



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Compliance Review Unit  
State Personnel Board  
November 1, 2018

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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 Public Employees' Retirement System (CalPERS) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>1</sup>. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
Appointments	Unlawful Appointment Investigation 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	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Mandated Training Complied with Statutory Requirements
Compensation and Pay	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Alternate Range Movement
Compensation and Pay	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Application of Laws, Rules, and CalHR Policies and Guidelines for Red Circle Rate Pay
Compensation and Pay	Incorrect Authorization of Bilingual Pay

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

Area	Finding
Compensation and Pay	Authorization of Pay Differentials Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Authorization of Out-of-Class Assignments Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Appointed Actual Time Worked (ATW) Employee Exceeded Nine Months in a Twelve Consecutive Month Period
Leave	Administrative Time Off (ATO) Was Not Properly Documented
Leave	Department Did Not Account for All Timesheets
Leave	Leave Reduction Plans Were Not Provided for All Employees Whose Leave Balances Exceeded Established Limits
Leave	Incorrect Application of 715 Transactions
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 Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

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 CalPERS manages pension and health benefits for more than 1.8 million members and administers health and retirement benefits on behalf of more than 3,000 employers. The CalPERS is supported by 3,153 employees and is headquartered in Sacramento with eight regional offices located in Fresno, Glendale, Orange, Sacramento, San Bernardino, San Diego, San Jose, and Walnut Creek.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CalPERS' examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup> when applicable. The primary objective of the review was to determine if the CalPERS' 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.

A cross-section of the CalPERS' 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 CalPERS provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CalPERS' permanent withhold actions documentation, including withhold determination worksheets, state applications (STD 678), class specifications, and withhold letters.

A cross-section of the CalPERS' 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 CalPERS 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 CRU also reviewed the CalPERS' policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations. The CalPERS did not make any additional appointments during the compliance review period.

The CalPERS' appointments were also selected for review to ensure the CalPERS applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CalPERS provided, which included employees' employment and pay histories 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, out-of-class (OOC) assignments, monthly pay differentials, and

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

bilingual pay. During the compliance review period, the CalPERS did not issue or authorize any arduous pay.

The review of the CalPERS' EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the discrimination complaint process; and the Disability Advisory Committee (DAC).

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

The CalPERS' mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors and managers were provided supervisory and sexual harassment prevention training within statutory timelines.

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

The CRU reviewed the CalPERS' Leave Activity and Correction Certification forms to verify that the CalPERS 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 CalPERS' units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CalPERS' employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. The CRU reviewed a selection of CalPERS employees who used administrative time off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the CRU reviewed a selection of CalPERS employees tracked by actual time worked (ATW)

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

during the compliance review period in order to ensure that ATW was appropriately utilized.

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

On September 5, 2018, an exit conference was held with the CalPERS to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CalPERS' written response on October 1, 2018, 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, October 1, 2016 to March 31, 2017, the CalPERS conducted 13 examinations. The CRU reviewed four of those examinations, which are listed below:



Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA – Chief Health Director	Open	Statement of Qualifications (SOQ) <sup>4</sup>	Until filled	16
Graphic Designer II	Open	Training and Experience (T&E) <sup>5</sup>	Continuous	22
Supervising Management Auditor	Departmental Promotion	Education and Experience <sup>6</sup>	2/24/17	7
Supervising Special Investigator I	Departmental Promotion	Education and Experience	4/11/17	6

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

The CRU reviewed two open examinations and two departmental promotional examinations, which the CalPERS administered in order to create eligible lists from which to make appointments. The CalPERS published and distributed examination bulletins containing the required information for all examinations. Applications received by the CalPERS 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 CalPERS conducted during the compliance review period.

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria (Gov. Code, § 18935 and CalHR Withhold Delegation

<sup>4</sup> In a statement of qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

<sup>5</sup> The training and experience (T&E) examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

<sup>6</sup> In an education and experience examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

Memorandum.) Permanent appointments and promotions within the state civil service system are merit-based, ascertained by a competitive examination process. Once a candidate has obtained list eligibility, a department may discover information pertaining to that eligible which raises concerns regarding his/her eligibility or suitability for employment with the state. A permanent withhold action is valid for the duration of the eligible's list eligibility. As of February 12, 2013, departments are required to maintain a separate file for each withhold action and the file should include a copy of the withhold notification letter sent to the eligible, as well as all supporting documentation which form the basis of the withhold action (CalHR Withhold Delegation Memorandum).

During the review period, the CalPERS conducted 35 withhold actions. The CRU reviewed 10 of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Accountant Trainee	9PB31	10/24/2016	12/8/2016	Failed to Meet Minimum Qualifications
Assistant Information Systems Analyst	9PB30	3/25/2016	1/10/2017	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	12/23/2016	1/24/2017	Failed to Meet Minimum Qualifications
Associate Information Systems Analyst (Specialist)	9PB30	3/9/2016	1/27/2017	Failed to Meet Minimum Qualifications
Information Officer I (Specialist)	1PB3101	9/1/2016	9/1/2017	Failed to Meet Minimum Qualifications
Research Analyst II	4PB3302	9/13/2016	11/2/2016	Failed to Meet Minimum Qualifications
Research Program Specialist I	3PB1601	10/22/2016	1/17/2017	Failed to Meet Minimum Qualifications
Research Program Specialist II	3PB1602	7/17/2015	10/18/2016	Failed to Meet Minimum Qualifications
Staff Services Manager I	9PB19	2/9/2016	11/4/2016	Failed to Meet Minimum Qualifications
Systems Software Specialist II	8PB67	6/14/2016	11/9/2016	Failed to Meet Minimum Qualifications

**FINDING NO. 2 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules**

The CRU reviewed 10 permanent withhold actions. The CRU found no deficiencies in the permanent withhold actions undertaken by the department 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.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual’s job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the period under review, October 1, 2016 to March 31, 2017, the CalPERS made 455 appointments. The CRU reviewed 67 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Actuarial Assistant	Certification List	Permanent	Full Time	2
Actuarial Assistant Trainee	Certification List	Permanent	Full Time	1
Assistant Chief Counsel	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Associate Program Auditor	Certification List	Permanent	Part Time	1
Attorney IV	Certification List	Permanent	Full Time	1
Graphic Designer II	Certification List	Permanent	Full Time	1
Graphic Designer III	Certification List	Permanent	Full Time	1
Investment Manager	Certification List	Permanent	Full Time	1
Legal Secretary	Certification List	Permanent	Full Time	1
Office Assistant (Typing)	Certification List	Permanent	Full Time	1
Office Technician (LEAP)	Certification List	Permanent	Full Time	1

Retirement Program Specialist II (Technical)	Certification List	Permanent	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	1
Television Specialist	Certification List	Permanent	Full Time	1
Training Officer I	Certification List	Permanent	Full Time	1
Associate Information Systems Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full Time	2
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full Time	1
Associate Personnel Analyst	Mandatory Reinstatement	Permanent	Full Time	1
Associate Program Auditor	Mandatory Reinstatement	Permanent	Full Time	1
Associate Programmer Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full Time	1
Associate Systems Software Specialist (Technical)	Mandatory Reinstatement	Permanent	Full Time	1
Attorney III	Mandatory Reinstatement	Permanent	Full Time	3
Executive Secretary II	Mandatory Reinstatement	Permanent	Full Time	2
Benefit Program Specialist	Mandatory Reinstatement	Permanent	Full Time	1
Investment Officer I	Mandatory Reinstatement	Permanent	Full Time	1
Investment Officer II	Mandatory Reinstatement	Permanent	Full Time	1
Investment Officer III	Mandatory Reinstatement	Permanent	Full Time	1
Legal Support Supervisor I	Mandatory Reinstatement	Permanent	Full Time	1
Office Technician (General)	Mandatory Reinstatement	Permanent	Full Time	1
Personnel Specialist	Mandatory Reinstatement	Permanent	Full Time	1
Program Auditor	Mandatory Reinstatement	Permanent	Full Time	1
Research Program Specialist II	Mandatory Reinstatement	Permanent	Full Time	1
Retirement Program Specialist I	Mandatory Reinstatement	Permanent	Full Time	2

