

**BOARD RESOLUTION ADOPTING THE COMPLIANCE REVIEW REPORT AND
FINDINGS BY THE SPB COMPLIANCE REVIEW DIVISION OF
THE CALIFORNIA SCIENCE CENTER**

WHEREAS, the State Personnel Board (SPB or Board) at its duly noticed meeting of September 5, 2013, carefully reviewed and considered the attached Compliance Review Report of the California Science Center submitted by SPB's Compliance Review Division.

WHEREAS, the Report was prepared following a baseline review of the California Science Center's personnel practices and details the background, scope, and methodology of the review, the findings and recommendations, and the California Science Center's response.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the Report, including all findings and recommendations contained therein. A true copy of the Report shall be attached to this Board Resolution and the adoption of the Board Resolution shall be reflected in the record of the meeting and the Board's minutes.



SUZANNE M. AMBROSE
Executive Officer

COMPLIANCE REVIEW REPORT CALIFORNIA SCIENCE CENTER (CSC) FINDINGS AND RECOMMENDATIONS AUGUST 28, 2013

Examinations

During the period under review, the CSC conducted five examinations. The SPB reviewed each of those examinations, which are listed below:

Classification	Examination Type	Examination Components	Examination Date
Chief of Plant Operations I	Open	QAP ¹ and Written	2/23/2012
Assistant Chief, Museum Security and Safety	Open	QAP and Written	2/22/2012
Building Maintenance Worker	Open	QAP and Written	1/18/2012
Dispatcher Clerk	Open	QAP and Written	4/30/2011
Painter I	Open	QAP and Written	4/27/2011

FINDING NO. 1 - The CSC Properly Complied With Civil Service Laws and Board Rules for All Examinations That Were Conducted During the Compliance Review Period

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.) Every applicant for examination shall file a formal signed application in

¹ The qualification appraisal panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

the office of the department or a designated appointing power within a reasonable length of time before the date of examination. (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.)

The CSC administered five examinations to create eligible lists from which to make appointments. As part of the examination process, the CSC published and distributed examination bulletins for each of the five classifications for a minimum of two weeks prior to the examination's final filing date. Each examination comprised two components, the QAP interview and a written test for job-related knowledge, skills, and abilities.

State applications (STD. 678) properly signed and received by the CSC were accepted during the final filing period and were thereafter assessed to determine whether applicants met the minimum qualifications (MQs) for admittance to the examination. Applicants were then notified whether they qualified to take the examination. Those applicants who met the MQs were also notified about the next phase of the examination process.

Competitive examinations on an open basis consisting of oral interviews and written tests were conducted by CSC for the following classifications: Chief of Plant Operations I (2/23/2012); Assistant Chief, Museum Security and Safety (2/22/2012); Building Maintenance Worker (1/18/2012); Dispatcher Clerk (4/30/2011); and Painter I (4/27/2011). Each competitor's qualifications to perform the duties of the classification were evaluated and rated by the interview panel.

After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. Competitors were then notified in writing of their final scores.

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

Appointments

During the compliance review period, the CSC made 18 appointments. Three of those appointments were exempt from civil service status. The SPB reviewed the 15 civil service appointments, which are listed below:

Classification	Appointment Type	Tenure (Status)	Time Base
Accounting Officer Specialist	Certification List	Permanent	Full Time
Assistant Chief, Museum Security and Safety	Certification List	Permanent	Full Time
Building Maintenance Worker	Certification List	Permanent	Full Time
Electrician I	Certification List	Permanent	Full Time
Staff Services Analyst	Certification List	Permanent	Full Time
Electrician I	Transfer	Permanent	Full Time
Plumber I	Transfer	Permanent	Full Time
Building Maintenance Worker	Transfer	Permanent	Full Time
Chief of Plant Operations I	Temporary Authorization Utilization (TAU)	Temporary	Full Time
Assistant Chief, Museum Security and Safety	TAU	Temporary	Full Time
Exhibit Worker	TAU	Temporary	Full Time
Building Maintenance Worker	TAU	Temporary	Full Time
Librarian	TAU	Temporary	Full Time
Program Manager, History	TAU	Temporary	Full Time
Program Manager, Visual Arts	TAU	Temporary	Full Time

FINDING NO. 2 - The CSC Properly Complied With Civil Service Laws and Board Rules for All the Appointments Made During the Compliance Review Period

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) Except as provided by law, appointments to vacant positions shall be made from employment lists. (*Ibid.*) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related

qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

The CSC measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best suited candidates. The CSC made appointments to Electrician I, Plumber I, and Building Maintenance Worker by transfer of employees from other agencies. The CSC complied with civil service laws and Board rules in making these appointments.

