



COMPLIANCE REVIEW REPORT

CALIFORNIA STATE SUMMER SCHOOL FOR THE ARTS

Compliance Review Unit
State Personnel Board
June 26, 2020

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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.

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, 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.

It should be noted that this report only contains findings from this hiring authority’s compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California State Summer School for the Arts’ CSSSA’s personnel practices in the areas of examinations, appointments, EEO, PSC’s, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Finding
Equal Employment Opportunity	Equal Employment Opportunity Officer Does Not Report Directly to the Head of the Agency
Equal Employment Opportunity	Equal Employment Officer Is Not at the Managerial Level
Equal Employment Opportunity	A Disability Advisory Committee Has Not Been Established
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Ethics Training Was Not Provided for All Filers
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed
Leave	Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
Policy	Department Does Not Maintain a Current Written Nepotism Policy
Policy	No Evidence that CSSSA is out of Compliance with Workers’ Compensation 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 = Technical
- Green = In Compliance

BACKGROUND

The CSSSA is a rigorous, pre-professional, month-long training program in the visual and performing arts, creative writing, animation and film for talented artists of high school age. CSSSA provides a supportive environment in which students hone acquired skills and explore new techniques and ideas for an intense and exciting learning experience. The school was created by the California Legislature, and held its first session in 1987. Its purpose is to provide a training ground for future artists who wish to pursue careers in the arts and entertainment industries in California. The California State Summer School for the Arts is a state agency funded through a unique public-private partnership.

California residents enrolled in grades nine through twelve may apply to attend CSSSA. Students from outside of California may also apply; twenty are admitted each year. Participants are selected in the spring, on the basis of their talent and creativity as demonstrated through assignments and teacher recommendations. The student body is representative of the ethnic and socioeconomic diversity of the state. The admissions process is highly competitive. (Last session approximately one in three applicants in most departments were accepted). Students invited to the school are named California Arts Scholars.

The California Department of Education (CDE) performs human resources operations for the CSSSA. The CSSSA has four permanent employees.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CSSSA's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if the CSSSA's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines,

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

CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

The CSSSA did not conduct any examinations, permanent withhold actions, unlawful appointment investigations, and did not make any regular or additional appointments during the compliance review period. Furthermore, during the review period, the CSSSA did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, arduous pay, bilingual pay, monthly pay differentials, alternate range movements or out-of-class assignments.

The review of the CSSSA'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 CSSSA's PSC's were also reviewed.² It was beyond the scope of the compliance review to make conclusions as to whether the CSSSA's justifications for the contracts were legally sufficient. The review was limited to whether the CSSSA's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The CSSSA'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, managers, and CEAs were provided leadership and development training and sexual harassment prevention training within statutory timelines.

The CRU also identified the CSSSA'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 CSSSA to provide a copy of their leave reduction policy.

The CRU reviewed the CSSSA's Leave Activity and Correction Certification forms to verify that the CSSSA 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

²If 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.

small cross-section of the CSSSA's units in order to ensure they maintained accurate and timely leave accounting records.

During the compliance review period, the CSSSA did not have any employees with non-qualifying pay period transactions, did not track any temporary intermittent employees by actual time worked during the compliance review period, and did not authorize Administrative Time Off (ATO).

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

The CSSSA declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CSSSA's written response on May 5, 2020, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

FINDING NO. 1 – Equal Employment Opportunity Officer Does Not Report Directly to the Head of the Agency

Summary: The CSSSA's EEO Officer does not report directly to the head of the agency. Specifically, the EEO Officer reports to the Deputy Director. No separate, direct reporting relationship with the Director of the CSSSA has been established relative to EEO responsibilities.

Criteria: 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).)

Severity: Very Serious. The EEO Officer does not have direct access to the head of the organization, diminishing the significance of the EEO program. Not only is the EEO Officer not directly supervised by the Director, but there was no evidence of a meaningful reporting relationship on EEO matters. To have an effective EEO program, the head of the organization must be actively involved.

Cause: The CSSSA has four employees and does not maintain any administrative functions such as personnel. The CSSSA was not aware of the requirement that the EEO Officer must report directly to the Director for EEO related matters.

Corrective Action: Within 90 days of the date of this report, the CSSSA must submit to the SPB a written corrective action response that addresses the corrections the department will implement to demonstrate that the department is complying with applicable laws and policies relative to the EEO Officer. Copies of any relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action plan.