Retirement Program Specialist II (Tech)	Mandatory Reinstatement	Permanent	Full Time	2
Seasonal Clerk	Mandatory Reinstatement	Permanent	Intermittent	1
Senior Information Systems Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full Time	2
Staff Information Systems Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full Time	1
Staff Services Analyst (General)	Mandatory Reinstatement	Permanent	Full Time	1
Staff Services Manager I	Mandatory Reinstatement	Permanent	Full Time	1
Systems Software Specialist II (Tech)	Mandatory Reinstatement	Permanent	Full Time	1
Associate Governmental Program Analyst	Permissive Reinstatement	Permanent	Full Time	1
Benefit Program Specialist (CalPERS)	Permissive Reinstatement	Limited Term	Full Time	1
Staff Services Manager I	Permissive Reinstatement	Permanent	Full Time	1
Research Analyst II	Training and Development	Permanent	Full Time	1
Staff Services Analyst	Training and Development	Permanent	Full Time	1
Accounting Officer (Specialist)	Transfer	Limited Term	Intermittent	1
Associate Accounting Analyst	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	1
Research Analyst II (General)	Transfer	Permanent	Full Time	1
Retirement Program Specialist II (Technical)	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Limited Term	Intermittent	3
Staff Services Manager I	Transfer	Permanent	Full Time	1
Staff Services Manager II (Supervisor)	Transfer	Limited Term	Intermittent	1
Systems Software Specialist II (Technical)	Transfer	Permanent	Full Time	1

The CalPERS measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For the 19

certification list appointments reviewed, the CalPERS ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed 32 appointments via mandatory reinstatement. A state agency is required to reinstate an employee to his or her former position if the employee is (1) terminated from a temporary or limited-term appointment by either the employee or the appointing power; (2) rejected during probation; or (3) demoted from a managerial position. (Gov. Code, § 19140.5.) The following conditions, however, must apply: the employee accepted the appointment without a break in continuity of service and the reinstatement is requested within ten working days after the effective date of the termination. (*Ibid.*) The CalPERS complied with the rules and laws governing mandatory reinstatements. Additionally, the three permissive reinstatement appointments reviewed by the CRU complied with the rules and laws governing permissive reinstatements.

Eligibility for training and development assignments are limited to employees who (1) have permanent status in their class, or (2) who have probationary status and who previously have had permanent status and who, since such permanent status, have had no break in service due to a permanent separation. The CRU reviewed two training and development appointment(s), and determined them to be in compliance with applicable civil service laws and Board rules (Gov. Code, § 438, subs. (a) & (b)).

The CRU reviewed 11 CalPERS appointments made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Regs., tit. 2, § 425.) The CalPERS verified the eligibility of each candidate to their appointed class.

However, in reviewing the CalPERS' appointments that were made during the compliance review period, the CRU determined the following:

**FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed**

**Summary:** The CalPERS did not prepare, complete, and/or retain one probationary report of performance for one of the 65 appointments reviewed by the CRU, as reflected in the table below:

Classification	Appointment Type	No. of Appointments Missing Probation Reports	No. of Uncompleted Probation Reports
Actuarial Assistant	Certification List	1	1
Total		1	1

**Criteria:**

The service of a probationary period is required when an employee enters in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as CalHR may require. (Gov. Code, § 19172.) CalHR’s regulatory scheme provides that “a report of the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job.” (Cal. Code Regs., tit. 2, § 599.795.) Specifically, a written appraisal of performance shall be made to the department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board’s record retention rules require that appointing powers retain all probationary reports. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

During the probationary period, the appointing power is required to evaluate the work and efficiency of a probationer at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Gov. Code, § 19172; Cal. Code Regs., tit. 2, § 599.795.) The appointing power must prepare a written appraisal of performance each one-third of the probationary period. (Cal. Code Regs., tit. 2, § 599.795.)

**Severity:**

Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

**Cause:** The CalPERS states that hiring team leaders complete the probationary reports and are responsible for submitting them to HRSD to be filed in the Official Personnel File (OPF).

**Action:** The CalPERS has submitted a corrective action plan for ensuring compliance in meeting the probationary requirements of Government Code section 19172; therefore, no further action is required at this time.

**FINDING NO. 4 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time**

**Summary:** Of the 67 appointments reviewed, the CalPERS did not retain three NOPAs.

**Criteria:** As specified in section 26 of the Board’s regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.) Section 174 of the Board’s regulations specifically applies to examination applications and requires a two year retention period.

**Severity:** Non-Serious or Technical. Accessibility of documentation is required for auditing purposes as well as for the retrieval of important information pertaining to employment and compensation.

**Cause:** The CalPERS states that departmental NOPAs are generated by the State Controller’s Office and provided to CalPERS HRSD office to deliver to the employee for signature and then to be returned to HRSD to be filed in the OPF. NOPAs are not always returned to be filed and retained in the OPF.

**Action:** The CalPERS has submitted a corrective action plan for ensuring compliance in meeting the documents retention requirements as specified in the Cal. Code Regs., tit. 2, § 26, and Section 174 of the Board’s regulations; therefore, no further action is required at this time.



## Unlawful Appointment Investigations

Departments that entered into an Unlawful Appointment Investigation Delegation Agreement between their executive management and CalHR have the authority to manage their own unlawful appointment investigations. The Delegation Agreement defines the reporting requirements, responsibilities, obligations, and expectations of the department in this process. Overall, the Delegation Agreement mandates that departments maintain up-to-date records on each unlawful appointment investigation including, at a minimum: the specific facts surrounding the appointment in question, a description of the circumstances that resulted in the potential unlawful appointment, copies of relevant appointment documents, and any information and/or documentation that demonstrates the agency and employee acted in good faith when the appointment was offered and accepted. Departments must also maintain a tracking system to monitor its unlawful appointments.

During the period under review, October 1, 2016 to March 31, 2017, the CalPERS conducted one unlawful appointment investigation:

Classification	Date Investigation Initiated	Date Investigation Concluded
Data Processing Manager II	04/14/17	5/4/2017

### **FINDING NO. 5 – Unlawful Appointment Investigation Complied with Civil Service Laws and Board Rules**

The CRU reviewed the unlawful appointment investigation listed above and determined the investigation process and resolution were in accordance with the Delegation Agreement.

