

COMPLIANCE REVIEW REPORT

CALIFORNIA HORSE RACING BOARD

Compliance Review Unit
State Personnel Board
August 30, 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 Horse Racing Board (CHRB)'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
Appointments	Certification List Was Not Cleared of SROA Candidate Before External Transfer Appointment
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements
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	Alternate Range Movement Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Bilingual Pay
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines (Language may be revised)

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

Area	Finding
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Were not Provided to Employees Whose Leave Balances Exceeded Established Limits
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
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 CHRB ensures the integrity, viability, and safety of the California Horse Racing industry by regulating pari-mutuel wagering for the protection of the public, promoting horse racing, breeding, and wagering opportunities, and fostering safe racing through the development and enforcement of track safety standards and regulations for the health and welfare of all participants. Principle responsibilities of the CHRB include: adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering; adjudication of controversies arising from the enforcement of laws and regulations related to horse racing and pari-mutuel wagering; licensing of each racing association, and all persons, other than the public at large, who participate in a horse racing meeting with pari-mutuel wagering.

The CHRB, under the direction of a seven-member Board, employs 52 employees to carry out this mission. This includes enforcement and licensing staff located in various field offices locations throughout California with the remaining staff located in the Sacramento headquarters office which is comprised of the following units: Accounting, Audits, Business Services, Executive, Human Resources, Information Technology, Legal, Licensing, Office Services, and Policy, Regulations, and Legislation.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CHRB'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 CHRB 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.

The CRU examined the documentation that the CHRB provided for one Career Executive Assignment (CEA) examination, which included an examination plan, examination bulletin, and scoring results.

The CHRB did not conduct any permanent withhold actions during the compliance review period.

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

The CHRB's appointments were also selected for review to ensure the CHRB applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CHRB 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 and monthly pay differentials.

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

During the compliance review period, the CHRB did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, arduous pay or out-of-class assignments.

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

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

The CRU reviewed the CHRB's Leave Activity and Correction Certification forms to verify that the CHRB 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 CHRB's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CHRB's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit.

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

During the compliance review period, the CHRB did not have any employees with non-qualifying pay period transactions. The CHRB also did not authorize Administrative Time Off (ATO).

Moreover, the CRU reviewed the CHRB's policies and processes concerning nepotism, workers' compensation, performance appraisals, and Administrative Hearing and Medical Interpreter Program. The review was limited to whether the CHRB's policies and processes adhered to procedural requirements.

The CRU received and carefully reviewed the CHRB's written response on August 22, 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, February 1, 2018 through January 31, 2019, the CHRB conducted one examination. The CRU reviewed the examination, which is listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment	Open	Statement of Qualifications ⁴	5/16/18	7

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

The CRU reviewed one open examination which the CHRB administered in order to create eligible lists from which to make appointments. The CHRB published and distributed an examination bulletin containing the required information for the examination. Applications received by the CHRB 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 examination that the CHRB conducted during the compliance review period.

Appointments

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

⁴ 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.

During the period under review, February 1, 2018 through January 31, 2019, the CHRB made 15 appointments. The CRU reviewed seven of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Career Executive Assignment	Certification List	CEA	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Investigator	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Limited Term	Full Time	1
Associate Personnel Analyst	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1

FINDING NO. 2 – Certification List Was Not Cleared of SROA Candidate Before External Transfer Appointment

Summary: The CHRB did not clear the State Restriction of Appointment (SROA) candidate on the ordered Associate Personnel Analyst certification list prior to making an external transfer appointment.

Criteria: SROA list clearance is required prior to making an appointment via external transfer, voluntary demotion, or training and development assignment to a different department. (SROA Manual, Attachment D).

Severity: Serious. A certification list must be cleared of potential SROA candidates prior to transfer from a different department in order to ensure any potential SROA candidates are given priority to the job vacancy.

Cause: The CHRB states that this was an oversight by staff due to a lack of training on the codes listed in ECOS.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CHRB submit to the CRU a written corrective action plan that the department will implement to ensure SROA candidates are given priority to a job vacancy prior to transfer from a different department. 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).)

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like the CHRB, 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).)

FINDING NO. 3 – Equal Employment Opportunity Program Complied With All 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 CHRB 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 Executive Director of the CHRB. In addition, the CHRB has an established DAC, which reports to the Executive Director on issues affecting persons with disabilities. The CHRB also provided evidence of its efforts to promote EEO in its hiring and employment practices, and to increase its hiring of persons with disabilities. Accordingly, the CHRB EEO program complied with civil service laws and Board rules.