For each of the five list appointments, the CSC ordered a certification list of candidates ranked competitively. After properly clearing the SROA² list, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification list. Regarding the transfer appointments, the CSC verified the transfer eligibility of each candidate to the appointed class. Accordingly, as to those appointments, the CSC complied with civil service laws and Board rules.

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 Temporary Authorization Utilization (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 CSC's practice is to fill difficult-to-recruit vacancies by temporary means. The SPB found that all the positions for which CSC made TAU appointments during the compliance review period were difficult positions to recruit qualified candidates to fill. For instance, the CSC had a 25% vacancy rate for the Building Maintenance Worker, while other departments had vacancy rates for this classification as high as 100%.

² The State Restriction of Appointments (SROA) Program is intended to prevent the layoff and separation of skilled and experienced employees from State service. The SROA Program assists in placing affected employees by temporarily restricting the methods of appointment available to appointing powers. Employees on SROA lists are granted preferential consideration over all other types of appointments except appointments from reemployment lists and mandatory reinstatements.

Three of the four vacancies that CSC used to fill by means of a TAU appointment – Chief of Plant Operations I, Building Maintenance Worker, and Librarian – were service wide classifications. CSC properly considered all required and applicable recruitment options, including SROA/Surplus lists, transfer lists, and reinstatement lists. For the Chief of Plant Operations I and the Building Maintenance Worker, no employment eligible lists were available. For the Librarian classification, less than three names were on the eligible employment list.

The other four vacancies filled by means of a TAU appointment were CSC specific classifications. CSC properly considered all required and applicable recruitment options prior to making the appointments. CSC, however, did not have any eligible lists for these classifications.

All seven of the TAU appointments were to permanent positions. CSC, within nine months of each TAU appointment, administered examinations and established employment lists from which eligibles could be appointed to those positions on a permanent, rather than temporary basis.

The SPB thus found that all the appointments CSC made during the compliance review period satisfied civil service laws and Board rules.

Equal Employment Opportunity

The SPB reviewed the CSC's EEO policies, procedures, and programs that were in effect during the compliance review period. In addition, the SPB communicated with appropriate CSC staff.

FINDING NO. 3 – The CSC's EEO Officer Does Not Report Directly To the Executive Director of the CSC

The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to equal employment opportunity; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with CalHR by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO officer, who shall report directly to, and be under the

supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

The CSC's written EEO program provides employees with guidance on the EEO process, including instructions on how to file discrimination claims. The EEO program also outlines the roles and responsibilities of the EEO Officer, as well as those of the supervisors and managers. The CSC provided evidence of its efforts to promote equal employment opportunity in its hiring and employment practices, to increase its hiring of disabled persons, and to offer upward mobility opportunities for its entry-level staff, which include Office Technicians (Typing), Dispatcher Clerks, and Custodians.

These components of the CSC's EEO program comply with applicable civil service laws and rules. Nonetheless, a deficiency was found in the EEO program. The CSC's EEO Officer reports to the department's Deputy Director, rather than to the head of the agency.

CSC must therefore reorganize its organizational structure so that the EEO officer reports directly to the Executive Director. CSC must implement this organizational change within 60 days of the Board's Resolution adopting these findings and recommendations, and submit to the SPB a written report of compliance.

FINDING NO. 4 – The CSC Does Not Have A Disability Advisory Committee (DAC)

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).)

CSC does not have an active DAC. Accordingly, CSC must invite all employees to serve on a DAC 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. No later than 30 days after the Board's Resolution adopting these findings and recommendations, CSC must invite all its employees to serve on the DAC, and no later than 60 days after the Board's Resolution adopting these findings and

recommendations, CSC must establish the DAC and submit to the SPB a written report of compliance.

DEPARTMENTAL RESPONSE

CSC was provided a draft copy of the initial report to review. A copy of CSC's response is attached.