## 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 California Department of Human Resources by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the

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

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

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. 6 – 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 CalPERS 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 CalPERS. In addition, the CalPERS have an established DAC which reports to the Director on issues affecting persons with disabilities. The CalPERS also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities. Accordingly, the CalPERS 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, October 1, 2016, through September 30, 2017, the CalPERS had 81 PSC's that were in effect. The CRU reviewed 15 of those contracts which are listed below:

Vendor	Services	Contract Dates	Contract Amount
OptumRx., Inc.	Pharmacy Benefits Manager	1/2017 - 12/2021	\$84,578,460.00
FedEx Corporate Services, Inc.	Express Small Package Air Delivery & Expedited Ground Parcel	11/2016 - 11/2021	\$900,000.00
Goldman Sachs Asset Management, L.P.	Global Fixed Income: Emerging Markets Local Currency Fixed	1/2017 - Open	Subject to various contingencies
Recon Distribution Inc.	Exhibition Management Services	4/2017 - 12/2021	\$800,000.00
Nossaman, LLP	Outside Legal Counsel	4/2017 - 3/2022	Subject to various contingencies
MUFG Capital Analytics LLC	Accounting Book of Record (ABOR) for the Private Equity group	9/2013-9/2018	\$23,094,314.00
Pavilion Alternatives Group, LLC	Infrastructure and Real Estate Technical Investment Consulting	3/2015-2/2020	Subject to various contingencies
Macias Gini & O'Connell, LLP	Independent Audit of CalPERS' Financial Statements	3/2017-9/2022	\$3,316,300.00

Vendor	Services	Contract Dates	Contract Amount
Conrad LLP	Specialty Investment Audits	7/2017-6/2022	\$11,533.60 (annual estimated cost)
Macias Gini & O'Connell, LLP	Independent Financial Statement Audit GASB 68 & 75	7/2017-7/2022	\$11,107,297.00
KNL Support Services	Specialty Investment Audits	7/2017-6/2022	\$11,533.60 (annual estimated cost)
Crowe Horwath LLP	Specialty Investment Audits	7/2017-6/2022	\$11,533.60 (annual estimated cost)
Schwab Compliance Technologies, Inc.	Personal Trading Platform	8/2017-8/2018	\$109,763.00
Milliman, Inc.	Data Warehouse	12/2013-11/2018	\$14,141,731.00
Conduent HR Consulting, LLC	Parallel Valuation	5/2016-3/2021	\$448,000.00

**FINDING NO. 7 – Personal Services Contracts Complied with Procedural Requirements**

When an agency executes a personal services contract under Government Code section 19130, subdivision (b), the department must document a written justification that includes specific and detailed factual information that demonstrates how the contract meets one or more conditions specified in Government Code section 19131, subdivision (b). (Cal. Code Regs., tit. 2, § 547.60.) In addition to a written justification, under Government Code section 19132, subdivision (b), the department shall not execute any contract until they have notified all organizations that represent state employees who perform the type of work to be contracted.

It was beyond the scope of the review to make conclusions as to whether the CalPERS' justifications for the contracts were legally sufficient. For all PSC's reviewed, the CalPERS provided specific and detailed factual information in the written justifications as to how each of the seven contracts met at least one condition set forth in Government Code section 19131, subdivision (b). CalPERS also properly noticed all state employee organizations. Accordingly, the CalPERS' PSC's complied with the procedural requirements in law and rule.

## **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 California Department of Human Resources (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, subs. (a), (b), & (c), & 19995.4, subd. (b).)

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

Within 12 months of the initial appointment of an employee to a management or career executive assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subs. (d) & (e).) For management employees, the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biannual basis. (*Ibid.*)

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit

principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the CalPERS' mandated training program that was in effect during the compliance review period. The CalPERS' basic supervisory training, sexual harassment prevention training, and ethics training were found to be in compliance.

### **FINDING NO. 8 – Mandated Training Complied with Statutory Requirements**

The CalPERS provided ethics training to its 47 new filers within six months of appointment and semiannual ethics training to its 175 existing filers. The CalPERS also provided supervisory training to its 252 new supervisors within 12 months of appointment. In addition, the CalPERS provided sexual harassment prevention training its 68 new supervisors within six months of appointment, and sexual harassment prevention training to its 173 existing supervisors every two years. Thus, the CalPERS complied with mandated training requirements within statutory timelines.

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR (Cal. Code Regs., tit. 2, § 599.666). Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>7</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

During the period under review, October 1, 2016 to March 31, 2017, the CalPERS made 455 appointments. The CRU reviewed 26 of those appointments to determine if the CalPERS applied salary regulations accurately and correctly processed employees' compensation transactions. These appointments are listed below:

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<sup>7</sup> "Salary Rate" is any one of the dollar amounts found within the salary ranges and steps of the Pay Plan established by the CalHR (2 CA CCR Section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Actuarial Assistant, CalPERS	Certification List	Permanent	Full Time	\$4,600
Actuarial Assistant, CalPERS	Certification List	Permanent	Full Time	\$4,600
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,027
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$4,600
Associate Program Auditor	Certification List	Permanent	Full Time	\$4,887
Attorney IV	Certification List	Permanent	Full Time	\$10,763
Graphic Designer II	Certification List	Permanent	Full Time	\$3,873
Graphic Designer II	Certification List	Permanent	Full Time	\$4,565
Investment Manager, PERS	Certification List	Permanent	Full Time	\$16,667
Retirement Program Specialist II (Technical)	Certification List	Permanent	Full Time	\$4,913
Television Specialist	Certification List	Limited Term	Full Time	\$4,216
Training Officer I	Certification List	Permanent	Full Time	\$4,600
Office Technician (General)	LEAP	Permanent	Full Time	\$2,758
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full Time	\$5,758
Attorney III	Mandatory Reinstatement	Permanent	Full Time	10,820
Executive Secretary II	Mandatory Reinstatement	Permanent	Full Time	\$4,152
Investment Officer III	Mandatory Reinstatement	Permanent	Full Time	\$8,149
Office Technician (G)	Mandatory Reinstatement	Permanent	Full Time	\$3,455
Research Program Specialist II	Mandatory Reinstatement	Permanent	Full Time	\$6,947
Senior Actuarial Assistant, CalPERS	Mandatory Reinstatement	Permanent	Full Time	\$6,325
Staff Services Manager I	Mandatory Reinstatement	Permanent	Full Time	\$7,068
Associate Accounting Analyst	Transfer	Permanent	Full Time	\$6,048
Benefit Program Specialist (CalPERS)	Transfer	Permanent	Full Time	\$2,983

Research Analyst II (General)	Transfer	Permanent	Full Time	\$5,592
Senior Legal Typist	Transfer	Permanent	Full Time	\$3,336
Staff Services Analyst	Transfer	Permanent	Full Time	\$3,827

The CRU found no deficiencies in 25 out of 26 salary determinations that the CalPERS made during the compliance review period. The CalPERS appropriately calculated and processed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

However, the CalPERS incorrectly applied compensation laws, rules and/or CalHR policies and guidelines for one salary determination reviewed.

**FINDING NO. 9 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment**

**Summary:** The CRU found the following errors in the CalPERS' determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Benefit Program Specialist (CalPERS)	Employee's salary was not properly reconstructed—with all GSI's included—upon return from a permanent separation. Therefore, the employee upon reentry into the state was not provided the correct salary, resulting in the employee being undercompensated.	CCR tit. 2, § 599.675

**Criteria:** Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666). Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.



**Severity:** Very Serious. The CalPERS failed to comply with the state civil service pay plan, by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in a civil service employee receiving incorrect and/or inappropriate compensation.