FINDING NO. 2 – Equal Employment Opportunity Officer Is Not at the Managerial Level

Summary: The CSSSA’s EEO Officer is an Associate Governmental Program Analyst. This is a rank and file classification, not at the managerial level.

Criteria: California Government Code section 19795, subdivision (a) states “the appointing power of each state agency and the director of each state department shall appoint, at the managerial level, an equal employment opportunity officer, who shall report directly to, and be under the supervision of, the director of the department, to develop, implement, coordinate, and monitor the agency's equal employment opportunity program.”

Severity: Very Serious. The EEO Officer is responsible for developing, implementing, coordinating, and monitoring an effective EEO program. Due to the substantial responsibilities held by each department’s EEO Officer, it is essential that each department dedicate adequate resources to the oversight of the EEO program.

Cause: The CSSSA has four employees and does not maintain any administrative functions such as personnel. The CSSSA was not aware that the EEO Officer must be at the managerial level.

Corrective Action: Within 90 days of the date of this report, the CSSSA must submit to the SPB a written corrective action response that addresses the corrections the department will implement to demonstrate that the department is complying with applicable regulation and policy relative to the EEO Officer. Copies of any relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action plan.

FINDING NO. 3 – A Disability Advisory Committee Has Not Been Established

Summary: The CSSSA does not have an active DAC.

Criteria: Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, §

19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

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

Cause: The CSSSA has four employees and does not maintain any administrative functions such as personnel. The CSSSA was not aware of the requirement to either establish and maintain its own DAC or join another larger department's DAC.

Corrective Action: Within 90 days of the date of this report, the CSSSA must submit to the SPB a written corrective action response that addresses the corrections the department will implement to demonstrate that the department is complying with applicable regulation and policy relative to the DAC. Copies of any relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action plan.

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, but are not limited to, 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, August 1, 2018, through July 30, 2019, the CSSSA had 34 PSC's that were in effect. The CRU reviewed 20 of those, which are listed below:

Vendor	Services ³	Contract Dates	Contract Amount	Justification Identified?	Union Notified?
Kati Angelov	Animation Dept Chairperson	7/1/19 – 6/30/20	\$8,400.00	Yes	No
Kirsten Roberts	Dance Dept Chairperson	7/1/19 – 6/30/20	\$8,400.00	Yes	No
Megan Broughton	Design Instructor	7/13/19 – 8/9/19	\$5,100.00	Yes	No
Miranda Hoffs	Design Instructor	7/13/19 – 8/9/19	\$2,550.00	Yes	No
John Wu	Digital Media Instructor	7/13/19 – 8/9/19	\$5,100.00	Yes	No
Lake Peterson	Film Tech Assistant	7/13/19 – 8/9/19	\$3,200.00	Yes	No
Geir Foshaug	Visual Arts Exhibitions	7/13/19 – 8/9/19	\$5,100.00	Yes	No
David Howe	Music Technician	7/13/19 – 8/9/19	\$3,200.00	Yes	No
Claire Kuttler	Voice Instructor	7/13/19 – 8/9/19	\$4,400.00	Yes	No
Hirota Inuzuka	Gamelan Music Instructor	7/13/19 – 8/9/19	\$5,100.00	Yes	No
Amy Poliner	Video Technician	7/13/19 – 8/9/19	\$5,300.00	Yes	No
Barbara J. Dodge	Theater Dept Chairperson	7/1/19 – 6/30/20	\$8,400.00	Yes	No
John Robinson	Student Affairs Lead	7/13/19 – 8/9/19	\$8,600.00	Yes	No

³ Education Code section 8955, subdivision (c), specifies that faculty for the summer school program, which spans four to six weeks, shall be contracted and not considered state employees. Because this statute excludes those positions from state service, the union notification under Government Code section 19132 is not required.

Vendor	Services ³	Contract Dates	Contract Amount	Justification Identified?	Union Notified?
CA State Summer School Arts Foundation ⁴	Raise funds from private sector to meet legislative private/public requirement	7/1/19 – 6/30/20	\$80,500.00	Yes	No
Clarice Cast	Student On-Call	7/13/19 – 8/9/19	\$6,800.00	Yes	No
Kathryn DeWall	Lighting Technician	7/13/19 – 8/9/19	\$5,300.00	Yes	No
Carlos Andres Pinos Torres	Student Records	7/13/19 – 8/9/19	\$4,300.00	Yes	No
Benjamin Scanlan	Music Instructor	7/13/19 – 8/9/19	\$2,550.00	Yes	No
Stephen Ibarra	Student Recreation	7/13/19 – 8/9/19	\$2,000.00	Yes	No
Jonathan Richards	Music Lessons	7/13/19 – 8/9/19	\$1,320.00	Yes	No

