



COMPLIANCE REVIEW REPORT

CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY

Compliance Review Unit
State Personnel Board
November 05, 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 California Health and Human Services Agency (CHHS)'s 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
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Appointments	Unlawful Appointments
Equal Employment Opportunity	A Disability Advisory Committee Has Not been Established
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	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Pay Differentials
Compensation and Pay	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Positive Paid Employee's Tracked Hours 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	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records
Leave	Leave Reduction Plans Were not Provided to Employees Whose Leave Balances Exceeded Established Limits
Policy	Nepotism Policy Needs to Be Updated to Comply with Statewide Policy
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	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

The CHHS oversees 15 departments, boards, and offices that provide a wide range of health care services, social services, mental health services, alcohol and drug treatment services, public health services, income assistance, and services to people with disabilities. Health and human services programs provide essential medical, dental, mental health, and social services to many of California's most vulnerable and at-risk residents. These programs provide access to critical services to millions of Californians and promote health, well-being, and ability to function in society. The mission of the CHHS is to recognize children as a priority, promoting personal responsibility for services, and enhancing effectiveness and accountability.

The California Department of Social Services (CDSS) performs a portion of the CHHS human resources operations.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CHHS'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 CHHS personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the CHHS'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 CHHS provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CHHS's Permanent Withhold Actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and Withhold letters.

A cross-section of the CHHS'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 CHHS 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 CHHS did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CHHS did not make any additional appointments during the compliance review period.

The CHHS's appointments were also selected for review to ensure the CHHS applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CHHS 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 the following personnel functions related to compensation and pay: bilingual pay, monthly pay differentials, and out-of-class assignments. During the compliance review period, the CHHS did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, and arduous pay.

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

The review of the CHHS'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 CHHS did not execute any PSC's during the compliance review period.

The CHHS'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 CHHS'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 CHHS to provide a copy of their leave reduction policy.

The CRU reviewed the CHHS's Leave Activity and Correction Certification forms to verify that the CHHS 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 CHHS's units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of CHHS positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements. During the compliance review period, the CHHS did not have any employees with non-qualifying pay period transactions. The CHHS also did not authorize Administrative Time Off (ATO).

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

On September 4, 2019, an exit conference was held with the CHHS to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CHHS's written response on September 18, 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, subd. (a).) 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 with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) 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, January 1, 2018 through December 31, 2018, the CHHS conducted two examinations. The CRU reviewed both of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA)	Open	Statement of Qualifications (SOQ) ³	07/19/18	14
Staff Services Analyst	Promotional	Written ⁴	05/18/18	5

³ 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.

⁴ 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.

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

The CRU reviewed one departmental promotional and one open examination which the CHHS administered in order to create eligible lists from which to make appointments. The CHHS published and distributed examination bulletins containing the required information for all examinations. Applications received by the CHHS 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 no deficiencies in the examinations that the CHHS conducted during the compliance review period.

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) Once a candidate has obtained list eligibility, a department may discover information pertaining to that eligible which raises concerns regarding his/her eligibility or suitability for employment with the state. (CalHR Withhold Manual, p. 3.) A permanent withhold action is valid for the duration of the eligible’s list eligibility. (*Ibid.*) Departments are required to maintain a separate file for each withhold action and the file should include a copy of the withhold notification letter sent to the eligible, as well as all supporting documentation which form the basis of the withhold action. (CalHR Withhold Manual, p. 2.)

During the review period, the CHHS conducted six permanent withhold actions. The CRU reviewed all six of the permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Associate Governmental Program Analyst	9PB04	05/16/18	05/16/19	Failed to Meet Minimum Qualifications

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Associate Governmental Program Analyst	9PB04	10/20/17	10/20/18	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	06/11/18	06/11/19	Failed to Meet Minimum Qualifications
Executive Assistant	3PB15	05/30/18	11/30/19	Failed to Meet Minimum Qualifications
Executive Assistant	3PB15	07/13/18	01/13/2020	Failed to Meet Minimum Qualifications
Supervising Special Investigator I	6PB09	07/18/18	07/18/19	Failed to Meet Minimum Qualifications

FINDING NO. 2 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules

The CRU reviewed six permanent withhold actions. The CRU found no deficiencies in the permanent withhold actions undertaken by the department 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 (e).)