**Cause:** The CalPERS states that it is unable to determine the cause of the finding.

**Action:** The SPB recommends the CalPERS request a written determination from the CalHR's Personnel Services Branch for application of salary determinations when employees return from permanent separations. All personnel responsible for salary determinations who are not recently trained must be sent to State Controller's Office training as a refresher as classes become available. It is further recommended that the CalPERS submit documentation to the CRU when all applicable personnel have been trained.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, July 1, 2016 to December 31, 2017, the CalPERS made 229 alternate range movements within a classification. The CRU reviewed 29 of those alternate range movements to determine if the CalPERS applied salary regulations accurately and correctly processed employee compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary
Associate Personnel Analyst	Range A	Range L	Full Time	\$5,759

Assistant Information Systems Analyst	Range B	Range C	Full Time	\$4,016
Benefit Program Specialist (CalPERS)	Range B	Range C	Full Time	\$2,823
Benefit Program Specialist (CalPERS)	Range A	Range B	Full Time	\$2,561
Benefit Program Specialist (CalPERS)	Range B	Range C	Full Time	\$2,897
Benefit Program Specialist (CalPERS)	Range B	Range C	Full Time	\$2,824
Benefit Program Specialist (CalPERS)	Range A	Range B	Full Time	\$2,503
Investment Officer I, (CalPERS)	Range C	Range D	Full Time	\$5,072
Investment Officer I, (CalPERS)	Range C	Range D	Full Time	\$5,053
Personnel Specialist	Range A	Range B	Full Time	\$3,131
Personnel Specialist	Range B	Range C	Full Time	\$3,400
Personnel Specialist	Range A	Range B	Full Time	\$3,129
Personnel Specialist	Range C	Range D	Full Time	\$4,259
Personnel Specialist	Range A	Range B	Full Time	\$3,129
Personnel Specialist	Range C	Range D	Full Time	\$4,259
Retirement Program Specialist	Range B	Range C	Full Time	\$3,824
Staff Services Analyst	Range B	Range C	Full Time	\$3,824
Staff Services Analyst	Range B	Range C	Full Time	\$3,189
Staff Services Analyst	Range A	Range B	Full Time	\$3,112
Staff Services Analyst	Range B	Range C	Full Time	\$4,192
Staff Services Analyst	Range A	Range C	Full Time	\$3,824
Staff Services Analyst	Range A	Range B	Full Time	\$3,269
Staff Services Analyst	Range A	Range B	Full Time	\$3,269
Staff Services Analyst	Range B	Range C	Full Time	\$3,824
Staff Services Analyst	Range A	Range B	Full Time	\$3,379
Staff Services Analyst	Range A	Range B	Full Time	\$3,411
Staff Services Analyst	Range B	Range C	Full Time	\$4,192
Staff Services Analyst	Range A	Range B	Full Time	\$3,632

The CRU found no deficiencies in 28 out of 29 salary determinations for alternate range movements that the CalPERS made during the compliance review period. The CalPERS appropriately calculated and processed the salaries for each alternate range movement and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

However, the CalPERS incorrectly applied compensation laws, rules and/or CalHR policies and guidelines for one alternate range movement reviewed.

**FINDING NO. 10 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Alternate Range Movement**

**Summary:** The CRU found the following errors in the CalPERS’ determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Personnel Specialist	Department did not round salary up to the nearest whole dollar, resulting in the employee being undercompensated.	CCR 431(a) (5) and Pay Scales Section 6

**Criteria:** Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.) Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

**Severity:** Very Serious. The CalPERS failed to comply with the state civil service pay plan, by incorrectly applying compensation laws and rules in accordance with CalHR’s policies and guidelines. This results in a civil service employee receiving incorrect and/or inappropriate compensation.

**Cause:** The CalPERS states that there was an oversight in determining the salary.

**Action:** The CalPERS has submitted a corrective action plan for ensuring compliance with salary determination requirements as specified in

CCR 431(a) (5) and Pay Scales Section 6; therefore, no further action is required at this time.

### Hiring Above Minimum Requests

Government Code section 19836 authorizes CalHR to allow payments above-the minimum rate in the salary range (HAM) in order to hire persons who have extraordinary qualifications. On April 1, 2005, CalHR granted delegated authority to all departments to approve HAM's for extraordinary qualifications, former legislative employees, and former exempt employees (PML, "Delegation of Personnel Management Functions," 2005-012). On September 25, 2007, CalHR also granted delegated authority for all departments to approve exceptions to the HAM criteria for extraordinary qualifications for all new state employees without prior review or approval from CalHR. However, for existing state employees, departments should obtain approval from CalHR and delegated authority does not apply (PML, "Hiring Above Minimum Standards for Extraordinary Qualifications," 2010-005).

Prior to approving a HAM under delegated authority, departments should demonstrate and document the candidate's extraordinary qualifications. The candidate's extraordinary qualifications should contribute to the work of the department significantly beyond that which other applicants offer. The extraordinary qualifications should provide expertise in a particular area of the department's program well beyond the normal requirements of the class. The department may also consider the unique talent, ability or skill demonstrated by the candidate's previous job experience as extraordinary qualifications, but the scope and depth of such experience should be more significant than the length. The qualifications and hiring rates of state employees already in the same class should be carefully considered (CalHR Online Manual Section 1707). In all cases, the candidate's current salary or other bona fide salary offers should be above the minimum rate, verified and appropriately documented. Additionally, departments must approve HAM requests before a candidate accepts employment (*Ibid.*).

During the period under review, October 1, 2016 to March 31, 2017, the CalPERS authorized four HAM requests. The CRU reviewed those four authorized HAM requests to determine if the CalPERS correctly applied Government Code section 19836 and appropriately verified, approved, and documented candidates' extraordinary qualifications and subsequent salaries, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Attorney III	List Appointment	New to the State	\$8,434 - \$10,820	\$10,820
Attorney III	List Appointment	New to the State	\$8,434 - \$10,820	\$10,820
Staff Information Systems Analyst (Specialist)	List Appointment	New to the State	\$5,295 - \$9,963	\$6,963
Systems Software Specialist III (Tech)	List Appointment	New to the State	\$6,388 - \$8,396	\$8,396

**FINDING NO. 11 – Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

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

Red Circle Rates

A red circle rate is a rate of pay authorized for an individual above the maximum salary for his or her class (Government Code, § 19837). Departments may authorize a red circle rate in the following circumstances: management initiated change<sup>8</sup>, lessening of abilities<sup>9</sup>, downward reclassification<sup>10</sup>, split-off<sup>11</sup>, allocation standard changes<sup>12</sup>, or changes in salary setting methods<sup>13</sup> (*Ibid.*).

If a salary reduction is the result of split-off, changes in allocation standards, changes in salary setting methods, or a downward reclassification initiated by SPB or CalHR staff determination, the affected employee may receive a red circle rate regardless of the employee’s state service total. The employee may retain it until the maximum salary of

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<sup>8</sup> Any major change in the type of classes, organizational structure, and/or staffing levels in a program.  
<sup>9</sup> Refers to an employee who, after many years of satisfactory service, no longer possess the ability to perform the duties and responsibilities of his/her position.  
<sup>10</sup> Downward reclassification is when, as a result of SPB action or a CalHR staff determination, an incumbent’s position is moved to a lower class without the duties being changed.  
<sup>11</sup> Split off is when one class is split into two or more classes, one of which is at a lower salary level than the original class.  
<sup>12</sup> Allocation standards for two or more classes may change to the degree that a position originally allocated to one class may be reallocated to a class with a lower salary without a change in duties.  
<sup>13</sup> Revised valuation standards applied in setting the salary for a class may result in reducing the salary of a class.

his or her class equals or exceeds the red circle rate (Classification and Pay Guide Section 260).

