



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF HUMAN RESOURCES

Compliance Review Unit
State Personnel Board
August 12, 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 Department of Human Resources (CalHR)'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	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Supervisory 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	Exception to Salary Determinations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Hiring Above Minimum Requests Complied 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	Administrative Time Off Was Not Properly Documented
Leave	Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely
Leave	Leave Reduction Plans Were Not Provided to all Employees Whose Leave Balances Exceeded Established Limits

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	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
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 CalHR was created on July 1, 2012, by Governor Brown's Reorganization Plan Number 1 of 2011. The reorganization plan consolidated the former Department of Personnel Administration with the operational functions of the State Personnel Board.

The CalHR is responsible for all issues related to employee salaries, benefits, collective bargaining, workforce planning, performance management, training, and the operational functions related to civil rights, exams, recruitment and retention.

SCOPE AND METHODOLOGY

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

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

A cross-section of the CalHR's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the CalHR provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CalHR did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the CalHR'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 CalHR provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CalHR did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CalHR did not make any additional appointments during the compliance review period.

The CalHR's appointments were also selected for review to ensure the CalHR applied salary regulations accurately and correctly processed employee's compensation and pay. The CRU examined the documentation that the CalHR 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: hiring above minimum (HAM) requests, red circle rate requests, arduous pay, bilingual pay, monthly pay differentials, and out-of-class assignments.

The review of the CalHR'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 upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

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

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.

The CalHR'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 and sexual harassment prevention training within statutory timelines.

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

The CRU reviewed the CalHR's Leave Activity and Correction certification forms to verify that the CalHR 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 CalHR'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 CalHR's employee's 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. Additionally, the CRU reviewed a selection of the CalHR employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the CRU reviewed a selection of CalHR employees tracked by actual time worked (ATW) during the compliance review period in order to ensure that ATW was appropriately utilized.

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

On July 1, 2019, an exit conference was held with the CalHR to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CalHR's written response on July 15, 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.) 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 in the office of the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934.) Generally, the final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, May 1, 2017 through January 31, 2018, the CalHR conducted two CEA examinations which the CRU reviewed.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) B, Chief of Benefits	CEA	CEA	N/A	13
CEA B, Chief of Personnel Management Division	CEA	CEA	7/26/2017	17

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

The CRU reviewed two CEA examinations which the CalHR administered in order to create eligible lists from which to make appointments. The CalHR published and distributed examination bulletins containing the required information for all examinations. Applications received by the CalHR were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the CalHR 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, subd. (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 to or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (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, subd. (e).)

During the period under review, May 1, 2017 through January 31, 2018, the CalHR made 99 appointments. The CRU reviewed 28 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Administrative Law Judge III	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Attorney V	Certification List	Permanent	Full Time	1
Business Service Officer I (Specialist)	Certification List	Permanent	Full Time	2
Legal Assistant	Certification List	Permanent	Full Time	1
Personnel Program Analyst	Certification List	Permanent	Full Time	4
Personnel Specialist	Certification List	Permanent	Full Time	1
Personnel Technician I	Certification List	Permanent	Full Time	2
Staff Personnel Program Analyst	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Staff Services Manager I	Mandatory Reinstatement	Permanent	Full Time	1
Account Trainee	Mandatory Reinstatement	Permanent	Full Time	1
Staff Programmer Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Mandatory Reinstatement	Permanent	Full Time	1
Office Technician (Typing)	Permissive Reinstatement	Limited Term	Full Time	1
Staff Services Manager III	Training & Development	T&D	Full Time	1
Staff Services Manager I	Training & Development	T&D	Full Time	1
Office Technician (Typing) - Limited Examination and Appointment Program (LEAP)	Transfer	Permanent	Full Time	1
Personnel Program Advisor	Transfer	Limited Term	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	2
Staff Services Manager I	Transfer	Permanent	Full Time	1

FINDING NO. 2 – Appointments Complied with Civil Service Laws and Board Rules

The CRU found no deficiencies in the appointments that the CalHR made during the compliance review period. The CalHR’s appointments processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

Equal Employment Opportunity

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

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation from the regular chain of command, as well as regular and unencumbered access to the head of the organization.