During the period under review, January 1, 2018 through December 31, 2018, the CHHS made 12 appointments. The CRU reviewed eight of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
CEA	Certification List	CEA	Full Time	1
Executive Assistant	Certification List	Permanent	Full Time	1
Investigator	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Supervising Special Investigator II	Certification List	Permanent	Full Time	1
Attorney IV	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1

FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The CHHS did not provide seven probationary reports of performance for three of the eight appointments reviewed by the CRU, as reflected in the table below.

Classification	Number of Appointments Missing Probation Reports	Total Number of Missing Probation Reports
Attorney IV	1	2
Investigator	1	2
Staff Services Manager I	1	3

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work

and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) 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 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.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

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: The CHHS states that they have been proactive in prompting managers and supervisors about due dates of probationary reports. Management Information Retrieval System (MIRS) reports are used to identify employees who are due for their probation evaluations and are sent monthly to every Attendance Coordinator. However, not all supervisors have completed probationary evaluations.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CHHS submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19171 and 19172.

FINDING NO. 4 – Unlawful Appointments

Summary: The CHHS made two unlawful appointments during the compliance review period.

The CHHS made one appointment utilizing the certification list for Investigator. The hired candidate did not meet minimum qualifications for the classification. Specifically, the candidate did not have the required education listed in the class specification.

The CHHS made one appointment utilizing the certification list for Staff Services Manager I. The employee was initially appointed to a limited-term Staff Services Manager I position and was subsequently offered permanent status without having to compete for the permanent position. The employee could have received the appointment without having to compete if the original advertisement stated that the position may become permanent; however, this language was not included in the advertisement. Therefore, by not indicating the possibility that the position could become permanent in the future, the CHHS narrowed its candidate group to a smaller group of individuals who had interest in a less than permanent appointment.

Both unlawful appointments were referred to CalHR, which directed CHHS to conduct an unlawful appointment investigation. Both appointments were confirmed as unlawful and voided upon the conclusion of the investigation.

Criteria: Pursuant to Government Code section 18931, subdivision (a), the Board shall establish minimum qualifications for determining the fitness and qualifications of employees for each class of position.

Additionally, appointments shall be based on merit and fitness. “An appointing power shall assess and determine a candidate's merit and fitness for appointment to a position by his or her qualifications and performance during the selection process, which may include, but is not limited to, performance and ranking on the examination, hiring interviews, reference checks, background checks, or any other procedure that involves an assessment and comparative evaluation of the job-related qualifications of candidates and is designed and administered to hire candidates who can be successful in the position to be filled.” (Cal. Code Regs., tit. 2, § 86, subd. (b).)

“An employee on an LT appointment may be converted to a permanent appointment in the same position if SROA was cleared

when the LT appointment was made and it was announced at that time that the position would be converted if specific events occurred, such as the retention of Federal or industry funding. An incumbent may also be converted if there was no SROA list for the class or no surplus employees when the LT appointment was made. A layoff department shall not convert an LT appointment to permanent if the class is in the area and class of layoff.” (The California State Restriction of Appointments Policy and Procedures Manual, Section IV, O.)

Departments must have recruitment strategies designed to be “as broad and inclusive as necessary to ensure the identification of an appropriate candidate group.” (Merit Selection Manual [MSM], § 1100, p. 1100.2 (Oct. 2003); Cal. Code Reg., tit. 2, § 50.)

Severity: Very Serious. An unlawful appointment provides the employee with an unfair and unearned appointment advantage over other employees whose appointments have been processed in compliance with the requirements of civil service law. Unlawful appointments which are not corrected also create appointment inconsistencies that jeopardize the equitable administration of the civil service merit system.

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If “bad faith” is determined on the part of the appointing power, civil or criminal action may be initiated. An unlawful appointment may not be voided if the effective date of the appointment is past one year, and both appointing power and employee have acted in good faith.

Cause: The CHHS states that they understand how serious and detrimental unlawful appointments are; both to the employee and to the civil service system. The appointments were reviewed, and employees were notified of their "Good Faith" Unlawful Appointments. These appointments were made due to good faith staff error.

Action: The CRU referred these unlawful appointments to the CalHR Personnel Management Division. The Personnel Management

Division worked with CHHS on the findings with instructions to investigate and take corrective action. Within 60 days of the Executive Officer's approval of these findings and recommendations, the CHHS must submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure the department will improve its hiring practices. Copies of any relevant documentation should be included with the plan.

