



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY**

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 Health and Human Services Agency (CHHS) personnel practices in the areas of examinations, appointments, EEO, PSC's, and mandated training from October 1, 2014, through October 1, 2015. 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
Personal Services Contracts	Personal Services Contracts Complied With Procedural Requirements	In Compliance

Area	Finding	Severity
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 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 the 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.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing CHHS examinations, appointments, EEO program, PSC's, and mandated training from October 1, 2014, through October 1, 2015. 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, and to recommend corrective action where deficiencies were identified.

A cross-section of CHHS 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 CHHS 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 CHHS 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 CRU also interviewed appropriate CHHS staff.

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

In addition, the CHHS 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 training within statutory timelines.

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

## **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).)

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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.

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 CHHS conducted two examinations. The CRU reviewed both examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Career Executive Assignment (CEA) B (OLES)	Open	Statement of Qualifications (SOQ's) <sup>2</sup>	10/9/2014	15
CEA B (CHHS)	Open	SOQ	3/3/2015	11

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

The CHHS administered two CEA examinations that were tailored for each position to create eligible lists from which to make appointments respectively. For the two CEA examinations, the CHHS published and distributed examination bulletins containing the required information. Applications and SOQ's were received by the CHHS and were thereafter properly assessed to determine applicant ranks from one to six. The CHHS then hired candidates in the top three ranks.

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

<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.

## Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the compliance review period, the CHHS made 9 appointments. The CRU reviewed 7 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Training Officer III	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Assistant Information Officer	Certification List	Permanent	Full Time	1
CEA	Information List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Assistant Examination Proctor	Temporary Authorization Utilization (TAU)	Temporary	Intermittent	1

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

The CHHS 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 5 list appointments reviewed, the CHHS 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 3 ranks of the certification lists.

The CRU reviewed 1 CHHS appointment made to a position via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made, if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Reg., tit. 2, § 425.) The CHHS verified the eligibility of each candidate to their appointed class.

The CHHS made 1 appointment via TAU. Generally, when no employment list exists from which a position may be filled, an appointing power may fill the position by temporary appointment. (Gov. Code, § 19058.) If fewer than three names of persons willing to accept an appointment are on the open eligible list for the class to which a position belongs and no other employment list for such class is available, a temporary appointment may be allowed. (Cal. Code Regs., tit. 2, § 265) A TAU appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII, § 5.) In addition, when a temporary appointment is made to a permanent position, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment. (Gov. Code, § 19058.) The CHHS followed applicable law and rule in making the TAU appointments.

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

### Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation



from the regular chain of command, as well as regular and unencumbered access to the head of the organization. In a state agency with less than 500 employees, like CHHS, 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 CHHS's EEO program that was in effect during the compliance review period. The CHHS shares an EEO program with the California Department of Social Services (DSS).

**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 CHHS'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 DSS. In addition, the CHHS has an established DAC that reports to the director on issues affecting persons with a disability. The CHHS 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 CHHS had 5 PSC's that were in effect. Only 2 contracts were subject to Department of General Services (DGS) approval, and thus our procedural review, and are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
National Committee for Quality Assurance	Quality Care Services	4/7/2015 - 12/31/2018	\$1,643,614	Yes
CSUS Continuing Education	Leadership Development Curriculum	7/1/2015 - 6/30/2018	\$208,305	Yes

**FINDING NO. 5 – 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 \$2,242,413. It was beyond the scope of the review to make conclusions as to whether the CHHS justifications for the contract were legally sufficient. For all PSC's reviewed, the CHHS provided specific and detailed factual information in the written justifications as to how each contract met at least one

condition set forth in Government Code section 19131, subdivision (b). Accordingly, the CHHS PSC's complied with procedural requirements.

### Mandated Training

Each state agency shall offer at least semiannually to each of its filers an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, § 11146.1).

Each department must provide its new supervisors supervisory training within twelve months of appointment. (Gov. Code, § 19995.4 subd. (b) and (c).) The training must be a minimum of 80 hours, 40 of which must be structured and given by a qualified instructor. The other 40 hours may be done on the job by a higher-level supervisor or manager. (Gov. Code, § 19995.4 subd. (b).)

Additionally, each department must provide its supervisors 2 hours of sexual harassment training every 2 years. New supervisors must be provided supervisory training within 6 months of appointment. (Gov. Code, § 12950.1 subd. (a).)

The CRU reviewed the CHHS's mandated training program that was in effect during the compliance review period.

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

The CHHS provided semiannual ethics training to its 34 filers during the 2-year calendar year period commencing in 2013. The CHHS also provided supervisory training to its 2 new supervisors within 12 months of appointment. In addition, the CHHS provided sexual harassment training its 2 new supervisors within 6 months of appointment and semiannual sexual harassment training to its existing 3 supervisors. Thus, the CHHS 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 CHHS was found to be in compliance in all areas reviewed during the compliance review period. Therefore, no further action is required.