If an employee is moved to a position in a lower class because of management-initiated changes, he or she may receive a red circle rate provided he or she has a minimum of ten years' state service<sup>14</sup> and has performed the duties of the higher class satisfactorily<sup>15</sup>. The length of the red circle rate resulting from a management-initiated change is based on the affected employee's length of state service. The red circle rate ends when the maximum salary of the class equals or exceeds the red circle rate or at the expiration of eligibility (*Ibid.*).

An employee whose position is blanketed into the state civil service from another public jurisdiction may receive a red circle rate regardless of the length of service in the other jurisdiction (Cal. Code Regs., tit. 2, § 275). The employee may retain the red circle rate until the maximum salary of the class to which the employee's position is allocated equals or exceeds the red circle rate.

Additionally, a red circle rate may be authorized for a former CEA appointee who is reinstating to a civil service classification, a CEA with no prior civil service in a promotional exam and is being appointed from a list without a break in service, or a CEA appointee who is being reduced to a lower CEA salary rate (CalHR Class and Pay Guide Section 440). If an employee, with ten years of state service, has one or more years of state service under a CEA appointment, has been terminated from a CEA appointment, and the termination was not voluntary nor was it based on unsatisfactory performance, CA Code of Regulations Section 599.988 mandates a red circle rate. In those cases where the employee's CEA termination was voluntary, but all of the other criteria above are met, Rule 599.988 allows the employee to be permissively granted a red circle rate. This rate is based upon the CEA salary rate received at the time of the termination. Government Code section 13332.05 limits the duration of the red circle rate to no more than 90 calendar days following termination of a CEA appointment.

As of April 1, 2005, departments have delegated authority to approve red circle rates for general civil service employees and CEA positions for up to 90 days (PML, "Delegation of Personnel Management Functions," 2005-012). Current Bargaining Unit agreements

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<sup>14</sup> As calculated by the State Service and Seniority Unit at CalHR. An employee with nine years' state service qualifies if the employee had been laid off or had been on a leave of absence for one or more years to reduce the effect of a layoff (CCR § 599.608).

<sup>15</sup> The latter requirement is normally satisfied by the successful completion of a probationary period, unless there is compelling evidence to suggest otherwise.

also provide guidelines and rules on red circle rates that may supersede applicable laws, codes, rules, and/or CalHR policies and guidelines.

During the period under review, July 1, 2016 to March 31, 2017, the CalPERS authorized two Red Circle requests. The CRU reviewed both of those Red Circle requests, listed below, to determine if the CalPERS correctly verified, approved and documented the Red Circle authorization process:

Classification	Prior Classification	Salary without RCR	Total Salary
Data Processing Manager IV	CEA B	\$9,756	\$10,244
Office Technician (General)	Senior Benefit Program Specialist (CalPERS)	\$3,061	\$3,133

In reviewing the CalPERS' Red Circle policies and procedures that were in effect during the compliance review period, the CRU determined the following:

**FINDING NO. 12 – Incorrect Application of Laws, Rules, and CalHR Policies and Guidelines for Red Circle Rate Pay**

**Summary:** The CRU found the following errors in the CalPERS' authorization of employees' red circle pay:

Classification	Description of Finding(s)	Criteria
1. Data Processing Manager IV	The RCR was not warranted because the class the employee moved into had a maximum salary that was 5% less than the employee's CEA salary at time of termination. This resulted in the employee being overcompensated.	CCR 599.993; CalHR Class and Pay Guide Section 440; Government Code section 19837
2. Office Technician (General)	In consultation with the CalHR, it has been determined that a "lessening of abilities" falls under "management-initiated change" and requires an employee to have completed a minimum of 10 years state service before qualifying for a RCR. In addition, the employee should not receive the RCR indefinitely. In order to receive a RCR indefinitely, the employee must have 25 years state service. "The length of a RCR resulting from a management-initiated change is based on length of State service" (C&P Guide).	Government Code section 19837 and CalHR Class and Pay Guide Section 260

- Severity:** Very Serious. The CalPERS failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.
- Cause:** The CalPERS states that there was an oversight in determining salary.
- Action:** The CalPERS has submitted a corrective action plan for ensuring compliance with Red Circle Rate pay laws, rules, and CalHR policies and guidelines, as specified above.

### Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages ten percent or more of the total time worked. According to the Pay Scales, specifically Pay Differential 14, the ten percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, July 1, 2016 to December 31, 2016, the CalPERS issued Bilingual Pay to two employees. The CRU reviewed both of those bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines, which are listed below:



Classification	Collective Bargaining Identifier	Time Base
Retirement Program Specialist II (Technical)	R01	Full-time
Retirement Program Specialist II (Technical)	R01	Full-time

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

**FINDING NO. 13 – Incorrect Authorization of Bilingual Pay**

**Summary:** The CRU found the following error in the CalPERS' authorization of bilingual pay:

Classification	Description of Finding(s)	Criteria
Retirement Program Specialist II (Technical)	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Gov. Code, § 7296 and Pay Differential 14

**Severity:** Very Serious. The CalPERS was unable to provide documentation demonstrating that the position meets the requirements of Pay Differential 14.

**Cause:** The CalPERS states that it is updating the processes and procedures for bilingual services to validate positions and determine if employees are tested, certified, and documented on the required tally sheets.

**Action:** The CalPERS has submitted a corrective action plan for ensuring compliance with Gov. Code, § 7296 and Pay Differential 14; therefore, no further action is required at this time.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class has unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on criteria such as: recruitment and

retention difficulties; work location or shift assignment; special professional or educational certification; special but temporary responsibilities; possession of special licenses, skills or training; performance of atypical duties; or incentive-based pay (CalHR Classification and Pay Manual Section 230).

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 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, July 1, 2016 to December 31, 2016, CalPERS issued pay differentials to 334 employees. (For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.) The CRU reviewed 11 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Pay Differential	Classification	Collective Bargaining Identifier	Monthly Amount
8	Assistant Chief Counsel	M02	9.61%
220	Benefit Program Specialist	R04	\$100
109	Investigator	R07	\$65
245	Investigator	R07	3%
245	Investigator	R07	6%
360	Investment Officer III, Public Employees' Retirement System	R01	5%
269	Pharmaceutical Consultant II, Department of Health Services (Specialist)	R19	\$2,000
220	Senior Benefit Program Specialist, CalPERS	R04	\$100
220	Senior Benefit Program Specialist, CalPERS	R04	\$100
109	Supervising Special Investigator I	S07	\$65
109	Supervising Special Investigator II	S07	\$65

**FINDING NO. 14 – Authorization of Pay Differentials Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found that the pay differentials authorized to employees during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Out-of-Class Assignments (OOC) and Pay

For excluded<sup>16</sup> and most rank and file employees, out of class work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment (CA Code of Regulations, § 599.810).

According to CalHR’s Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and DPA Rule 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provision or DPA regulation. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires (Section 375).

During the period under review, July 1, 2016 to December 31, 2016, CalPERS issued out-of-class pay<sup>17</sup> to 10 employees. The CRU reviewed all 10 of these out-of-class assignments to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Collective Bargaining Identifier	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	R01	Staff Services Manager I	10/3/16-10/31/16
Attorney V	R02	CEA	9/12/16-1/10/17
Data Processing Manager III	M01	Data Processing Manager IV	11/3/15-11/2/16
Data Processing Manager III	M01	Data Processing Manager IV	5/18/2016-11/27/16
Data Processing Manager IV	M01	CEA	11/3/15-11/2/16

<sup>16</sup> “Excluded employee” refers to an employee as defined in section 3572(b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

<sup>17</sup> Excluding bilingual and arduous pay.