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; and cooperate with the CalHR, 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. 5 – A Disability Advisory Committee Has Not Been Established

Summary: The CHHS does not have an active DAC.

Criteria: 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).)

Severity: Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a DAC may limit an agency's ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.

Cause: The CHHS recognizes this finding. The CHHS states that they have partnered with CDSS to ensure compliance with this finding. The CHHS is selecting a staff person to become a committee member and attend CDSS' DAC meetings. CHHS has reached out to the CDSS's Equal Employment Opportunity Branch Chief for dates and times of the meetings.

Action: The CHHS must continue to take appropriate steps to ensure the maintenance of an active participation in CDSS's DAC, comprised of members who have disabilities or who have an interest in disability issues. The CHHS must submit to the CRU a written report of compliance, including the DAC roster, agenda, and meeting minutes, no later than 60 days from the date of the SPB Executive Officer's approval of these findings and recommendations.

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.

In reviewing the CHHS's mandated training program that was in effect during the compliance review period, their supervisory training was found to be in compliance. However, the CHHS ethics and sexual harassment prevention training was found to be out of compliance.

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

Summary: The CHHS had no new filers. The CHHS did not provide ethics training to one of one existing filers.

Criteria: New filers must be provided ethics training within six months of appointment. 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 CHHS states that they handle Ethics Training as a manual process. It had been the responsibility of the employee's direct supervisor/manager to track training completion, which resulted in one employee being out of compliance.

Action: The CHHS must submit a written corrective action plan to ensure compliance with ethics training mandates in conformity with Government Code section 11146.3, subdivision (b).

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

Summary: The CHHS did not provide sexual harassment prevention training to two of four new supervisors within six months of their appointment. In addition, the CHHS did not provide sexual harassment prevention training to nine of 13 existing supervisors every two years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subd. (a).)

Severity: Very Serious. The department does not ensure its new 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 litigation.

Cause: The CHHS states that they have a process in place to notify employees about their upcoming sexual harassment prevention

training recertification. However, not all supervisors took the SHPT timely.

Action: The CHHS must take appropriate steps to ensure that its supervisors are provided sexual harassment prevention training within the time periods prescribed. It is therefore recommended that no later than 60 days after the SPB Executive Officer’s approval of these findings and recommendations, the CHHS must submit a written corrective action plan to ensure compliance with sexual harassment prevention training mandates. Copies of any relevant documentation should be included with the plan.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by 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, October 1, 2017 through September 30, 2018, the CHHS made 12 appointments. The CRU reviewed seven of those appointments to determine if the CHHS applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$4,675
Executive Assistant	Certification List	Permanent	Full Time	\$3,576

⁵ “Rate” is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

Investigator	Certification List	Permanent	Full Time	\$4,544
Staff Services Manager I	Certification List	Permanent	Full Time	\$5,973
Supervising Special Investigator II	Certification List	Permanent	Full Time	\$9,016
Attorney IV	Transfer	Permanent	Full Time	\$11,301
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$3,719

FINDING NO. 8 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the salary determinations that were reviewed. The CHHS appropriately calculated and keyed the salaries for each appointment and correctly determined employees’ anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages ten percent or more of the total time worked. According to the Pay Differential 14, the ten percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, October 1, 2017 through September 30, 2018, the CHHS issued bilingual pay to one employee. The CRU reviewed the bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines.

Classification	Bargaining Unit	Time Base
Staff Services Analyst (General)	1	Full Time

FINDING NO. 9 – Bilingual Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found that the bilingual pay authorized to the employee during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, October 1, 2017 through September 30, 2018, the CHHS issued pay differentials⁶ to six employees. The CRU reviewed those pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Executive Assistant	52	1.5 Salary Step
Executive Assistant	52	1.5 Salary Step
Investigator	244	\$50
Investigator	244	\$100
Investigator	244	\$125
Investigator	244	\$125

⁶ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

FINDING NO. 10 – Incorrect Authorization of Pay Differentials

Classification	Area	Description of Finding(s)	Criteria
1. Investigator	Educational Pay	Employee undercompensated and should have received Advanced POST pay differential.	Pay Differential 244

Criteria: A pay differential may be appropriate when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (CalHR Classification and Pay Manual Section 230.)

Severity: Very Serious. The CHHS failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR’s policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

Cause: The CHHS states that there was no central file for the POST Certificate. CHHS will work alongside the Office of Law Enforcement Support to maintain an electronic file for all POST certificates.