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 CalHR's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Director of the CalHR. In addition, the CalHR has an established DAC which reports to the Director on issues affecting persons with disabilities. The CalHR also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff. Accordingly, the CalHR's 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, from May 1, 2017 through January 31, 2018, the CRU reviewed all 15 PSC's that were in effect and subject to the Department of General Services (DGS).

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

Summary: The CalHR did not notify unions prior to executing 11 PSC's.

Vendor	Services	Contract Dates	Contract Amount	Union Notified
Clifton Larson Allen, LLP	Audit Services for Savings Plus	6/7/17 - 5/31/22	\$403,500.00	No
Comprehensive Drug Testing, Inc.	Drug and Alcohol Testing Services	7/1/17 - 6/30/22	\$4,452,000.00	No
EJC Consulting	Organizational Change Management Training	2/1/18 - 1/31/19	\$10,400.00	No
Foothill Transcription Company, Inc.	Transcription and Court Reporting Services	7/1/17 - 6/30/19	\$14,000.00	No
Global Productivity Solutions, LLC	Lean Six Sigma Training	12/1/17 - 9/30/18	\$109,000.00	No
Marsh & McLennan Agency, LLC	Insurance Brokerage Services	1/1/13 - 12/3/17	\$5,000.00	No
Maximus Health Services, Inc.	IT Portal Translation and Testing Services	7/1/17 - 6/30/19	\$25,000.00	No
National Indian Justice Center	Cultural Sensitivity Training	6/1/17 - 6/30/17	\$1,880.61	No
Rojelia Jauregui	Training Services/Instructors	10/1/17 - 6/30/18	\$10,000.00	No

Vendor	Services	Contract Dates	Contract Amount	Union Notified
Van Write Writing Consultants, LLC	Business Writing Training	1/1/17 - 12/3/17	\$43,740.00	No
Western Region Intergovernmental Personnel Assessment Council (WRIPAC)	Job Analysis Training	10/1/17 - 6/30/18	48,000.00	No

Criteria: “The contract shall not be executed until 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.” (Gov. Code, § 19132(b)(1).)

Severity: Serious. Unions must be notified of impending PSC’s in order to ensure they are aware contracts are being proposed for work that their members could perform.

Cause: This was a training oversight. In addition, there were contracts where the contract analyst could not identify the appropriate union for the services provided.

Action: The CalHR has established processes for notifying the unions. Furthermore, contract analysts have been instructed to send the notices to any and all unions whose membership may be impacted. However, the CalHR must continue to monitor that all unions have been notified prior to any PSC’s being executed to ensure conformity with Government Code section 19132 (b)(1).) Copies of relevant documentation including the union notification process should be submitted.

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.)

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 all the records for the CalHR's mandated training program that was in effect during the compliance review period and determined that the CalHR's ethics and sexual harassment training were in compliance. However:

FINDING NO. 5 – Supervisory Training Was Not Provided for All Supervisors

Summary: The CalHR did not provide basic supervisory training to three of five new supervisors within twelve months of appointment.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. (Gov. Code, § 19995.4, subd. (b).) Upon completion of the initial

training, supervisory employees shall receive a minimum 20 hours of leadership training biannually. (Gov. Code, § 19995.4, subd.(c).)

Severity: Very Serious. The department does not ensure its leaders are properly trained. Without proper training, leaders may not properly carry out their leadership roles, including managing employees.

Cause: Despite the methods used by Human Resources to inform and remind new supervisors of the requirement, not all supervisors were able to attend the training within the first year of appointment.

Action: The CalHR has a process in place to inform and remind new supervisors of their basic supervisory training requirement. Also, the CalHR’s leadership team will emphasize the importance of completing the mandatory supervisory training in management and executive meetings. However, the CalHR must continue to monitor and track completion of basic supervisory training to ensure conformity with Government Code section 19995.4, subdivision (b).

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by the CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee’s salary rate⁴ upon appointment depending on the appointment type, the employee’s state employment and pay history, and tenure.

During the period under review, May 1, 2017 through January 31, 2018, the CalHR made 99 appointments. The CRU reviewed 11 of those appointments to determine if the CalHR applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Attorney V	Certification List	Permanent	Full Time	\$13,188

⁴ “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.)