Investment Manager	M01	Investment Director	10/1/15-9/30/16
Senior Information Systems Analyst (Specialist)	R01	Data Processing Manager II	4/1/16-7/7/16
Senior Pension Actuary	R01	Supervising Pension Actuary	5/9/16-9/6/16
Staff Services Manager II	S01	Staff Services Manager III	7/1/16-6/30/17
Supervising Pension Actuary	S01	CEA	7/20/15-7/19/16

**FINDING NO. 15 – Authorization of Out-of-Class Assignments Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found that the out-of-class assignments authorized for employees during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Leave

Actual Time Worked

Actual Time Worked (ATW) is a method that can be used to keep track of a temporary authorization (TAU) employee's time to ensure that the Constitutional limit of nine months in any 12 consecutive months is not exceeded (California Constitution, article vii (5)). The ATW method of counting time is used in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. Time is accrued by months so that the immediate prior 12-calendar months are the ones used to count the 194 working days. ATW includes any day on which the employee physically worked, regardless of the length of time worked on that day<sup>18</sup>, any day for which the employee is on paid absence<sup>19</sup>, and any holiday for which the employee receives either full or partial pay. If the employee works on the holiday, the day is counted only once regardless of the rate of pay<sup>20</sup>.

<sup>18</sup> For example, two hours or ten hours counts as one day.

<sup>19</sup> For example, vacation, sick leave, compensating time off, etc.

<sup>20</sup> For example, straight time, time and one-half, double time, etc.

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. Therefore, departments must monitor the actual number of days worked in order to ensure that they do not exceed 194 days in any 12-consecutive month period (CalHR Online Manual, Section 1202).

During the period under review, January 1, 2016 to December 31, 2016, CalPERS reported 197 employees on ATW. The CRU reviewed 25 of those ATW appointments to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Base	Time Frame	No. of Days on ATW
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	207
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	233
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	199
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	193
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	193
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	180
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	254
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	216
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	223
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	212
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	202
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	193
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	204
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	202
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	201
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	231
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	185
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	178
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	235

Classification	Time Base	Time Frame	No. of Days on ATW
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	206
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	206
Seasonal Clerk	Intermittent	01/01/2016-12/31/2016	215
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	221
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	227
Seasonal Clerk	Intermittent	01/01/2016 - 12/31/2016	219

In reviewing the CalPERS' ATW policies and practices that were in effect during the compliance review period, the CRU determined the following:

**FINDING NO. 16 – Appointed Actual Time Worked (ATW) Employee Exceeded Nine Months in a Twelve Consecutive Month Period**

**Summary:** The CalPERS did not consistently monitor the actual number of days worked in order to ensure that Actual Time Worked (ATW). Employees did not exceed the 194 days, or 1500 hours, in any 12 consecutive month period (CalHR Online Manual, Section 1202). Specifically, one employee worked 210 hours over the 1500 hour limitation.

**Criteria:** Temporary employee means an employee holding a position under temporary appointment. Employees appointed under a temporary authorization (TAU) may be appointed on the basis of ATW. ATW is a method that can be used to keep track of a TAU employee's time to ensure that the Constitutional limit of nine months in any twelve consecutive months is not exceeded. (Cal. Const., art. VII, § 5.) Typically, the ATW is 194 working days, or 1500 hours, in any 12 consecutive months, regardless of the classification or the Department the temporary appointment was served under, unless they have had a three-month break in service.

**Severity:** Very Serious. The CalPERS failed to comply with Article VII, section 5 of the Constitution which limits the amount of time an individual may work in a temporary appointment for the state civil service. The limitation cannot be extended or exceeded for any

reason. The appointing power must maintain the records and control the time worked so as not to exceed the constitutional 9-month limitation in 12 consecutive months. (CalHR Online Manual, Section 1202).

**Cause:** The CalPERS states that tracking cards were not kept updated.

**Action:** The CalPERS has submitted a corrective action plan for ensuring compliance with the California Constitution, article VII, section 5.); therefore, no further action is required at this time.

### Administrative Time Off

Administrative Time Off (ATO) is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. 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. Additionally, ATO may be granted when employees need time off for any of the following: donating blood, extreme weather that makes getting to work impossible, and/or, when employees need time off to attend special events. Any ATO requests lasting over 30 days must be submitted and approved by CalHR. Approval will generally be given in 30 calendar day increments and any extension must be approved prior to the expiration of the 30 calendar days. Departments must properly document and track ATO for any length of time (PML, "Administrative Time Off (ATO) – Policy, Procedure and Documentation Requirements", 2012-008).

Employees may also be granted a paid leave of absence of up to five days by their appointing power when the employee works or resides in a county where a state of emergency has been proclaimed by the Governor (§ 599.785.5. Administrative Time Off - During State of Emergency).

During the period under review, January 1, 2016 to December 31, 2016, the CalPERS placed nine employees on ATO. The CRU reviewed those nine ATO appointments to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Hours/Days on ATO
Accounting Administrator I (Supervisor)	11/8/2016	1 day
Associate Governmental Program Analyst	11/8/2016	1 day
Associate Programmer Analyst (Specialist)	11/8/2016	1 day
Benefit Program Specialist	11/8/2016	2 hours
Benefit Program Specialist	6/7/2016	1 day
Benefit Program Specialist	6/13/2016-6/30/2016	13 days and 7.50 hours
CEA	02/28/2016-02/29/2016	15 days
Retirement Program Specialist II (Tech)	11/8/2016	1 day
Staff Services Manager III	09/01/2016-11/30/2016	61 days

In reviewing the CalPERS' ATO policies and practices that were in effect during the compliance review period, the CRU found no deficiencies in eight of nine ATO transactions. The CalPERS provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policies and guidelines.

However, the CalPERS incorrectly applied compensation laws, rules and/or CalHR policies and guidelines for one ATO transaction.

**FINDING NO. 17 – Administrative Time Off (ATO) Was Not Properly Documented**

**Summary:** The CalPERS did not grant ATO in conformity with the established policies and procedures. Of the nine ATO authorizations reviewed by the CRU, one was found to be out of compliance, because the justification did not provide adequate information as to why the employee was placed on ATO.

**Criteria:** Appointing authorities are authorized to approve ATO for up to five (5) working days under GC 19991.10 and have delegated authority to approve up to 30 calendar days. (GC 19991.10 and PML 2007-026). Any ATO in excess of 30 calendar days must be approved in



advance by CalHR. In most cases, if approved, the approval will be for an additional 30 calendar days only. The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. When an appointing authority requests initial approval for ATO, or an extension of a previously approved grant of ATO, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. ATO may not be used and will not be granted for an indefinite period. If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend ATO, the employee must be returned to work in some capacity. Regardless of the length of the ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. (PML, “Administrative Time Off (ATO) – Policy, Procedure and Documentation Requirements”, 2012-008).

**Severity:** Serious. Use of ATO is subject to audit and review by CalHR and by other control agencies to ensure it is being utilized appropriately. Failure to grant ATO in conformity with the procedures in this policy may result in CalHR revoking the appointing authority’s delegation to utilize ATO without first obtaining approval from CalHR.

**Cause:** The CalPERS does not provide a cause for this finding.

**Action:** Although the CalPERS disputes this finding, it is recommended that the CalPERS continue to provide appropriate training to HR staff to ensure ATO is being justified and documented according with established rules and regulations.

#### 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).

Additionally, in accordance with CalHR Online Manual Section 2101, departments must create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. 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. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. Accurate and timely attendance reporting is required of all departments and is subject to audit.