Action: The CHHS must take appropriate steps to ensure that employees are compensated correctly. It is therefore recommended that no later than 60 days after the SPB Executive Officer’s approval of these findings and recommendations, the CHHS must submit a written corrective action plan that addresses the corrections the department will implement to ensure conformity with Pay Differential 244. Copies of any relevant documentation should be included with the plan. In addition, CHHS must set up accounts receivables for the employee who was not authorized for the pay differential.

Out-of-Class Assignments (OOC) and Pay

For excluded⁷ and most rank and file employees, out-of-class (OOC) work 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. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Classification and Pay Guide Section 375.)

During the period under review, October 1, 2017 through September 30, 2018, the CHHS issued out-of-class pay⁸ to one employee. The CRU reviewed the out-of-class assignment to ensure compliance with applicable CalHR policies and guidelines listed below.

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
CEA, A	01	CEA, B	12/17/17-12/16/18

FINDING NO. 11 – Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiency in the out of class pay assignment that the CHHS 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

⁷ “Excluded employee” means an employee as defined in section 3527(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.

⁸ Excluding bilingual and arduous pay.

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.

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 days⁹ worked and paid absences,¹⁰ 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.*) A new 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 limitations set forth are not exceeded.¹¹ (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).)

⁹ For example, two hours or ten hours counts as one day.

¹⁰ For example, vacation, sick leave, compensating time off, etc.

¹¹ "California Code of Regulation 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.

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year.

Additionally, according to Government Code section 21224, retired annuitant 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 employees.

At the time of the review, the CHHS had 21 employees who hours were tracked. The CRU reviewed 10 of those positive paid appointments to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Base	Time Frame	Time Worked
CEA	Intermittent	07/01/17 - 06/30/18	960 hours
Investigator	Intermittent	07/01/17 - 06/30/18	880.75 hours
Investigator	Intermittent	03/01/17 - 06/30/18	291.5 hours
Investigator	Intermittent	08/01/17 - 06/30/18	960 hours
Investigator	Intermittent	07/01/17 - 06/30/18	951 hours
Investigator	Intermittent	07/01/17 - 06/30/18	920 hours
Seasonal Clerk	Intermittent	04/30/18 - 12/31/18	152 days
Seasonal Clerk	Intermittent	04/16/18 - 12/31/18	173 days
Special Consultant	Intermittent	04/23/18 - 12/31/19	162 days
Supervising Special Investigator II	Intermittent	07/01/17 - 06/30/18	903.25 hours

FINDING NO. 12 – Positive Paid Employee’s Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the employees whose hours were tracked during the compliance review period. The CHHS provided the proper documentation and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

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, July 1, 2018 through September 30, 2018, the CHHS reported four units comprised of 37 active employees. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
July 2018	109	6	6	0
August 2018	101	27	26 ¹²	0
September 2018	101	27	26	0

FINDING NO. 13– Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely

Summary: The CHHS failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely.

Criteria: Each appointing power shall 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 an audit process to verify all leave input is keyed accurately and timely. (Human Resources Manual Section 2101.) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

¹² Director does not complete a timesheet.

Severity: Serious. In order for Department leave accounting reports to reflect accurate data, the review of the leave accounting records and corrections, if necessary, are to be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. This means corrections are to be made prior to the next monthly leave activity report being produced.

Cause: The CDSS is responsible for performing all time and attendance processes for CHHS. The CDSS acknowledges this oversight regarding not verifying and auditing timesheets as required by Human Resources Manual Section 101.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CHHS submits to the CRU a written corrective action plan that the department will implement a monthly internal audit process to ensure that all leave input was keyed accurately and timely.

FINDING NO. 14 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The CHHS failed to provide completed Leave Activity and Correction Certification forms for three out of three units reviewed during the July 2018 – September 2018 pay period.

Criteria: Departments are responsible for maintaining accurate and timely leave accounting records for their employees. (Cal. Code Regs., tit. 2, § 599.665.) Departments shall identify and record all errors found using a Leave Activity and Correction form. (Human Resources Manual Section 2101.) Furthermore, departments shall certify that all leave records for the unit/pay period identified on the certification form have been reviewed and all leave errors identified have been corrected. (*Ibid.*)

Severity: Non-serious or Technical. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. For post-audit purposes, the completion of Leave Activity and Correction Certification forms demonstrates compliance with CalHR policies and guidelines.