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

The total dollar amount of all the PSC’s reviewed was \$175,620. It was beyond the scope of the review to make conclusions as to whether CSSSA’s justifications for the contract were legally sufficient. For all PSC’s reviewed, the CSSSA provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, CSSSA complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CSSSA’s 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

⁴ Education Code section 8953.5, subdivision (f), requires the CSSSA to establish a nonprofit foundation to develop and receive private support for the summer school. Thus, union notification under Government Code section 19132 is not required.

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) and (b), & 19995.4, subd. (b).)

Additionally, the training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

Within 12 months of the initial appointment of an employee to a management or Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biennial 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 CSSSA's mandated training program that was in effect during the compliance review period, August 1, 2017, through July 30, 2018. The CSSSA's sexual harassment prevention training was found to be in compliance, while the CSSSA's ethics training was found to be out of compliance.⁵

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

Summary: The CSSSA did not provide ethics training to one existing filer. In addition, the CSSSA did not have any new filers who were required to attend ethics training 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: Due to its extremely small size, no employee turnover and lack of oversight, the CSSSA did not provide ethics training to its one existing filer.

Corrective Action: Within 90 days of the date of this report, the CSSSA must submit to the SPB a written corrective action response that addresses the corrections the department will implement to demonstrate that the department is complying with applicable regulation and policy relative to mandated ethics training. Copies of any relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action plan.

⁵ The CSSSA is not allocated any supervisory positions that they can fill by any type of appointment. Therefore, it has no new or existing supervisors that were required to complete mandatory basic supervisor courses.

Leave

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. (*Ibid.*) 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, February 1, 2019, through April 30, 2019, the CSSSA reported one units comprised of four active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
February 2019	700	4	4	0
March 2019	700	4	4	0
April 2019	700	4	4	0

FINDING NO. 6 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The CSSSA failed to provide completed Leave Activity and Correction Certification forms for one unit reviewed during the February, March, and April 2019 pay periods.

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

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

Cause: The CSSSA has four employees and does not maintain any administrative functions such as personnel. The CSSSA was not aware that the state agency performing personnel services on its behalf was not completing the required Leave Activity Certification and Correction forms monthly.

Corrective Action: Within 90 days of the date of this report, the CSSSA must submit to the SPB a written corrective action response that addresses the corrections the department will implement to demonstrate that the department is complying with applicable regulation and policy relative to the mandatory monthly completion of Leave Activity Certification and Correction forms. Copies of any relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action plan.

Leave Reduction Efforts

Departments must create a leave reduction policy for their organization and monitor employees' leave to ensure compliance with the departmental leave policy; and ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. (Human Resources Manual Section 2124.)

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. “If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, the employee may accumulate the unused portion.”⁶ (Cal. Code Regs., tit. 2, § 599.737.) If it appears an excluded employee will have a vacation or annual leave balance that will be above the maximum amount⁷ 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, ensuring employees maintain the capacity to optimally perform their jobs. (Cal. Code Regs., tit. 2, § 599.742.1.) For excluded employees, the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee 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, one CSSSA employee exceeded the established limits of vacation or annual leave. The CRU reviewed one employee’s leave reduction plan 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
Deputy Director ⁸	S21	151	No
Total		151	

⁶ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 06 there is no established limit and for Bargaining Unit 05 the established limit is 816 hours.

⁷ Excluded employees shall not accumulate more than 80 days.

⁸ The Deputy Directory of the CSSSA is a civil service position, class code 2763.

FINDING NO. 7 – Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits

Summary: The CSSSA did not provide a leave reduction plan for one employee reviewed whose leave balances significantly exceeded established limits. Additionally, CSSSA did not provide a general departmental policy addressing leave reduction.

Criteria: It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. (Human Resources 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. (*Ibid.*)

Severity: Technical. California state employees have accumulated significant leave hours creating an unfunded liability for departmental budgets. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.

Cause: The CSSSA has four employees and does not maintain any administrative functions such as personnel. The CSSSA was not aware that individual leave reduction plans are required when employees exceed the 640-hour cap and that employees over the cap must be actively reducing their balances. Nor was the CSSSA aware that an organizational leave reduction policy is required to address ongoing leave reduction efforts within the agency.