Personal Services Contracts

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

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

During the period under review, February 1, 2018 through January 31, 2019, the CHRB had 82 PSC's that were in effect. The CRU reviewed 20 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Arlt, James	Steward	7/1/18-6/30/19	\$80,000.00	Yes
Baker, Grant	Steward	7/1/17-6/30/18	\$139,000.00	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Chaney, Scott	Steward	7/1/17-6/30/18	\$134,000.00	Yes
Dooley, Donald, Dr.	Veterinarian	7/1/17-6/30/18	\$49,000.00	Yes
Grande, Timothy, J. Dr.	Veterinarian	7/1/17-6/30/18	\$105,000.00	Yes
Grande, Timothy, J. Dr.	Veterinarian	7/1/18-6/30/19	\$105,000.00	Yes
Jauregui, Luis	Steward	7/1/17-6/30/18	\$140,000.00	Yes
Jauregui, Luis	Steward	7/1/18-6/30/19	\$140,000.00	Yes
Lamparter, Deborah, Dr.	Veterinarian	7/1/17-6/30/18	\$40,000.00	Yes
McHargue, Darrel	Steward	7/1/17-6/30/18	\$155,000.00	Yes
McHargue, Darrel	Steward	7/1/18-6/30/19	\$155,000.00	Yes
Newhart, Rodney R.	Steward	10/5/18-6/30/19	\$83,000.00	Yes
Pegasus- Beck, Dr.	Veterinarian	7/1/17-6/30/18	\$100,000.00	Yes
Salmon, Jeffery	Steward	7/1/17-6/30/18	\$100,000.00	Yes
Salmon, Jeffery	Steward	7/1/18-6/30/19	\$20,000.00	Yes
Sawyer, Patricia Kim	Steward	7/1/17-6/30/18	\$135,000.00	Yes
Sawyer, Patricia Kim	Steward	7/1/18-6/30/19	\$133,000.00	Yes
Schiffer, Daniel Q.	Hearing Officer	7/1/17-6/30/18	\$20,000.00	Yes
Sheward, Renee	Steward	7/1/18-6/30/19	\$80,000.00	Yes
Sullivan, Katie	Veterinarian Tech Asst.	10/16/18-6/30/19	\$20,000.00	Yes
TOTAL			\$1,933,000	

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

The total dollar amount of all the PSC's reviewed was \$1,933,000. It was beyond the scope of the review to make conclusions as to whether CHRB's justifications for the contract were legally sufficient. For all PSC's reviewed, the CHRB provided specific and detailed factual information in the written justifications as to how each of the 20 contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Additionally, the CHRB complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CHRB PSC's complied with civil service laws and board rules.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

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

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

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

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

FINDING NO. 5 – Ethics Training Was Not Provided for All Filers

- Summary:** The CHRB provided ethics training to 18 of 18 existing filers. However, the CHRB did not provide ethics training to three of 12 new filers within six months of their appointment.
- 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 CHRB states that after the prior CHRB Human Resources Manager retired in 2016, the remaining CHRB staff member was not aware of ethics training requirements.

Action: The CHRB must take appropriate steps to ensure that filers are provided ethics training within the time periods prescribed. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CHRB must establish a plan to ensure compliance with ethics training mandates and submit to the SPB a corrective action plan.

FINDING NO. 6 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The CHRB did not provide sexual harassment prevention training to one of four new supervisors within six months of their appointment. In addition, the CHRB did not provide sexual harassment prevention training to one of eight 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 that all new and existing supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

Cause: The CHRB states that after the prior CHRB Human Resources Manager retired in 2016, the remaining CHRB staff member was not aware of sexual harassment prevention training requirements.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the CHRB submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure that all supervisors attend mandatory sexual harassment training in conformity with the requirements of Government Code section 12951 subdivision (a).

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, February 1, 2018 through January 31, 2019, the CHRB made 15 appointments. The CRU reviewed six of those appointments to determine if the CHRB applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$4,344
Information Technology Specialist I	Certification List	Permanent	Full Time	\$6,179
Investigator	Certification List	Permanent	Full Time	\$5,789
Office Technician (Typing)	Certification List	Limited Term	Full Time	\$3,038
Associate Personnel Analyst	Transfer	Permanent	Full Time	\$5,567
Staff Services Manager I	Transfer	Permanent	Full Time	\$7,068

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).