Cause: The CDSS is responsible for performing all time and attendance processes for CHHS. The CDSS acknowledges that it was not using the leave activity and correction certification forms for all leave records reviewed as required.

Action: The CHHS must take appropriate steps to ensure that their monthly internal audit process is documented. It is therefore recommended that no later than 60 days after the SPB Executive Officer's approval of these findings and recommendations, the CHHS must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected.

Leave Reduction Efforts

Departments must create a leave reduction policy for their 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. (Human Resources Manual Section 2124.)

Applicable Memorandums of Understanding 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 it appears an excluded 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 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 excluded 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, the appointing power shall require the employee

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 for bargaining unit 05 the established limit is 816 hours.

¹⁴ Excluded employees shall not accumulate more than 80 days.

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 2018, six CHHS employees exceeded the established limits of vacation or annual leave. The CRU reviewed those employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Associate Secretary, Media Relations	E99	110.5	No
Attorney III	R02	173	No
CEA	M01	211	No
CEA	M01	342.28	No
CEA	M01	683.75	No
Chief Administrative and Financial Services	E99	430.25	No
Total		1950.78	

FINDING NO. 15 – Leave Reduction Plans Were not Provided to Employees Whose Leave Balances Exceeded Established Limits

Summary: The CHHS did not provide leave reduction plans for the six employees reviewed whose leave balances significantly exceeded established limits. Additionally, CHHS did not provide a general departmental policy addressing leave reduction.

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 Online 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. Employees

who have significant “over-the-cap” leave balances have a leave reduction plan in place and be actively reducing hours.” (*Ibid.*)

Severity: Non-serious or Technical. 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 CHHS states that they currently send notices to employees at 640 or above and requests a leave reduction plan annually. However, not all employees “over-the-cap” had completed leave reduction plans.

Action: The CHHS must take appropriate steps to ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are actively reducing hours. It is therefore recommended that no later than 60 days after the SPB Executive Officer’s approval of these findings and recommendations, the CHHS must establish a policy and plan to address leave reduction efforts

Policy and Processes

Nepotism

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 – Nepotism Policy Needs to Be Updated to Comply with Statewide Policy

Summary: After reviewing the CHHS’ nepotism policy in effect during the compliance review period, the CRU found the policy to be lacking in several components outlined in CalHR statewide guidance on nepotism policies.

1. Whether the policy will require current employees to notify their supervisor or other appropriate person when working assignments are in conflict with the nepotism policy.

2. Whether the policy will provide an exceptions provision and a corresponding procedure for an employee or supervisor to request an exception to the policy.

3. Whether the policy will include guidelines for addressing instances when a personal relationship arises during employment and how the department will address a personal relationship in violation of the policy (e.g., which employee will be transferred or reassigned and the process in carrying out that transfer or reassignment).

4. Whether the policy requires notification of employment candidates in the interview or in the job posting and whether new employees will be required to certify they do not currently have a personal relationship in violation of the policy.

5. Whether the policy includes guidelines for addressing nepotism complaints from employees such as to whom to report complaints, who will investigate allegations, etc.

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. Given the brevity or lack of the CHHS’s nepotism policy, it is evident these considerations were either inadvertently overlooked or purposely ignored. Accordingly, corrective action is warranted.

Cause: The CDSS acknowledges that the previous nepotism policy did not address all points required by CalHR.

Action: It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the CHHS submit to the CRU a written corrective action plan that includes the department’s updated nepotism policy in accordance with the Human Resources Manual Section 1204.

Workers’ Compensation

Employers shall provide to every new employee, either 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 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 eligibility 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 (State Fund) office to discuss the status of volunteers. (*Ibid.*)

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

After reviewing the CHHS’s workers’ compensation process that was in effect during the compliance review period, the CRU determined their process was in compliance. The CHHS did not have any workers’ compensation claims filed during the review period; therefore, the CRU was unable to verify that notice to their employees to inform them of their rights and responsibilities under CA Workers’ Compensation Law were provided in one day.