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Business Service Officer I (Specialist)	Certification List	Permanent	Full Time	\$4,446
Personnel Specialist	Certification List	Permanent	Full Time	\$2,987
Personnel Technician I	Certification List	Permanent	Full Time	\$3,129
Personnel Technician I	Certification List	Permanent	Full Time	\$3,953
Staff Personnel Program Analyst	Certification List	Permanent	Full Time	\$5,689
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$7,421
Personnel Program Advisor	Transfer	Limited Term	Full Time	\$7,853
Office Technician (Typing) - LEAP	Transfer	Permanent	Full Time	\$3,019
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$4,451
Staff Services Manager I	Transfer	Permanent	Full Time	\$7,005

FINDING NO. 6 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the 11 salary determinations that were reviewed. The CalHR 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 policies and guidelines.

Exceptions to Salary

California Code of Regulations sections 599.674 subdivision (a) and 599.676 allow employees to receive a salary rate up to one step (5%) above the salary rate they last received. (Classification and Pay Guide Section 285.) In those instances when these rules do not provide employees with the equivalent rate last received (1) upon transfer to a deep class or (2) in their former class, then under the authority of Government Code section 19836 subdivision (a), an exception to these salary rules can be made. Exceptions to these rules should be applied uniformly for all employees. (*Ibid.*)

For those affected employees incurring salary loss upon transfer to a deep class, the CalHR recommends placing the employee on a training & development (T&D) Assignment for a period of time sufficient to meet the higher alternate range criteria. Upon successful completion of the T&D assignment, the employee may be transferred to the transferable range, and then moved to the next higher alternate range effective

the same day. If this does not provide the employee their current salary, departments may process an exception so the employee does not incur a salary loss. (*Ibid.*)

All departments have delegated authority to approve an exception to the salary rules under the following circumstances: when there is a salary loss upon transfer to a deep class; when there is a reappointment or reinstatement without a break in service.

During the period under review, May 1, 2017 through January 31, 2018 the CalHR authorized two salary exception requests which the CRU reviewed to determine if the CalHR correctly verified, approved and documented the salary exception authorization process.

Classification	Prior Classification	T&D Assignment	Approved Salary
Labor Relations Manager II	Staff Services Manager III	Yes	\$8,621
Staff Personnel Program Analyst	Staff Services Manager I	Yes	\$5,760

FINDING NO. 7 – Exception to Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the exceptions to salaries that the CalHR made. Salaries were appropriately calculated and keyed for each appointment and employees' anniversary dates were correctly determined, ensuring that subsequent merit salary adjustments will satisfy civil service laws, rules and policies and guidelines.

Hiring Above Minimum Requests

The department may authorize payment at any step above-the minimum limit to classes or positions to meet recruiting problems or to obtain a person who has extraordinary qualifications. (Gov. Code § 19836, subd. (a).) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (CalHR Online Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

Persons with extraordinary qualifications should contribute to the work of the department significantly beyond that which other applicants offer. (*Ibid.*) Extraordinary qualifications may provide expertise in a particular area of a department's program.

(Ibid.) This expertise should be well beyond the minimum qualifications of the class. *(Ibid.)* Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. *(Ibid.)* The scope and depth of such experience should be more significant than its length. *(Ibid.)* The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. *(Ibid.)* When a number of candidates offer considerably more qualifications than the minimum, it may not be necessary to pay above the minimum to acquire unusually well-qualified people. *(Ibid.)* The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. *(Ibid.)* Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. *(Ibid.)*

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action.⁵ (Gov. Code § 19836 subd. (b).)

Appointing authorities may request/approve HAMs for former Legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (CalHR Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. *(Ibid.)* A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. *(Ibid.)* Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. *(Ibid.)*

Appointing authorities may request/approve HAMs for former exempt employees appointed to a civil service class. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in competitive with the employee's salary in the exempt appointment. *(Ibid.)* For example: An employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. *(Ibid.)*

⁵ Except that if the provisions of the a memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

During the period under review, May 1, 2017 through January 31, 2018, the CalHR authorized four HAM requests which the CRU reviewed to determine if the CalHR correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Legal Counsel	Certification List	New to the State	\$5,387 - \$6,157	\$6,157.00
Legal Counsel	Certification List	New to the State	\$5,387 - \$6,157	\$6,157.00
Legal Secretary	Certification List	New to the State	\$3,271 - \$4,095	\$4,095.00
Staff Services Manager III	Certification List	New to the State	\$7,301 - \$8,289	\$8,049.00

FINDING NO. 8 – Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found that all HAM requests the CalHR made during the compliance review period, satisfied civil service laws, Board rules, and policies and guidelines.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages ten percent or more of the total time worked. According 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. (*Ibid.*)

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, 2017 through October 31, 2017, the CalHR issued bilingual pay to one employee which the CRU reviewed to ensure compliance with applicable policies and guidelines.