FINDING NO. 7 – 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 CHRB 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.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, CalHR provides salary rules departments must use when employees move between alternate ranges. They are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, February 1, 2018 through January 31, 2019, the CHRB made three alternate range movements within a classification⁶. The CRU reviewed all three of those alternate range movements to determine if the CHRB applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Information Technology Associate	B	D	Full Time	\$6,055
Information Technology Specialist I	B	C	Full Time	\$7,616
Information Technology Specialist I	B	C	Full Time	\$7,616

⁶ 335 transactions.

FINDING NO. 8 – Alternate Range Movement Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Summary:	When keying the alternate range change of an Information Technology Associate moving from Range B to Range D, the CHRB incorrectly determined the employee's salary. Upon movement from Range B to Range D, the department should have applied CCR rule 599.676 as described in alternate range criteria 483 and awarded the employee a one-step increase rather than two separate one-step increases, or 10% pay increase. As a result, the employee was overcompensated.
Criteria:	<p>Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)</p> <p>Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.676.)</p>
Severity:	<u>Very Serious.</u> The CHRB 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 pay amounts.
Cause:	The CHRB states that the staff member who processed the range change incorrectly determined the employee's salary due to a lack of training.
Action:	The CHRB must take appropriate steps to ensure that employees are compensated correctly. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CHRB must submit to SPB documentation demonstrating that they have implemented a new process requiring an additional review of all alternate range

movements to ensure that all future salary determinations are processed properly. In addition, the CHCB must set up an accounts receivable for the overcompensation and correct the employee's employment history.

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, February 1, 2018 through January 31, 2019, the CHRB issued bilingual pay to ten employees. The CRU reviewed six of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base
Associate Management Auditor	R01	Full Time
Office Technician (Typing)	R04	Full Time
Program Technician II	R04	Full Time
Senior Management Auditor	S01	Full Time
Supervising Program Technician III	S04	Full Time
Supervising Special Investigator I	S07	Full Time

In reviewing the CHRB's bilingual pay practices that were in effect during the compliance review period, the CRU determined the following:

FINDING NO. 9 – Incorrect Authorization of Bilingual Pay

Summary: The CRU found the following errors in the CHRB's authorization of bilingual pay:

Classification	Description of Finding(s)	Criteria
Associate Management Auditor	The CHRB failed to supply supporting documentation including duty statement and/or Bilingual Pay Authorization Form STD. 897 to certify that the position requires the use of bilingual skills on a continuing basis averaging 10 percent of the time.	Pay Differential 14
Office Technician (Typing)	The CHRB failed to supply supporting documentation including duty statement to certify that the position requires the use of bilingual skills on a continuing basis averaging 10 percent of the time.	Pay Differential 14
Program Technician II	The CHRB failed to supply supporting documentation including duty statement and Bilingual Pay Authorization Form STD. 897 to certify that the position requires the use of bilingual skills on a continuing basis averaging 10 percent of the time.	Pay Differential 14
Senior Management Auditor	The CHRB failed to supply supporting documentation including duty statement and Bilingual Pay Authorization Form STD. 897 to certify that the position requires the use of bilingual skills on a continuing basis averaging 10 percent of the time.	Pay Differential 14
Supervising Program Technician III	The CHRB failed to supply supporting documentation including duty statement and Bilingual Pay Authorization Form STD. 897 to certify that the position requires the use of bilingual skills on a continuing basis averaging 10 percent of the time.	Pay Differential 14
Supervising Special Investigator I	The CHRB failed to supply supporting documentation including duty statement and Bilingual Pay Authorization Form STD. 897 to certify that the position requires the use of bilingual skills on a continuing basis averaging 10 percent of the time.	Pay Differential 14

Criteria: For any state agency, a "qualified" bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296 subd. (a)(1)(2)(3).) An individual

must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

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

Cause: The CHRB states that the CHRB staff lacks training on bilingual pay.

Action: The CHRB revised their bilingual pay policy and created new written procedures to ensure that the CHRB correctly designates bilingual positions and appropriately issues bilingual pay to qualified bilingual employees. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CHRB must submit to SPB documentation demonstrating that the CHRB Human Resources Office verified that all bilingual positions are appropriately designated as bilingual and employees receiving bilingual pay meet all the requirements.

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. (CalHR Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales (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, February 1, 2018 through January 31, 2019, the CHRB issued 15 pay differentials⁷ to 12 employees. The CRU reviewed ten of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Investigator	244	\$100
Investigator	244	\$100
Investigator	244	\$100
Investigator	244	\$125
Investigator	244	\$125
Supervising Special Investigator I	244	\$100
Supervising Special Investigator I	244	\$100
Supervising Special Investigator I	244	\$125
Investigator	245	2% Above Base Salary
Supervising Special Investigator I	245	2% Above Base Salary

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

The CRU found no deficiencies in the pay differentials that the CHRB authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

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

⁷ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

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 days⁸ worked and paid absences,⁹ is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) 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.¹⁰ (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1,500 hours within 12 consecutive months may be used rather than the 189- day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Generally, permanent intermittent employees may work up to 1,500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2,000 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 employers.

