



# **COMPLIANCE REVIEW REPORT**

**CALIFORNIA STATE AUDITOR**

Compliance Review Unit  
State Personnel Board  
May 16, 2017

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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 authority's 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. 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 California State Auditor (CSA) personnel practices in the areas of examinations, appointments, EEO, and PSC's from April 1, 2016, through December 30, 2016, and mandated training from December 1, 2014, through December 30, 2016. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
Appointments	Appointments Complied with Civil Service Laws and Board Rules	In Compliance

Area	Finding	Severity
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules	In Compliance
Mandated Training	Mandated Training Complied With Statutory Requirements	In Compliance

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**

The CSA conducts performance, financial, or compliance audits that are either mandated by statute or requested by the Legislature through the Joint Legislative Audit Committee. It is also responsible for annually conducting California's statewide Single Audit - a combination of the independent audit of the State's basic financial statements and the independent audit of numerous federal programs administered by California. Additionally, the CSA performs independent investigations into allegations of improper governmental activities by state and court employees or state agencies and courts. Further, the CSA has State and Local Government High Risk programs to identify statewide issues or specific government entities and local government agencies as at high risk for the potential of waste, fraud, abuse, and mismanagement or that have major challenges related to efficiency and effectiveness.

In addition, every 10 years the CSA must initiate an application process for selecting the members of a 14-member Citizens Redistricting Commission (Commission). The CSA develops regulations to implement the application and selection process of the Commission and conducts comprehensive outreach to prospective applicants to serve on the Commission.

The CSA employs approximately 170 employees and utilizes approximately 40 civil service classifications.

## SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing CSA examinations, appointments, and EEO program from April 1, 2016, through December 30, 2016, and mandated training from December 1, 2014, through December 30, 2016. The primary objective of the review was to determine if CSA personnel practices, policies, and procedures complied with state civil service laws and board regulations, and to recommend corrective action where deficiencies were identified.

A cross-section of CSA examinations and appointments were selected for review to ensure that samples of various examinations and appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CSA provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action forms, vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

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

The CSA did not execute any PSC's subject to the Department of General Services approval during the compliance review period.<sup>1</sup>

In addition, the CSA 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 and sexual harassment prevention training within statutory timelines.

The CSA declined to have an exit conference. The CSA was found to be in compliance in all areas reviewed during the compliance review period. Therefore, no departmental response is required.

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<sup>1</sup> If 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.

## 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, the CSA conducted 12 examinations. The CRU reviewed 9 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Auditor Evaluator I	Open	Written <sup>2</sup>	Continuous	184
Auditor Evaluator I, Bureau of State Audits	Open	Education and Experience <sup>3</sup>	Continuous	411

<sup>2</sup> A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

<sup>3</sup> In an education and experience 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.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Auditor Specialist II	Open	Education and Experience	Continuous	1
Career Executive Assignment (CEA) B, Chief Legal Counsel	CEA	Statement of Qualifications (SOQ) <sup>4</sup>	5/9/16	21
CEA B, Deputy State Auditor, Investigations	CEA	SOQ	9/22/16	5
Graphic Designer I	Departmental Promotional	Education and Experience	6/13/16	13
Senior Auditor I	Open	SOQ	Continuous	31
Senior Auditor III	Open	SOQ	Continuous	4
Staff Services Analyst	Transfer	Written	Continuous	1

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

The CRU reviewed one departmental promotional, two CEA, one transfer, and five open examinations which the CSA administered in order to create eligible lists from which to make appointments. The CSA published and distributed examination bulletins containing the required information for all examinations. Applications received by the CSA were accepted prior to the final filing date and were thereafter properly assessed to determine whether applicants met the minimum qualifications for admittance to the examinations. The CSA notified applicants as to whether they qualified to take the examination, and those applicants who met the minimum qualifications were also 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

<sup>4</sup> In a statement of qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

all successful competitors arranged in order of the score received by rank. Competitors were then notified of their final scores.

The CRU found no deficiencies in the examinations that the CSA conducted during the compliance review period. Accordingly, the CSA fulfilled its responsibilities to administer those examinations in compliance with civil service laws and board rules.

### **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.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual’s job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the compliance review period, the CSA made 51 appointments. The CRU reviewed 23 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Attorney IV	Certification List	Permanent	Full Time	1
Attorney V	Certification List	Permanent	Full Time	1
Auditor Evaluator I	Certification List	Permanent	Full Time	4
Auditor Evaluator II	Certification List	Permanent	Full Time	4
Auditor Specialist I	Certification List	Permanent	Full Time	3
Data Processing Manager II	Certification List	Permanent	Full Time	1
Graphic Designer I	Certification List	Permanent	Full Time	1
Principal Auditor, Bureau of State Audits	Certification List	Permanent	Full Time	1



Senior Auditor Evaluator I, Bureau of State Audits	Certification List	Permanent	Full Time	2
Senior Auditor Evaluator II, Bureau of State Audits	Certification List	Permanent	Full Time	3
Staff Services Manager I	Retired Annuitant	Permanent	Intermittent	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1

**FINDING NO. 2 – Appointments Complied with Civil Service Laws and Board Rules**

The CSA measured each applicant’s ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 10 list appointments reviewed, the CSA ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed one retired annuitant appointment. The individual submitted application and was eligible to be hired as a retired annuitant, not to exceed 960 hours in a fiscal year.

The CRU reviewed one CSA appointment made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Reg., tit. 2, § 425.) The CSA verified the eligibility of the candidate to appointed class.

The CRU found no deficiencies in the appointments that the CSA conducted during the compliance review period. Accordingly, the CRU found that all the appointments the CSA made during the compliance review period satisfied civil service laws and board rules.

**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,

processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents and data. (*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.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation from the regular chain of command, as well as regular and unencumbered access to the head of the organization. In a state agency with less than 500 employees, like CSA, the EEO Officer may be the Personnel Officer.

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).)

The CRU reviewed the CSA EEO program that was in effect during the compliance review period.

**FINDING NO. 3 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Regulations**

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 CSA 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 CSA. In addition, the CSA has an established DAC which reports to the Director on issues affecting persons with disabilities. The CSA 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 CSA EEO program complied with civil service laws and board rules.

### **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 California Department of Human Resources (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), & (c), & 19995.4, subd. (b).) 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 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 the CSA's mandated training program that was in effect during the compliance review period.

#### **FINDING NO. 4 – Mandated Training Complied with Statutory Requirements**

The CSA provided ethics training to its 37 new filers within six months of appointment and semiannual ethics training to its 49 existing filers during two-year calendar year period commencing in 2014. The CSA also provided supervisory training to its four new supervisors within 12 months of appointment. In addition, the CSA provided sexual harassment prevention training its 12 new supervisors within six months of appointment, and sexual harassment prevention training to its 38 existing supervisors every two years. Thus, the CSA complied with mandated training requirements within statutory timelines.

#### **DEPARTMENTAL RESPONSE**

No departmental response was required since all areas reviewed were found to be in compliance.

#### **SPB REPLY**

The CSA was found to be in compliance in all areas reviewed during the compliance review period. Therefore, no further action is required.