Classification	Bargaining Unit	Time Base
Management Services Technician	E97	Full Time

FINDING NO. 9 – Incorrect Authorization of Bilingual Pay

Summary: The CRU found the one error in the authorization of bilingual pay.

Classification	Description of Finding(s)	Criteria
Management Services Technician	Duty statement showing the percentage of time the employee needed to use his/her bilingual skills was not provided.	Gov. Code, § 7296 and Pay Differential 14

Criteria: For any state agency, a “qualified” bilingual employee is someone who the CalHR has tested and certified, a bilingual employee who was tested and certified by a state agency or other approved testing authority, and an interpreter 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 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 state civil service pay plan by incorrectly applying compensation laws and rules in accordance with the CalHR’s policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay.

Cause: Neglecting to update the duty statement of the incumbent was an oversight.

Action: The CalHR has a process in place to ensure that the incumbent’s duty statement accurately reflects the percentage of time that

his/her bilingual skills are utilized. However, the CalHR must continue to monitor that the duty statements of incumbents are updated as necessary to ensure conformity with Pay Differential 14.

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. (Classification and Pay Manual Section 230.) In some instances, however, 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. (*Ibid.*) 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.

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

During the period under review, February 1, 2017 through October 31, 2017, the CalHR issued pay differentials⁶ to five employees which the CRU reviewed to ensure compliance with applicable policies and guidelines, which are listed below:

Classification	Pay Differential	Monthly Amount
Administrative Law Judge III	84	5%
Career Executive Assignment	71	5%
Career Executive Assignment	248	5%
Staff Personnel Program Analyst	248	5%
Staff Personnel Program Analyst	248	5%

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

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

The CRU found no deficiencies in the pay differentials that the CalHR 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

Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Online Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also be granted when employees need time off for reasons such as blood or organ donation; extreme weather preventing safe travel to work; states of emergency; voting; and when employees need time off to attend special events. (*Ibid.*)

During the period under review, November 1, 2016 through October 31, 2017, the CalHR placed seven employees on ATO which the CRU reviewed to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

Classification	Time Frame	No. of Days on ATO
Business Service Assistant (Specialist)	8/21/17 - 08/21/17	1
Labor Relations Specialist	11/8/16 - 11/8/16	1
Legal Assistant	11/8/16 - 11/8/16	1
Legal Secretary	5/15/17 - 5/19/17	5
Limited Examination and Appointment Program Candidate	2/13/17 - 2/22/17	5
Personnel Technician II (Specialist)	2/13/16 -2/16/17	4
Staff Personnel Program Analyst	2/13/17 - 2/14/17	2

FINDING NO. 11 – Administrative Time Off Was Not Properly Documented

Summary: One of seven employees who were on ATO was missing the justification for why ATO was granted. Therefore, the CRU was unable to determine if this employee was properly authorized ATO or not.

Classification	Time Frame	No. of Days on ATO
Legal Secretary	5/15/17 - 5/19/17	1

Criteria: Appointing authorities are authorized to approve ATO for up to five (5) working days under Government Code section 19991.10, and have delegated authority to approve up to 30 calendar days. (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the CalHR. (*Ibid.*) In most cases, if approved, the extension will be for an additional 30 calendar days. (*Ibid.*) The appointing authority is responsible for submitting ATO extension requests to the CalHR at least 5 working days prior to the expiration date of the approved leave. (*Ibid.*)

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. (*Ibid.*) ATO may not be used and will not be granted for an indefinite period. (*Ibid.*) If the CalHR denies a request to extend ATO, or the appointing authority fails to request approval from the CalHR to extend the ATO, the employee must be returned to work in some capacity. (*Ibid.*)

Regardless of the length of ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. (*Ibid.*)

Severity: The use of ATO is subject to audit and review by the CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

Cause: This was an oversight by the Personnel Specialist.