Corrective Action: Within 90 days of the date of this report, the CSSSA must submit to the SPB a written corrective action response that addresses the corrections the department will implement to demonstrate that the department is complying with applicable regulation and policy relative to the mandated leave reduction efforts. Copies of any relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action 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 association by blood, adoption, marriage and/or cohabitation. (*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. 8 – Department Does Not Maintain a Current Written Nepotism Policy

Summary: The CSSSA does not maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees.

Criteria: It is the policy of the State of California to recruit, hire and assign all employees on the basis of fitness and merit in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204). All department policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring, and assigning employees on the basis of merit. (*Ibid.*)

Severity: Very Serious. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. Departments must take proactive steps to ensure that the recruitment, hiring, and assigning of all employees is done on the basis of merit and fitness in accordance with civil service statutes. Maintaining a current written nepotism policy, and its dissemination to all staff, is the cornerstone for achieving these outcomes.

Cause: The CSSSA has four employees and does not maintain any administrative functions such as personnel. The CSSSA was not aware that each agency must have its own nepotism policy to ensure that the recruiting, hiring, and assigning employees is based on merit.

Corrective Action: Within 90 days of the date of this report, the CSSSA must submit to the SPB a written corrective action response that addresses the corrections the department will implement to demonstrate that the department is complying with applicable regulation and policy relative to the mandate that each agency must have its own nepotism policy. Copies of any relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action plan.

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, subds. (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 CSSSA did not employ volunteers during the compliance review period.

FINDING NO. 9 – No Evidence that CSSSA is out of Compliance with Workers’ Compensation Laws, Board Rules, and/or CalHR Policies and Guidelines

During the review period, there was no indication that the CSSSA was out of compliance with applicable Workers’ Compensation Law, Board Rules, and/or CalHR policies and or guidelines. CSSSA has not appointed any new employees for 10 years, and they reported no work-related injuries within current record retention requirements.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must “prepare performance reports.” Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

The CRU selected two permanent CSSSA employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due	Date Performance Appraisal Provided
Deputy Director	10/31/2018	None
Associate Governmental Program Analyst	7/19/2018	None

FINDING NO. 10 – Performance Appraisals Were Not Provided to All Employees

Summary: The CSSSA did not provide annual performance appraisals to two of two employees reviewed after the completion of the employee’s probationary period.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the

employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

Severity: Serious. The department does not ensure that all of its employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The CSSSA has four employees and does not maintain any administrative functions such as personnel. The CSSSA was not aware that each employee must be provided a performance appraisal annually after completing their probationary period.

Corrective Action: Within 90 days of the date of this report, the CSSSA must submit to the SPB a written corrective action response that addresses the corrections the department will implement to demonstrate that the department is complying with applicable regulation and policy relative to the mandated performance appraisals. Copies of any relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action plan.

DEPARTMENTAL RESPONSE

The CSSSA's response is attached as Attachment 1.

SPB REPLY

Based upon the CSSSA's written response, the CSSSA will comply with the corrective actions specified in these report findings. Within 90 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified, must be submitted to the CRU.

CSSSA CALIFORNIA
STATE
SUMMER SCHOOL
FOR
THE ARTS

May 5, 2020

State Personnel Board
Compliance Review Division
Attention: Luisa Doi
801 Capitol Mall
Sacramento, CA 95814

Subject: SPB Compliance Review

Dear Ms. Doi:

The California State Summer School for the Arts (CSSSA) appreciates the State Personnel Board's (SPB) work on the Compliance Review Report. In collaboration with the California Department of Education (CDE) the CSSSA provides the following responses below.

FINDING NO. 1 – Equal Employment Opportunity Officer Does Not Report Directly to the Head of the Agency

Summary:

The CSSSA's EEP Officer does not report directly to the head of the agency. Specifically, the EEO Officer reports to the Deputy Director. No separate, direct reporting relationship with the Director of the CSSSA has been established relative to EEO responsibilities.

CSSSA Cause/Response:

The CSSSA consists of four employees in its entirety. Being such a small department, the CSSSA does not conduct nor maintain any administrative functions such as personnel, accounting, budgets, technology or contracts within their department. The four individuals that make up the entire department often wear multiple hats and serve different roles in the department. We concur with this finding.

FINDING NO. 2 – Equal Employment Opportunity Officer Is Not at the Managerial Level

Summary:

The CSSSA's EEO Officer is an Associate Governmental Program Analyst. This is a rank and file classification, not at the managerial level.