At the time of the review, the CHRB had four employees whose hours and/or days were tracked. The CRU reviewed four of those positive paid employees to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

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

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

¹⁰ "California Code of 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.

Classification	Time Base	Time Frame	Time Worked
Associate Governmental Program Analyst	Intermittent	Retired Annuitant	932 Hours
Associate Governmental Program Analyst	Intermittent	Retired Annuitant	960 Hours
Investigator	Intermittent	Retired Annuitant	856 Hours
Office Technician (Typing)	Intermittent	Retired Annuitant	960 Hours

FINDING NO. 11 – Positive Paid Employees 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 CHRB 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 Online 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, August 1, 2018 through October 31, 2018, the CHRB reported 15 units comprised of 49 active employees during the August, 2018 pay period, 15 units comprised of 50 active employees during the September, 2018 pay period, and 15 units comprised of 50 active employees during the October, 2018 pay period. 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
August, 2018	203	1	1	0
August, 2018	401	3	3	0
August, 2018	402	4	4	0
September, 2018	300	4	4	0
September, 2018	401	3	3	0
September, 2018	501	4	4	0
October, 2018	300	4	4	0
October, 2018	501	5	5	0
October, 2018	700	2	2	0

FINDING NO. 12 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CHRB kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

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 Bargaining Unit (BU) Agreements and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a

calendar year, “the employee may accumulate the unused portion.”¹¹ (Cal. Code Regs., tit. 2, § 599.737.) “If it appears an exempt employee will have a vacation or annual leave balance that will be above the maximum amount¹² 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 exempt employees, “the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*Ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work- life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2018, six CHRB employees exceeded the established limits of vacation or annual leave. The CRU reviewed six of 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 Governmental Program Analyst	R01	116.25	No
Career Executive Assignment	M01	1075	No
Senior Management Auditor	S01	523	No
Staff Services Manager I	E48	378	No
Staff Services Manager II	S01	701	No
Supervising Special Investigator I	S07	7.5	No
Total		2800.75	

¹¹ 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.

¹² Excluded employees shall not accumulate more than 80 days.

FINDING NO. 13 – Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits

Summary:	The CHRB did not provide 2018 leave reduction plans for all six employees reviewed whose leave balances significantly exceeded established limits.
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 must have a leave reduction plan in place and be actively reducing hours.” (<i>Ibid.</i>)
Severity:	<u>Technical.</u> 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 CHRB states that the CHRB Human Resources office is comprised of one staff member who was not aware of CHRB’s leave reduction policy and procedures.
Action:	It is recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the CHRB submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the execution of leave reduction plans requirements of California Code of Regulations, title 2, section 599.742. Copies of any relevant documentation should be included with the plan.

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. 14 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the policy was disseminated to all staff and emphasized the CHRB's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CHRB's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

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.*) In this case, the CHRB did not employ volunteers during the compliance review period.

The CHRB reported no workers' compensation claims during the compliance review period.

FINDING NO. 15 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the CHRB provides notice to their employees to inform them of their rights and responsibilities under CA Workers' Compensation Law.

Performance Appraisals

According to Government Code section 19992.2, departments 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 18 out of 44 active, permanent CHRB employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

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

FINDING NO. 16 – Performance Appraisals Were Not Provided to All Employees

Summary: The CHRB did not provide 2018 performance appraisals to three of 18 employees reviewed at least once in each twelve calendar months after the completion of the employee's probationary period, which are listed below.

Classification	Date Performance Appraisals Due
Information Technology Supervisor II	8/18/2018
Supervising Program Technician III	6/30/2018
Supervising Special Investigator I	8/1/2018

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: CHRB states that supervisors chose to prioritize workload obligations over completing the required performance appraisals.

Action: It is recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the CHRB submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure supervisors provide performance appraisals in a timely manner in conformity with the performance appraisal requirements of 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 CHRB response is attached as Attachment 1.

SPB REPLY

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

It is further recommended that the CHRB 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.

CALIFORNIA HORSE RACING BOARD

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August 22, 2019

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

Re: Response to Draft State Personnel Board Compliance Report

Dear Ms. Ambrose,

The California Horse Racing Board (CHRB) submits this letter in response to the State Personnel Board's compliance review of the CHRB personnel policies. The CHRB strives to ensure compliance with all civil service laws; maintain the integrity of the State's merit-based selection processes; and employ the best practices. We appreciate the opportunity to respond to the findings and have taken appropriate steps, as indicated below to address the issues identified in your report.