Action: Moving forward, the CalHR has a process in place to ensure that the need for ATO is justified when it is authorized. However, the CalHR must continue to monitor that justification memos are prepared and retained each time ATO is authorized to ensure conformity with Human Resources Manual Section 2121.

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 audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*) Accurate and timely attendance reporting is required of all departments and is subject to audit. (*Ibid.*)

During the period under review, November 1, 2016 through October 31, 2018, the CRU reviewed timesheets from three units during the August 2017 pay period which are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
August 2017	600	36	34	2
August 2017	850	16	16	0
August 2017	920	12	12	0

FINDING NO. 12 – Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely

Summary: The CalHR has not implemented a monthly internal audit process to verify timesheets are keyed accurately and timely. Completed Leave Activity and Correction Certification forms were not provided for all three units reviewed. Furthermore, two timesheets were missing.

Criteria: Departments are responsible for maintaining accurate and timely leave accounting records for their employees. (Cal. Code Regs., tit. 2, § 599.665.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. (Human Resources Online Manual Section 2101.) This includes all leave types accrued/earned or used by all employees on a monthly basis, regardless of whether leave records are system generated or manually keyed. (*Ibid.*) Departments who utilize an electronic timekeeping system are required to audit for leave input errors if there is no built-in mechanism in place. (*Ibid.*) Department audit processes shall compare what has been recorded in the leave accounting system as accrued/earned or used by each employee to their attendance record for the pay period. (*Ibid.*)

Severity: Severe. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. Accurate and timely attendance reporting is required of all departments and is subject to audit.

Cause: Human Resources acknowledges this is a training oversight. Staff have not used the Completed Leave Activity and Correction Certification forms on a consistent basis.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CalHR submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.665 and Human Resources Manual Section 2101. Copies of any relevant documentation should be included with the 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 signification "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. (Cal. Code Regs., tit. 2, § 599.742.1.) “If a represented employee does not use all of the vacation to which he or she is entitled in a calendar year, “the employee may accumulate the unused portion.”⁷ (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 amount⁸ as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation. (Cal. Code Regs., tit. 2, § 599.742.1.), ensuring employees maintain the capacity to optimally perform their jobs. For excluded employees, “the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee 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 2017, the CalHR had 25 employees who exceeded the established limits of vacation or annual leave which the CRU reviewed to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

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

Summary: The CalHR provided a departmental leave reduction policy. However, leave reduction plans were not provided for nine of the 25 employees whose leave balances significantly exceeded established limits.

⁷ 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.

⁸ Excluded employees shall not accumulate more than 80 days.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Accounting Administrator I (Specialist)	E97	254.25	No
CEA	N/A	1,424	No
Chief Counsel	E99	584	No
Chief Psychologist	E98	350	No
Deputy Director of Labor Relations	E99	294	No
Labor Relations Manager I	E98	250.5	No
Staff Personnel Program Analyst	E98	403.25	No
Staff Services Manager II (Managerial)	E98	599	No
Staff Services Manager III	E99	358.75	No
Total		11,382.25	

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; and; ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are 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: On an annual basis, Human Resources sends out notices to every division chief to inform them which of their employees are over the CAP or will be slated to be over the CAP in the coming year. They are informed that their employees must submit a Leave Reduction Plan to Human Resources by a specific date.

Action: The CalHR has a process in place to ensure leave reduction plans are submitted to Human Resources in a timely manner.

Furthermore, the CalHR's leadership team will emphasize the importance of completing performance appraisals in management and executive meetings. However, the CalHR must continue to monitor and track the submission of leave reduction plans to ensure conformity with Human Resources Manual Section 2124.

State Service

The state recognized two different types of absences while an employee is on pay status; paid or unpaid. The unpaid absences can affect whether a pay period is considered to be a qualifying or non-qualifying pay period for state service and leave accruals.

An employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.⁹ (Cal. Code Regs., tit. 2, § 599.608.)

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

For each additional qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁰ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

⁹ Except as provided in sections 599.609 and 599.776.1(b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

¹⁰ As identified in Government Code sections 19858.3(a), 19858.3(b), or 19858.3(c) as it applies to employees excluded from the definition of state employee under Government Code section 3513 subdivision (c) or California Code of Regulation section 599.752 subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

Permanent Intermittent employees earn vacation according to the preceding schedule for each increment of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period are not counted or accumulated.