During the period under review, October 1, 2106 to December 31, 2016, the CalPERS reported 88 units comprised of 2,899 active employees during the October 2016 pay period, 89 units comprised of 2,892 active employees during the November 2016 pay period, and 89 units comprised of 2,878 active employees during the December 2016 pay period. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Number of Units Reviewed	Number of Employees	Number of Timesheets Reviewed
October 2016	3	462	456
November 2016	3	469	462
December 2016	3	444	433

**FINDING NO. 18 – Department Did Not Account for All Timesheets**

**Summary:** In reviewing the CalPERS’ timekeeping practices and procedures, as applied to three selected units from October 2016 to December 2016, the CRU found discrepancies between the timesheets used by CalPERS to monitor employee hours and the Standard 672 forms. Specifically, there were six missing timesheets from the October 2016 pay period for the three selected units; seven missing timesheets from the November 2016 pay period for the three selected units; and 11 missing timesheets from the December 2016 pay period for the three selected units. In addition, there were nine additional timesheets from the October 2016 pay period for the three selected units; eight additional timesheets from the November 2016 pay period for the three selected units; and nine additional timesheets from the December 2016 pay period for the three selected units.

**Criteria:** In accordance with the California Code of Regulations, section 599.665, “each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction”. In accordance with the California Code of Regulations, section 599.736, “the appointing power shall keep proper records and schedules of vacations accumulated and granted and shall make such reports thereof to the department as may from time to time be required”. In accordance with California Government Code: section 19849, subdivision (a); “the department shall adopt rules governing hours of work and overtime compensation and the keeping of records related thereto, including time and attendance records.” In accordance with California Government Code section 12475; each appointing power shall correctly and promptly certify to the Controller all changes, modifications, additions and deletions to the pay roll roster in compliance with all applicable civil service, fiscal, and other pertinent laws, rules, and regulations.”

**Severity:** Very Serious. Discrepancies in timekeeping practices and procedures may result in payroll and leave accounting discrepancies.

**Cause:** The CalPERS states that there are various reasons a timesheet could be missing, including but not limited to, the employee failed to submit their time utilizing the eTimesheet System, the employee’s manager failed to approve their time utilizing eTimesheet System, the employee was on a leave of absence, and/or the PS did not update the system based on the paper timesheet received.

**Action:** The CalPERS has submitted a corrective action plan for ensuring compliance with the California Code of Regulations, section 599.665; therefore, no further action is required at this time.

### Leave Reduction Efforts

Departments must comply with the regulations and CalHR policies that require a leave plan for every employee with vacation or annual leave hours over the maximum amount permitted (Cal. Code Regs., tit. 2, § 599.742.1 and applicable Bargaining Unit Agreements). Bargaining Unit Agreements and California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. For instance, according to

California Code of Regulations, title 2, section 599.737, 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, provided that on January 1st of a calendar year, the employee shall not have more than” the established limit as stipulated by the applicable bargaining unit agreement<sup>21</sup>. Likewise, if an excluded 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 of vacation credit, provided that on January 1st of a calendar year, the excluded employee shall not have more than 80 vacation days” (Cal. Code Regs., tit. 2, § 599.738).

In accordance with CalHR Online Manual Section 2124, 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.

As of December 2016, 309 CalPERS employees exceeded the established limits of vacation or annual leave. The CRU reviewed 44 of those employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit <sup>22</sup>	Leave Reduction Plan Provided
CEA	M01	111.98	Yes
Accounting Administrator III	M01	778	Yes
Investment Manager (CalPERS)	M01	47	Yes
Data Processing Manager III	M01	165.5	No
CEA	M01	540.5	No
CEA	M01	369.5	No
Assistant Chief Counsel	M02	1384	Yes
Senior Pension Actuary	R01	81	Yes
Senior Actuarial Assistant, CalPERS	R01	427.5	Yes
Retirement Program Specialist II (Technical)	R01	13	No

<sup>21</sup> 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 bargaining unit 5 the established limit is 816 hours.

<sup>22</sup> As of December 31, 2016.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit <sup>22</sup>	Leave Reduction Plan Provided
Senior Information Systems Analyst (Specialist)	R01	58.63	No
Accounting Officer (Specialist)	R01	166	No
Investment Officer III (CalPERS)	R01	402.5	No
Retirement Program Specialist I	R01	20.95	Yes
Associate Governmental Program Analyst	R01	1137.25	Yes
Associate Information Systems Analyst (Specialist)	R01	464.5	Yes
Associate Systems Software Specialist (Technical)	R01	401.25	Yes
Systems Software Specialist I (Technical)	R01	793.25	Yes
Systems Software Specialist I (Technical)	R01	335	No
Staff Information Systems Analyst (Specialist)	R01	594.9	No
Information Systems Technician	R01	161.5	No
Systems Software Specialist II (Technical)	R01	33.5	No
System Software Specialist II (Technical)	R01	548.25	Yes
Staff Programmer Analyst (Specialist)	R01	310.5	Yes
Senior Programmer Analyst (Specialist)	R01	375.5	No
Senior Programmer Analyst (Specialist)	R01	751	No
Associate Governmental Program Analyst	R01	649.5	No
Supervising Actuarial Assistant, CalPERS	S01	418	No
Staff Services Manager II	S01	488.5	Yes
Staff Services Manager II	S01	448	Yes
Staff Services Manager I	S01	214	No
Staff Services Manager II (Supervisory)	S01	416	No
Accounting Administrator II	S01	612.5	Yes
Accounting Administrator I (Supervisor)	S01	40	No

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit <sup>22</sup>	Leave Reduction Plan Provided
Staff Services Manager I	S01	272.55	Yes
Staff Services Manager I	S01	374.75	Yes
Senior Program Auditor, CalPERS	S01	458.25	No
Staff Management Auditor	S01	20	Yes
Staff Services Manager II (Supervisory)	S01	410.2	No
Staff Services Manager I	S01	106	No
Staff Services Manager II (Supervisory)	S01	72	No
Staff Services Manager I	S01	831.5	Yes
Systems Software Specialist II (Supervisory)	S01	1198.63	Yes
Systems Software Specialist III (Supervisory)	S01	1439.5	Yes
<b>Total Hours</b>		18942.34	

In reviewing the CalPERS' leave reduction policies and practices that were in effect during the compliance review period, the CRU determined the following:

**FINDING NO. 19 – Leave Reduction Plans Were Not Provided for All Employees Whose Leave Balances Exceeded Established Limits**

**Summary:** The CalPERS provided a leave reduction policy to all employees. However, the CalPERS did not provide leave reduction plans for 22 of the 44 employees reviewed whose leave balances exceeded established limits.

**Criteria:** The state established vacation and annual leave benefits with the intent to rejuvenate the workforce (Cal. Code Regs., tit. 2, §§ 599.742, 599.742.1), ensuring employees maintain the capacity to optimally perform their jobs. Also, stipulated in the rule, "It is the appointing power's responsibility to provide reasonable opportunity for all employees to take an annual vacation commensurate with their annual accrual rate of vacation or annual leave." (Cal. Code Regs., tit. 2, §599.742.1.) 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.

According to CalHR PML 2016-029, “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. 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”.

**Severity:** Non-Serious or Technical. California state employees have accumulated significant leave hours over the last several years 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. Another issue arises when employees separate from state service, and departments are obligated to cash-out accrued leave credits at their current salary rates, which in most cases are higher than when much of the leave credits were earned. These payouts amount to millions of dollars each year, and represent an unfunded liability that must be paid from current-year funds. This puts a strain on departmental budgets as they must keep vital positions vacant, redirect from other funding sources, and/or request additional funds.

