior to their certification deadlines, and will receive two reminders before their manager or deputy director is notified.

The BSCC will ensure supervisors/managers complete Ethics Training timely. The BSCC will continue to update the tracking mechanism with completion status, and submit training certificates to SCO.

Finding #7 Sexual Harassment Prevention Training Was Not Provided for All Supervisors VERY SERIOUS

Cause: The BSCC has not yet been able to corroborate the employees identified by the SPB as out of compliance. According to our records, 14 of 19 BSCC staff completed Sexual Harassment Prevention Training (SHPT) at the time of the compliance review. However, we did not receive their certificates until after the audit. We shared the status with SPB. However, the BSCC likely did not get credit for providing the training because staff completed it outside of the required deadlines or we did not share the certificates during the compliance review.

The BSCC previously developed a process to inform supervisors/managers of upcoming deadlines for completing SHPT. However, the BSCC did not distribute consistent reminders, nor did we follow up with the employees' manager or deputy director to ensure that the training was completed.

Also, because of the limited availability of the Cal HR SHPT webinar, the remaining 5 employees had not been able to complete it, due to scheduling conflicts.

Action: The BSCC immediately addressed this issue. Most supervisors/managers completed the SHPT during or following the compliance review. The remaining 5 staff are enrolled in the Cal HR webinar on September 25, 2019. However, they may complete the required training sooner, as the BSCC was recently informed of a self-paced online training option.

The BSCC revised the internal procedure to include not only informing supervisors/managers of upcoming deadlines, but also distributing consistent reminders to both the employee and their manager or deputy director.

New supervisors/managers will receive an email notification within the first week of their appointment informing them that the SHPT must be completed within 6 months of appointment. Existing supervisors/managers will be notified two months prior to their certification deadlines, and will receive two reminders before their manager or deputy director is notified.

The BSCC also revised the New Employee Handbook to include the requirement for new and existing supervisors/managers to complete SHPT by the respective timelines.

The BSCC will ensure supervisors/managers complete SHPT timely. The BSCC will continue to update the tracking mechanism with completion status and submit training certificates to SCO.

Finding #8 **Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment** **VERY SERIOUS**

Cause: At the time the employee was transferring from the prior agency, transfer determination was made prior to the Merit Salary Adjustment in their prior classification. Upon appointment, the SCO Personnel Specialist failed to follow up with the SCO Analyst regarding the salary discrepancy prior to keying the transfer appointment.

Action: The SCO has reiterated training and process procedures that require the Personnel Specialist and the Classification Analyst to prepare separate Salary Determination sheets. The Classification Analyst will prepare the initial determination from their appointment verification information. The Personnel Specialist will prepare a second determination based on information directly from the Personnel Action Request (PAR) form.

Finding #15 **Leave Reduction Plans Were Not Provided for All Employees Whose Leave Balances Exceeded Established Limits** **NON-SERIOUS/ TECHNICAL**

Cause: The BSCC did not have a departmental Leave Reduction Policy (LRP) or procedure for providing leave reduction plans to all employees whose leave balances exceeded established limits.

Action: The BSCC developed a LRP to inform staff of the requirement to stay within the established limits. The BSCC will distribute it to all staff in approximately September 2019; and incorporate it into the New Employee Handbook.

The BSCC developed a procedure for identifying current staff whose leave balances exceed established limits, and is working with their manager/supervisor or deputy directors to provide them with Leave Reduction Plans.

The BSCC will continue to issue leave reduction plans and monitor leave balances for all affected employees.

Finding #16 Department Does Not Maintain a Current Written Nepotism Policy **VERY SERIOUS**

Cause: The BSCC currently does not have a written nepotism policy.

Action: The BSCC created a written nepotism policy addressing all points required by CalHR. It will include BSCC's commitment to recruit and hire based on merit. The BSCC will distribute the policy to all staff in approximately September 2019; and incorporate it into the New Employee Handbook.

Finding #18 Performance Appraisals Were Not Provided to All Employees **SERIOUS**

Cause: The BSCC did not have a procedure for providing performance appraisals to all employees.

Action: The BSCC will develop a procedure for providing performance appraisals to all employees. The BSCC will proactively work with the supervisors/managers to ensure completion in a timely manner. The BSCC will also develop a tracking mechanism and update it regularly.

The SCO will assist BSCC with tracking performance appraisals and providing monthly follow up for outstanding reports.

Thank you for allowing the BSCC to improve our existing policies and procedures, develop new policies and procedures, provide further details on the above findings, and outline a department action plan to ensure compliance and continuous quality improvement. Should you have further questions regarding our responses, please feel free to contact me at Anita.Butler@bscc.ca.gov or via telephone at (916) 327-4210.

Sincerely,



ANITA BUTLER
Chief of Administration
Board of State and Community Corrections