During the period under review, February 1, 2017 through October 31, 2017, the CalHR had two employees with non-qualifying pay period transactions. The CRU reviewed seven of those transactions to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	2
Qualifying Pay Period	Full Time	5

FINDING NO. 14 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies with the transactions the CalHR made. The CRU determined that the CalHR ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals.

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. 15 – 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 CalHR's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CalHR'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 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).) The notice provided shall be in writing, a form that the employee may use as an optional method for notifying the employer of the name of the employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9800 subd. (c)(8).) Additionally, employers shall also provide a claim form and notice of potential eligibility to their employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness. (Labor Code, § 5401.)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Online Manual Section 1415.) Workers' compensation coverage is not mandatory for volunteers as it is for employees. (*Ibid.*) This is specific to the legally uninsured state departments participating in the Master Agreement. (*Ibid.*) Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*)

FINDING NO. 16 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the CalHR's workers' compensation process that was in effect during the compliance review period, the CRU verified that when the CalHR provides notice to their employees to inform them of their rights and responsibilities under CA Workers' Compensation law. Furthermore, the CRU verified that when the CalHR received worker's compensation claims, the CRU properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, 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 80 permanent CalHR employees to review to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

FINDING NO. 17 – Performance Appraisals Were Not Provided to All Employees

Summary: The CalHR did not provide performance appraisals to 64 of 80 employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

Classification	No. of Performance Appraisals Due	No. of Uncomplete Performance Appraisals
Assistant Chief Counsel	1	1
Associate Governmental Program Analyst	5	4
Associate Personnel Analyst	10	10
Chief Psychologist	1	1
Legal Analyst	1	1
Labor Relations Counsel III	5	3
Labor Relations Counsel IV	2	1
Labor Relations Manager I	1	1
Labor Relations Manager II	1	1
Legal Analyst	1	1
Office Technician (Typing)	2	2
Personnel Program Advisor	2	1
Personnel Program Analyst	5	1
Personnel Program Manager I	1	1
Personnel Program Manager II	4	4
Personnel Specialist	1	1
Personnel Technician II (Specialist)	2	2

Classification	No. of Performance Appraisals Due	No. of Uncomplete Performance Appraisals
Senior Accounting Officer (Specialist)	2	2
Staff Personnel Program Analyst	15	12
Staff Services Analyst (General)	7	6
Staff Services Manager I	9	7
Staff Services Manager III	1	1
Total	80	64

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule.” (Gov. Code § 19992.2.) 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. (Cal. Code Regs., § 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: Despite the annual notice that is sent to all supervisors and managers, and the follow-up email reminders to submit performance appraisals, supervisors and managers don’t submit performance appraisals as required to Human Resources.

Action: The CalHR has a process in place to ensure the timely submission of annual performance appraisals. Moving forward, the CalHR’s leadership team will emphasize the importance of completing performance appraisals in management and executive meetings. The CalHR must continue to monitor and track the submission of performance appraisals to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798.

DEPARTMENTAL RESPONSE

The CalHR’s response is attached as Attachment 1.

SPB REPLY

It is further recommended that the CalHR will comply with the afore-stated recommendations and submit documentation to the CRU within 60 days that shows the corrective actions have been implemented.

Human Resources Office
1515 S Street, North Building, Suite 500
Sacramento, CA 95811
(916) 322-0720 Fax (916) 327-0568

Governor Gavin Newsom
Secretary, Government Operations Agency Marybel Batjer
Director Eraina Ortega

July 15, 2019

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

Re: Department of Human Resources Response to Draft State Personnel Board
Compliance Report

Dear Ms. Ambrose,

The Department of Human Resources (CalHR) has received the draft of the State Personnel Board's (SPB) Compliance Review Report. Based on the compliance review conducted by the Compliance Review Unit (CRU) of GovOps' personnel practices in the areas of Examinations, Appointments, Equal Employment Opportunity (EEO), Personal Services Contracts, Mandated Training, Compensation and Pay, Leave, and Policy and Processes, the Department of Human Resources (CalHR) provides the following response to each of the findings presented by SPB.

Finding No. 4: Unions Were Not Notified of Personal Services Contracts

The summary by the CRU indicated that unions were not notified by CalHR prior to executing 11 Personal Services Contracts.