Performance Appraisals

According to Government Code section 19992.2 subsection (a), 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 11 permanent CHHS employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Attorney III	12/13/2018
Attorney III	1/3/2018
Attorney III	5/2/2018
Attorney III	5/8/2018
Executive Assistant	4/1/2018
Executive Assistant	3/31/2018
Investigator	2/22/2018
Office Technician	1/7/2018
Research Data Specialist II	9/7/2018
Staff Services Analyst	6/13/2018
Staff Services Manager I	12/11/2018

In reviewing the CHHS performance appraisals policies and processes, the CRU determined the following:

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

- Summary:** The CHHS did not provide performance appraisals to nine of 11 employees reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period.
- Criteria:** “Appointing powers shall 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 with the employee overall work performance at least once in each twelve calendar months following the end of the employee’s probationary period. (Cal. Code Regs., tit.2, § 599.798.)
- Severity:** Serious. The department does not ensure that all of its employees are apprised of work performance issues and/or goals in a systematic manner.
- Cause:** The CHHS states that annual notices are sent out to all supervisors and managers. Follow-up email reminders to submit performance appraisals are also sent out. All supervisors and managers did not complete performance appraisals.
- Action:** It is recommended that, within 60 days of the Executive Officer’s approval of these findings and recommendations, the CHHS submit to the SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of any relevant documentation should be included with the plan.

DEPARTMENTAL RESPONSE

The CHHS’s response is attached as Attachment 1.

SPB REPLY

Based upon the CHSS's written response, the CHHS will comply with the CRU recommendations and findings and provide the CRU with an action plan.

It is further recommended that the CHHS comply with the afore-stated recommendations within 60 days of the Executive Officer's approval and submit to the CRU a written report of compliance

Attachment 1

State of California HEALTH AND HUMAN SERVICES AGENCY

GAVIN NEWSOM
GOVERNOR



MARK A. GHALY MD, MPH
SECRETARY

October 1, 2019

Ms. Suzanne M. Ambrose
Executive Director
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Aging
Child Support Services
Community Services and Development
Developmental Services
Emergency Medical Services Authority
Health Care Services
Managed Health Care
Office of Health Information Integrity
Office of Innovation
Office of Law Enforcement Support
Office of Patient Advocate
Office of Surgeon General
Office of Systems Integration
Public Health
Rehabilitation
Social Services
State Hospitals
Statewide Health Planning and Development

SUBJECT: RESPONSE TO AUDIT FINDINGS

Dear Ms. Ambrose:

This letter is in response to the draft State Personnel Board (SPB) Compliance Review (CR) report submitted to the California Health and Human Services Agency (CHHS) by the SPB. CHHS has reviewed the report and prepared a cause and action plan for each finding.

CHHS takes these compliance issues seriously and has started the necessary corrective actions to bring CHHS into compliance. CHHS has prepared corrective action plans to each finding below.

Finding NO. 3

Probationary evaluations were not provided for all appointments reviewed.

Cause:

CHHS has been proactive in prompting managers and supervisors about due dates of probationary reports. Management Information Retrieval System (MIRS) reports are used to identify employees who are due for their probation evaluations and are sent monthly to every Attendance Coordinator. Not all supervisors have completed probationary evaluations.

Action Plan:

CHHS will reiterate the importance of completing probationary evaluations in a timely manner to all supervisors and managers during executive staff meetings and monthly supervisor/manager meetings.

Finding NO. 4 **Unlawful appointments.**

Cause: CHHS understands how serious and detrimental unlawful appointments are, both to the employee and to the civil service system. The appointments were reviewed, and employees were notified of their “Good Faith” Unlawful Appointments. These appointments were made due to good faith staff error.

Action Plan: The California Department of Social Services (CDSS) is providing additional training to all staff who review and make determinations on behalf of CHHS, regarding minimum qualifications, advertisement requirements and final hiring selections. Specifically, management is working with their staff to ensure they have a thorough understanding of advertising requirements, especially how they impact a change in tenure, appropriate interpretation of experience/education when reviewing minimum qualifications, and the fundamentals of the merit principles.

Finding NO. 5 **A Disability Advisory Committee has not been established.**

Cause: CHHS has partnered with CDSS to ensure compliancy on this finding. CHHS is selecting a staff person to become a committee member and attend CDSS’ Disability Advisory Committee (DAC) meetings. CHHS has reached out to the CDSS’s Equal Employment Opportunity Branch Chief for dates and times of the meetings. Therefore, no further action is required at this time.

Finding NO. 6 **Ethics Training was not provided for all filers.**

Cause: CHHS handles Ethics Training as a manual process. It had been the responsibility of the employee’s direct supervisor/manager to track training completion, which resulted in one employee out of compliance.