Finding No. 2 – Certification List Was Not Cleared of SROA Candidate Before External Transfer Appointment

Summary by CRU states the CHRB did not clear the State Restriction of Appointment (SROA) candidate on the ordered Associate Personnel Analyst certification list prior to making an external transfer appointment.

Cause: This was both an oversight and a lack of training to the codes listed in ECOS.

CHRB Response: The CHRB is fully aware of the rules surrounding SROA candidates and will research more carefully all codes listed on the certification list. This step has been added to CHRB's process of ordering a cert.

Finding No. 5 – Ethics Training Was Not Provided for All Filers

Summary by CRU states the CHRB provided ethics training to 18 of 18 existing filers. However, the CHRB did not provide ethics training to three of 12 new filers within six months of their appointment.

Cause: This was an oversight. The CHRB Human Resources (HR) Unit consists of two staff members. In December 2016 the HR Manager retired and the remaining staff member was not aware of the requirement.

CHRB Response: Ethics training has been added to the checklist for all hires. Adding it to the checklist will trigger HR staff to verify if training is required and send a training notice, if applicable.

Finding No. 6 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary by CRU states the CHRB did not provide sexual harassment prevention training to one of four new supervisors within six months of their appointment. In addition, the CHRB did not provide sexual harassment prevention training to one of eight existing supervisors every two years.

Cause: This was an oversight. The CHRB Human Resources Unit consists of two staff members. In December 2016 the HR Manager retired and the remaining staff member was not aware of the requirement.

CHRB Response: Sexual Harassment Prevention training has been added to the checklist for all hires. Adding it to the checklist will trigger HR staff to confirm if training is needed and send a training notice, if applicable. In addition, the CHRB has created a tracking log and will review it monthly and send reminders well in advance to ensure the CHRB stays in compliance.

Finding No. 8 – Alternate Range Movement Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Summary by CRU states when keying the alternate range change of an Information Technology Associate moving from Range B to Range D, the CHRB incorrectly determined the employee's salary. Upon movement from Range B to Range D, the department should have applied CCR rule 599.676 as described in alternate range criteria 483 and awarded the employee a one-step increase rather than two separate one-step increases, or 10% pay increase. As a result, the employee was overcompensated.

Cause: This was a lack of training. The staff member incorrectly determined the employee's salary.

CHRB Response: The CHRB has added another step to its process requiring a second review of all ARC determinations to ensure all ARC's are processed properly.

Finding No. 9 – Incorrect Authorization of Bilingual Pay

Summary by CRU states that the CHRB failed to supply supporting documentation including duty statement and Bilingual Pay Authorization Form STD. 897 to certify that the position requires use of bilingual skills on a continuing basis averaging 10 percent of the time.

Cause: This is due to a lack of training in Bilingual Pay (Pay Differential 14).

CHRB Response: The CHRB recently revised the Bilingual Policy and created written procedures with a checklist to ensure bilingual pay is being appropriately applied. Utilizing the new procedures, HR is verifying that all positions that are receiving bilingual pay qualify and are working with supervisors/managers on creating/obtaining the required paperwork, if applicable.

Finding No. 13 – Leave Reduction Plans

Summary by CRU states the CHRB did not provide 2018 leave reduction plans for all six employees reviewed whose leave balances significantly exceeded established limits.

Cause: This was an oversight due to a lack of staff. CHRB HR only had one staff member and they were not aware of this requirement to send a reminder to staff identified on the Benefit over the Max (BOM) report.

CHRB Response: A project log has been created with various miscellaneous HR tasks that are required to be completed with descriptions and due dates to ensure tasks/projects do not get missed in the absence of staff.

Finding No. 16 – Performance Appraisals Were Not Provided to All Employees

Summary by CRU the CHRB did not provide 2018 performance appraisals to three of 18 employees reviewed at least once in each twelve calendar months after the completion of the employee's probationary period, which are listed below.

Cause: Unfortunately, supervisors chose to focus on workload verses completing the required performance appraisals.

CHRB Response: The CHRB recognizes the importance and value of completing performance appraisals. Executive management will stress the importance at manager meetings. In addition, HR will continue to track and monitor the submission of the probationary reports/performance appraisals and notify executive management on any non-compliance.

Sincerely,



Susan Bitcon
Human Resources Manager

cc: Wendy Voss, Chief of Administration