Cause: This was a training oversight. In addition, there were contracts where the contract analyst could not identify the appropriate union for the services provided.

CalHR Response: The contracts unit has been trained to notify the applicable unions before all contracts are executed. CalHR has established processes for the union notices. If there is any confusion as to which union is to be notified the contract analyst is to err on the side of caution and send the notice to any and all unions whose membership may be impacted.

Finding No. 5: Supervisory Training Was Not Provided for All Supervisors

The summary by the CRU indicated that CalHR did not provide basic supervisory training to three of five new supervisors within twelve months of appointment.

Cause: Despite the methods used by Human Resources to inform and remind new supervisors of the requirement, not all supervisors were able to attend the training within the first year of appointment.

CalHR Response: Currently, Human Resources sends emails and reminders out to all newly appointed supervisors informing them of the basic supervision training and provides the appropriate links on how to find the training classes. Future emails will be copied to the appropriate Division Chief. In addition to the emails, the CalHR leadership team will emphasize the importance of completing the mandatory supervisory training in management meetings (weekly Exec meetings and monthly supervisor/manager meetings).

Finding No. 9: Incorrect Authorization of Bilingual Pay

The summary by the CRU indicated that the duty statement of the incumbent receiving bilingual pay did not show the percentage of time the employee needed to use his/her bilingual skills.

Cause: Neglecting to update the duty statement of the incumbent was an oversight.

CalHR Response: Moving forward, Human Resources will make sure that the duty statement of an incumbent receiving bilingual pay accurately reflects the percentage of time that his/her bilingual skills are used.

Finding No. 11: Administrative Time Off (ATO) Was Not Properly Documented

The summary by the CRU indicated that for one of the seven employees audited, only the timesheet was provided. Therefore, the CRU could not determine if this employee's ATO was properly authorized or not.

Cause: This was an oversight by the Personnel Specialist.

CalHR Response: Moving forward, when employees have ATO noted on their timesheet, the Personnel Specialists will need to make sure that there is a memo attached justifying the need for ATO and forward the documents to the Personnel Officer for approval before keying the timesheets.

Finding No. 12: Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets as Keyed Accurately and Timely

The summary by the CRU indicated that Completed Leave Activity and Correction Certification forms were not provided for all three units. Furthermore, two timesheets were missing.

Cause: Human Resources acknowledges this is a training oversight. Staff have not used the Completed Leave Activity and Correction Certification forms on a consistent basis.

CalHR Response: Human Resources is already beginning to draft procedures for staff to ensure review of timesheets and the use of Completed Leave Activity and Correction Certification forms. Moving forward, the Personnel Officer will be reviewing timesheets at random to check for accuracy.

Finding No. 13: Leave Reduction Plans Were Not Provided to All Employees Whose Leave Balances Exceeded Established Limits

The summary by the CRU indicated that CalHR provided a departmental leave reduction policy. However, leave reduction plans were not provided for nine of the 25 employees whose leave balances significantly exceeded established limits.

Cause: On an annual basis, Human Resources sends out notices to every division chief to inform them which of their employees are over the CAP or who will be slated to be over the CAP in the upcoming year. They are informed that their employees must submit a Leave Reduction Plan to Human Resources by a specific date.

CalHR Response: Despite the annual report and notices to division chiefs, staff who are required to submit a Leave Reduction Plan still don't submit one to Human Resources. Moving forward, the CalHR leadership team will stress the importance of having staff take the needed time off to keep leave balances below the CAP and the need to submit a Leave Reduction Plan during the annual cycle.

Finding No. 17: Performance Appraisals Were Not Provided to All Employees

The summary by the CRU indicated that CalHR did not provide performance appraisals to 64 of the 80 employees at least once in each twelve calendar months after the completion of the employee's probationary period.

Cause: Despite the annual notice that is sent to all supervisors managers, and the follow-up email reminders to submit performance appraisals, supervisors and managers don't submit performance appraisals as required to Human Resources.

CalHR Response: Moving forward, in addition to the emails and reminders, CalHR's leadership team will emphasize the importance of completing performance appraisals in

management meetings (weekly Exec meetings and monthly supervisor/manager meetings).

Sincerely,

A handwritten signature in blue ink, appearing to read "Sheila Braverman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sheila Braverman, Chief of Human Resources