Action Plan: CHHS will send reminder communication to employees who have not returned their certificate of completion with a “cc” to the employee’s supervisor. CHHS will continue to reiterate the importance of completing Ethics Training in a timely manner to all supervisors and managers. In addition, CHHS will encourage supervisors and managers to consider delinquent training as part of the evaluation criteria on employee evaluations.

Finding NO. 7 **Sexual Harassment Prevention Training (SHPT) was not provided for all supervisors.**

Cause: CHHS has a process in place to notify employees about their upcoming SHPT training recertification. Not all supervisors took the SHPT timely.

Action Plan: CHHS will send reminder communication to employees who have not returned their certificate of completion with a "cc" to the employee's supervisor. CHHS will improve the process by emphasizing the importance of completing SHPT in executive and monthly supervisor/manager meetings. In addition, along with monitoring, CHHS will encourage supervisors and managers to consider delinquent training as part of the employee evaluation.

Finding NO. 10 Incorrect authorization of pay differentials.

Cause: Investigators – There was no central file for the POST Certificate.

Action Plan: CHHS will work alongside the Office of Law Enforcement Support to maintain an electronic file for all POST certificates.

Finding NO. 13 Department has not implemented a monthly internal audit process to verify timesheets are keyed accurately and timely.

Cause: CDSS is responsible for performing all time and attendance processes for CHHS. CDSS acknowledges this oversight regarding not verifying and auditing timesheets as required by Human Resources Manual Section 101.

Action Plan: Starting in September 2019, CDSS' Quality Assurance (QA)/Audit Unit will conduct monthly audits of leave balances and timekeeping records to verify that all leave input into the system is keyed accurately and timely. In addition, in September 2019, the Payroll Training Unit will provide training to all payroll staff regarding the accountability and auditing of timesheets.

Finding NO. 14 Leave activity and correction certification forms were not completed for all leave records reviewed.

Cause: CDSS is responsible for performing all time and attendance processes for CHHS. CDSS acknowledges that it was not using the leave activity and correction certification forms for all leave records reviewed as required.

Action Plan: CDSS will begin using the leave activity and correction certification forms per the Human Resources Manual Section 2101 immediately. In addition, the QA/Audit Unit will conduct monthly audits to ensure that the leave activity and correction certification forms are used properly.

Finding NO. 15 Leave reduction plans were not provided to employees whose leave balances exceeded established limits.

Cause: Currently, CHHS sends a notice to employees at 640 or above and requests a leave reduction plan annually. All supervisors and managers do not submit plans.

Action Plan: CHHS will continue to request a leave reduction plan annually for employees over the 640 cap. Additionally, CHHS will track receipt of the work plan and monitor employees' leave against the work plan bi-annually to ensure that employees are reducing leave usage.

Finding NO. 16 **Nepotism policy needs to be updated to comply with statewide policy.**

Cause: Upon notification from SPB Compliance Review Manager Ben Platt, CHHS acknowledges the previous nepotism policy did not address all points required by CalHR.

Action Plan: CHHS created a revised anti-nepotism policy using language taken directly from SPB's anti-nepotism policy. Office of Health Information Integrity and Office of the Patient Advocate were provided the policy and requested they compare the policy to what they provide their staff. The policy is attached.

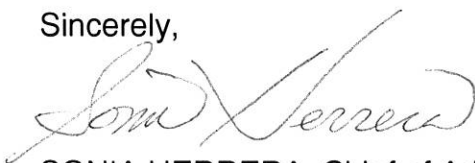
Finding NO. 18 **Performance appraisals were not provided to all employees.**

Cause: Annual notices are sent out to all supervisors and managers. Follow-up email reminders to submit performance appraisals are also sent out. All supervisors and managers did not complete performance appraisals.

Action Plan: In addition to the emails and reminders, along with annual monitoring, the CHHS leadership team will emphasize the importance of completing performance appraisals in executive and monthly supervisor/manager meetings.

CHHS thanks for the opportunity to respond to the draft Compliance Review Report. If you have any questions, please contact Trayce Gilkey, CDSS Human Resources Services Branch Chief, at (916) 657-1766 or via email at Trayce.Gilkey@dss.ca.gov.

Sincerely,



SONIA HERRERA, Chief of Administration
California Health and Human Services Agency

cc: Kären Dickerson
Trayce Gilkey
Emily Taylor