SPB REPLY

CSC's written response concurs that CSC does not have an established and active DAC within CSC itself. Instead, CSC collaborates with the Statewide Disability Advisory Committee (SDAC) to share resources and encourages CSC employee participation in the bi-monthly SDAC meetings. CSC did not provide evidence as to how this combined agency structure for a DAC satisfies the requirement that *each* state agency must establish a separate committee. In addition, CSC did not provide evidence that CSC invited all its employees to serve on the DAC. Nor was there any evidence that the DAC advises CSC's Executive Director on issues of concern to employees with disabilities.

It is thus recommended that within 60 days of the Board's Resolution adopting these findings and recommendations CSC submit to the Board a written compliance plan that addresses the actions and procedures CSC has implemented and/or will implement to ensure that it establishes a DAC in conformity with Government Code section 19795. Copies of any relevant documents should also be attached to the compliance plan.

Further, CSC's written response agrees that the CSC's organizational charts and Duty Statements do not represent the CSC EEO Officer as reporting directly to the Executive Director. Although CSC included amended Duty Statements in its response, CSC did not provide evidence of restructured organizational charts. It is thus further recommended that within 60 days of the Board's Resolution, CSC comply with the afore-stated recommendations and submit to the SPB a written report of compliance.

The SPB appreciates the professionalism and cooperation of CSC during this compliance review.



August 20, 2013

Mr. James L. Murray, Chief
Compliance Review Division
State Personnel Board

Dear Mr. Murray:

This correspondence is in regards to the August 1, 2013 State Personnel Board (SPB) report of findings and recommendations and exit conference conducted on August 16, 2013; regarding the compliance review, for the period of May 2011 through November 2012. The California Science Center (Science Center) respectfully provides the following response to SPB's findings:

Finding No 1 - Examinations: The review determined that the Science Center was in compliance with Civil Service Laws and Board Rules regarding all examinations.

Department Response: No action needed. Department will continue to comply with Civil Services Laws and Board Rules for all examinations.

Finding No 2 - Applications: The review determined that the Science Center was in compliance with Civil Service Laws and State Board Rules regarding all appointments.

Department Response: No action needed. Department will continue to comply with Civil Service Laws and Board Rules for all applications and appointments

Finding No 3 - The California Science Center EEO Officer does not report directly to the Executive Director of the CSC.

Department Response and Corrective Action: The California Science Center provides HR and personnel services to three distinct departments (total of 148 employees): California Science Center, Office of Exposition Park Management and the California African American Museum. The HR Director also serves as the EEO Officer. All three departments are committed to complying with all aspects of the EEO program and all issues relative to equal employment opportunities. The EEO Officer reports directly to each department's executive director. In this regard, and effective immediately, the reporting relationship of the EEO Officer and the executive director of each department will also be noted in the organization chart. (If requested we can send copies of these

organization charts, which are large PDF files) In addition, the current EEO officer duties and responsibilities have been separated from the HR Director's duty statement. The EEO officer duty statement is now specific to each department and signed by the EEO officer and the executive director of each department. (Please reference attached duty statements)

Finding No 4 – The California Science Center does not have a Disability Advisory Committee (DAC).


Department Response and Corrective Action: Upon receiving notification of this DAC requirement in January 2013, the HR Office began to collaborate with the Statewide Disability Advisory Committee (SDAC) and has since initiated the following:

- Notified all employees of the bi-monthly SDAC meetings, and invited and encouraged employee participation in the SDAC meetings, in the interest of promoting equal employment opportunities, and workplace fairness for persons with disabilities.
- Posted minutes of the bi-monthly SDAC meetings on our Public Drive, and referred staff to this information as a valuable resource for updates regarding employment issues relative to persons with disabilities.
- Going forward, the Department will continue to seek employee involvement in the SDAC meetings; continue to post the SDAC minute meetings on the Pubic Drive and encourage employees to reference this information; and incorporate information on the Disability Advisory Committee in our Employee Handbook.

The California Science Center's Human Resources office is committed to meeting the needs of employees, stakeholders and job seekers regarding all disability related issues. Likewise, the HR office is also committed to hiring qualified persons with disabilities.

We appreciate your input and feedback during this compliance review. It is through these exercises that we continue to learn and improve the organization and effectiveness of our human resources services.

A hard copy of this correspondence and attachments will be sent via U.S. Postal Service.

Sincerely,

Peter J. Lopez
Human Resources Director