



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA COMMISSION ON TEACHER CREDENTIALING**

Compliance Review Unit  
State Personnel Board  
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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 Commission on Teacher Credentialing (CTC) personnel practices in the areas of examinations, appointments, EEO, PSC's from September 1, 2015, through May 31, 2016, and mandated training from March 1, 2014, through May 31, 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 Services Laws and Board Rules	In Compliance
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules	In Compliance

Area	Finding	Severity
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements	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 CTC is an agency in the Executive Branch of California State Government. It was created in 1970 by the Ryan Act and is the oldest of the autonomous state standards boards in the nation. The major purpose of the agency is to serve as a state standards board for educator preparation for the public schools of California, the licensing and credentialing of professional educators in the state, the enforcement of professional practices of educators, and the discipline of credential holders in the State of California.

The CTC consists of 19 members, 15 voting members and four ex-officio, non-voting members. The Governor appoints 14 voting Commissioners and the State Superintendent of Public Instruction or his/her designee serves as the 15<sup>th</sup> voting member. The four ex-officio members are selected one each by the major elements of the California higher education constituency: Association of Independent California Colleges and Universities; Regents of the University of California; the California State University; and California Community Colleges Chancellor's Office. The Governor-appointed Commissioners consist of six classroom teachers, one school administrator, one school board member, one school counselor or services credential holder, one higher education faculty member from an institution for teacher education, and four public members. Governor appointed Commissioners are typically appointed to a four-year term and serve as volunteers in unpaid positions.

## SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing CTC examinations, appointments, EEO program, and PSC's from September 1, 2015, through May 31, 2016, and mandated training from March 1, 2014, through May 31, 2016. The primary objective of the review was to determine if CTC 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 CTC's 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 CTC 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 CTC'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 upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The CTC PSC's were also reviewed.<sup>1</sup> It was beyond the scope of the compliance review to make conclusions as to whether CTC justifications for the contracts were legally sufficient. The review was limited to whether CTC practices, policies, and procedures relative to PSC's complied with procedural requirements.

In addition, the CTC's mandated training 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 CTC declined to have an exit conference. The CTC 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 CTC conducted seven examinations. The CRU reviewed five of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Career Executive Assignment (CEA) B, Administrative Services Division	CEA	Statement of Qualifications (SOQ's) <sup>2</sup>	3/24/2016	11
CEA B, General Counsel	CEA	SOQ	5/11/2016	11

<sup>2</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.

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Consultant in Teacher Preparation (Program Evaluation and Research)	Open	Education and Experience (E&E) <sup>3</sup>	Continuous Filing	9
Teacher Preparation Administrator I (Program Evaluation and Research)	Open	E&E	Continuous Filing	2
Teacher Preparation Administrator I (Examinations and Research)	Open	E&E	Continuous Filing	1

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

The CRU reviewed two CEA and three open examinations which the CTC administered in order to create eligible lists from which to make appointments. The CTC published and distributed examination bulletins containing the required information for all examinations. Applications received by the CTC 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 CTC 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 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 CTC’s examinations reviewed during the compliance review period. Accordingly, the CTC fulfilled its responsibilities to administer those examinations in compliance with civil service laws and board rules.

<sup>3</sup> 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.

## 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.) Except as provided by law, appointments to vacant positions shall be made from employment lists. (*Ibid.*) 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 CTC made 39 appointments. The CRU reviewed 20 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Associate Governmental Program Analyst (AGPA)	Certification List	Permanent	Full Time	1
AGPA	Certification List	Permanent	Intermittent	1
Associate Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	1
Attorney	Certification List	Limited Term	Full Time	1
Consultant in Teacher Preparation (Program Evaluation and Research)	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Intermittent	1
Office Technician (Typing) Leap	Certification List	Permanent	Full Time	1
Special Investigation	Certification List	Permanent	Full Time	1
Staff Services Manager I (Specialist)	Certification List	Permanent	Full Time	2
Staff Services Analyst	Certification List	Permanent	Full Time	3
Staff Services Manager (SSM) II	Certification List	Permanent	Full Time	1
SSM II (Managerial)	Certification List	Permanent	Full Time	1
AGPA	Transfer	Permanent	Full Time	2



Classification	Appointment Type	Tenure	Time Base	No. of Appointments
CEA A	Transfer	Permanent	Full Time	1
Staff Services Analyst	Transfer	Permanent	Full Time	1
SSM II	Training & Development	Permanent	Full Time	1

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

The CTC 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 15 list appointments reviewed, the CTC 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 four CTC appointments made via transfer. A transfer of employee from a position under one appointing power to a position under another or same 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 CTC verified the eligibility of each candidate to their appointed class.

Eligibility for training and development assignments are limited to employees who (1) have permanent status in their class, or (2) who have probationary status and who previously have had permanent status and who, since such permanent status, have had no break in service due to a permanent separation. The CRU reviewed one training and development appointment, and determined it to be in compliance with applicable civil service laws and board rules (Gov. Code, § 438, subd. (a)(b)).

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

Equal Employment Opportunity (EEO)

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 equal employment opportunity; 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 (CalHR) 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.) In a state agency with less than 500 employees, like the CTC, the EEO officer may be the personnel officer. (*Ibid.*)

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 the CTC, 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 CTC's EEO program that was in effect during the compliance review period. Accordingly, the CTC's EEO program complied with civil service laws and board rules.

**FINDING NO. 3 – Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules**

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 CTC'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 CTC. In addition, the CTC has an established DAC that reports to the director on issues

affecting persons with a disability. The CTC also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with a disability, and to offer upward mobility opportunities for its entry-level staff.

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 Reg., 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 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 the 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 compliance review period, the CTC had two PSC’s that were in effect and subject to Department of General Services (DGS) approval, and thus our procedural review. The CRU reviewed both of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
NCS Pearsons, Inc.	Performance Assessment Design & Service	5/13/2016-6/30/2018	\$1,000,000	Yes
NCS Pearsons, Inc.	Performance Assessment Design & Service (Redeveloped)	3/15/2016-10/31/2020	\$2,109,906	Yes

**FINDING NO. 4 – Personal Services Contracts Complied with Procedural Requirements**

When a state agency requests approval from the DGS for a subdivision (b) contract, the agency must include with its contract transmittal a written justification that includes *specific and detailed factual information* that demonstrates how the contract meets one or more conditions specified in Government Code section 19131, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.)

The total amount of all the PSC's reviewed was \$3,109,906. It was beyond the scope of the review to make conclusions as to whether CTC justifications for the contract were legally sufficient. For all PSC's subject to DGS approval, the CTC provided specific and detailed factual information in the written justifications as to how each of the two contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the CTC PSC's complied with procedural requirements.

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 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 the CTC's mandated training program that was in effect during the compliance review period.

**FINDING NO. 5 – Mandated Training Complied with Statutory Requirements**

The CTC provided ethics training to its 13 new filers within six months of appointment and semiannual ethics training to its 32 existing filers during two-year calendar year period commencing in 2014. The CTC also provided supervisory training to its five new supervisors within 12 months of appointment. In addition, the CTC provided sexual harassment training its four new supervisors within six months of appointment, and sexual harassment prevention training to its 18 existing supervisors every two years. Thus, the CTC complied with mandated training requirements within statutory timelines.

## **DEPARTMENTAL RESPONSE**

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

## **SPB REPLY**

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