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SACRAMENTO, CA 95826

916.229.5160
916.229.5170 FAX
www.csssa.ca.gov

CSSSA Cause/Response:

The CSSSA consists of four employees in its entirety. Being such a small department, the CSSSA does not conduct nor maintain any administrative functions such as personnel, accounting, budgets, technology or contracts within their department. The four individuals that make up the entire department often wear multiple hats and serve different roles. We concur with this finding.

FINDING NO. 3 – A Disability Advisory Committee Has Not Been Established

Summary:

The CSSSA does not have an active DAC.

CSSSA Cause/Response:

The CSSSA consists of four employees in its entirety. Being such a small department, the CSSSA does not conduct nor maintain any administrative functions such as personnel, accounting, budgets, technology or contracts within their department. The CSSSA was not aware that this was still a requirement in a department of four individuals. We concur with this finding.

FINDING NO. 4 – Unions Were Not Notified of Personal Services Contracts

Summary:

The CSSSA did not notify unions prior to entering into all of the 20 PSC's.

CSSSA Cause/Response:

Pursuant to Education Code (EC) Section 8955 (c), the CSSSA did not notify unions prior to entering into all of the twenty personal services contracts because there was no need to as the contracted services cannot be performed by civil service employees. Specifically, EC 8955 (c) states that members of the faculty shall be paid on a contractual basis and shall not be considered as state employees.

Furthermore, Government Code (GC) Section 19132(b)(1) specifically states that the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. As stated in the citation the services provided by the faculty cannot be performed by civil service employees, the CSSSA respectfully disagrees with this finding.

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

Summary:

The CSSSA did not provide ethics training to one existing filer. In addition, the CSSSA did not have any new filers who were required to attend ethics training within six months of their appointment.

CSSSA Cause/Response:

As an oversight, the CSSSA did not provide ethics training to one existing filer. The CSSSA did not have any new appointments or new hires in the last ten years. We concur with this finding.

FINDING NO. 6 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary:

The CSSSA failed to provide completed Leave Activity and Correction Certification forms for one unit reviewed during the February, March, and April 2019 pay periods.

CSSSA Cause/Response:

The CSSSA consists of four employees in its entirety. Being such a small department, the CSSSA does not conduct nor maintain any administrative functions such as personnel within their department. The CSSSA was not aware that the state agency performing personnel services on their behalf was not completing the Leave Activity and Correction Certification forms accordingly. We concur with this finding.

FINDING NO. 7 – Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits

Summary:

The CSSSA did not provide a leave reduction plan for one employee reviewed whose leave balances significantly exceeded established limits. Additionally, CSSSA did not provide a general departmental policy addressing leave reduction.

CSSSA Cause/Response:

Being such a small department, the CSSSA does not conduct nor maintain any administrative functions such as personnel within their department. The CSSSA was not aware of this requirement. We concur with this finding.

FINDING NO. 8 – Department Does Not Maintain a Current Written Nepotism Policy

Summary:

The CSSSA does not maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees.

CSSSA Cause/Response:

The CSSSA consists of four employees in its entirety. Being such a small department, the CSSSA does not conduct nor maintain any administrative functions such as personnel within their department. The CSSSA was not aware of this requirement. We concur with this finding.

FINDING NO. 9 – Workers' Compensation Policy Was Not Provided to New Employees by the End of First Pay Period

Summary:

The CSSSA does not provide specific notices to their new employees to inform them of their rights and responsibilities under California's Workers' Compensation Law.

Ms. Luisa Doi

May 5, 2020

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CSSSA Cause/Response:

The CSSSA has not had any new appointments, new hires or new employees in the last ten years. We respectively disagree with this finding as no new employees were hired during the period that has been identified as the review period.

FINDING NO. 10 - Performance Appraisals Were Not Provided to All Employees

Summary:

The CSSSA did not provide annual performance appraisals to two of two employees reviewed after the completion of the employee's probationary period.

CSSSA Cause/Response:

Being such a small department, the CSSSA does not conduct nor maintain any administrative functions such as personnel within their department. The CSSSA was not aware of this requirement. We concur with this finding.

If you have any questions regarding the CSSSA's comments and/or corrective actions, please contact Katrina Dolenga, Deputy Director, California State Summer School for the Arts, by phone at 916-229-5171 or by email at KDolenga@csssa.org.

Sincerely,



Michael Fields
CSSSA Director