**Cause:** The CalPERS states that, in the annual reminder to all CalPERS employees, [employees] are directed to work closely with their supervisor to reduce their vacation or annual leave; however, supervisors are not required to submit those to HRSD for tracking and/or filing in the OPF.

**Action:** The CalPERS has submitted a corrective action plan for ensuring compliance with CalHR PML 2016-029; therefore, no further action is required at this time.

## State Service

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<sup>23</sup> (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 as defined in California Code of Regulations, section 599.608, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. 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. Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated (Cal. Code Regs., tit. 2, § 599.739). On the first day following a qualifying monthly pay period, excluded employees<sup>24</sup> shall be allowed credit for annual leave with pay (Cal. Code Regs., tit. 2, § 599.752).

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, July 1, 2016 to December 31, 2016, CalPERS processed 23 715 transactions<sup>25</sup>. The CRU reviewed nine of those 715 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

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<sup>23</sup> 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.

<sup>24</sup> 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 section Government Code section 3513(c), and appointees of the Governor as designated by the department and not subject to section 599.752.1.

<sup>25</sup> Transaction code used for: temporary leaves of 30 calendar days or less (per SPB Rule 361) resulting in a non-qualifying pay period; used for qualifying a pay period while on NDI; used for qualifying a pay period while employee is on dock and furlough.



Type of 715 Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	5
Qualifying Pay Period	Full Time	4

In reviewing the CalPERS' 715 transactions that occurred during the compliance review period, the CRU determined the following:

**FINDING NO. 20 – Incorrect Application of 715 Transactions**

**Summary:** CalPERS did not authorize leave accruals to an employee who worked a qualifying pay period. In addition, an employee received state service and leave accruals for a non-qualifying pay period.

**Criteria:** The state recognizes two different types of absences while an employee is on pay status: paid and unpaid. 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. In the application of Government Code section 19837, an employee shall be considered to have a month of state service if the employee either: (1) has had 11 or more working days of service in a monthly pay period; or (2) would have had 11 or more working days of service in a monthly pay period but was laid off or on a leave of absence for the purpose of lessening the impact of an impending layoff. Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month. (California Code of Regulations, title 2, section 599.608.) Hourly or daily rate employees working in a state agency 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. Hourly or daily rate employees who work less than 160 hours in a pay period, will have a non-qualifying month and not be eligible to receive state service or leave accruals for that month. (California Code of Regulations, title 2, section 599.609.)

**Severity:** Very Serious. Failure to accurately apply 715 transactions may result in employees receiving incorrect state service and/or leave accruals.

**Cause:** The CalPERS states that there was an oversight in applying leave accruals correctly for qualifying and non-qualifying pay periods by the Personnel Specialist.

**Action:** The CalPERS has submitted a corrective action plan for ensuring compliance with Government Code section 19837; therefore, no further action is required at this time.

### **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. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. 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. Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. In addition, there may be personal relationships beyond this general definition that could be subject to these policies. Overall, departmental nepotism policies should aim to prevent favoritism or bias based on a personal relationship when recruiting, hiring or assigning employees. Departments have the discretion, based on organizational structure and size, to develop nepotism policies as they see fit (CalHR Online Manual Section 1204).

#### **FINDING NO. 21 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

After reviewing the CalPERS' nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the CalPERS' commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CalPERS' 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 as outlined in CalHR's Online Manual Section 1204.

However, the CRU encourages the CalPERS to consider incorporating more proactive measures to the nepotism policy, such as asking prospective employees to self-report familial relationships during the appointment process, in order to further deter nepotism, or perceived nepotism, at their department.

### Workers' Compensation

Pursuant to California Code of Regulations, title 8, section 9880, 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. This notice shall also contain a form that the employee can use to pre-designate their personal physician or medical group as defined by Labor Code section 4600. 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).

According to Labor Code section 3363.5, public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. Workers' compensation coverage is not mandatory for volunteers as it is for employees. This is specific to the legally uninsured state departments participating in the Master Agreement. 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 (PML, "Workers' Compensation Coverage for Volunteers," 2015-009). Those departments that have volunteers should have notified or updated their existing notification to the SCIF by April 1, 2015, whether or not they have decided to extend workers' compensation coverage to volunteers. In this case, the CalPERS did not employ volunteers during the compliance review period.

**FINDING NO. 22 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

After reviewing the CalPERS Workers' Compensation process that was in effect during the compliance review period, the CRU verified that the CalPERS 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 CalPERS received workers' compensation claims, the CalPERS properly provided claim forms within one working day of notice or knowledge of injury.

## Performance Appraisals

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

The CRU selected 15 permanent CalPERS employees for review to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Actuarial Assistant	10/14/2016
Associate Governmental Program Analyst	2/1/2017
Associate Governmental Program Analyst	8/31/2016
Associate Information Systems Analyst	10/31/2016
Executive Secretary I	6/22/2017
Information Officer I	6/22/2016
Office Technician	4/13/2017
Office Technician (General)	2/1/2017
Office Technician (Typing)	7/30/2016
Retirement Program Specialist II	4/30/2017
Senior Information Systems Analyst	10/31/2016
Senior Programmer Analyst	7/1/2016
Staff Information Systems Analyst	4/30/2017
Staff Information Systems Analyst	4/20/2017
Staff Information Systems Analyst (Specialist)	2/28/2016

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

**FINDING NO. 23 – Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines**

The CRU found no deficiencies in the 15 performance appraisals selected for review. Accordingly, the CalPERS' performance appraisal policy and processes satisfied civil service laws, board rules and CalHR policies and guidelines.

### **DEPARTMENTAL RESPONSE**

The CalPERS' departmental response is attached as Attachment 1.

### **SPB REPLY**

It is further recommended that the CalPERS comply with the afore-stated recommendations within 60 days of the Executive Officer's approval and submit to the CRU a written report of compliance.



California Public Employees' Retirement System  
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October 1, 2018

## Memorandum

To: DIANA CAMPBELL, Manager  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814

From: TINA CAMPBELL, Chief  
Human Resources Division

A handwritten signature in blue ink, appearing to read "for Tina Campbell".

Subject: CALPERS RESPONSE TO THE STATE PERSONNEL BOARD DRAFT  
COMPLIANCE REPORT

CalPERS appreciates the Compliance Review Unit (CRU) team's collaboration throughout this process. Based on the compliance review conducted by the CRU to review CalPERS' personnel practices in the areas of Examinations, Appointments, Equal Employment Opportunity (EEO), Personal Services Contracts (PSC), Mandated Training, Compensation and Pay, Leave, and Policy and Processes, the Human Resources Division (HRSD) provides the following response to each of the findings as presented by the State Personnel Board (SPB).

**Finding No. 3: Probationary Evaluations were not provided for all appointments reviewed (Serious).**

The summary by the CRU reflected that of the 65 appointments files reviewed, that 3 of the files had deficiencies in probationary reports. However, in reviewing the files provided to the CRU by CalPERS, one of the files did have probationary reports supplied and filed; CalPERS was able to locate a probationary report for another file, but could not locate a probationary report for one file. Therefore, CalPERS only had one deficiency in retaining probationary reports.

**Cause:** Hiring team leaders complete the probationary reports and are responsible for submitting them to HRSD to be filed in the Official Personnel File (OPF).

**CalPERS Response:** CalPERS, in part, disputes this finding and request it be modified in the report. We had findings on three files:

1. CalPERS disputes this specific finding as the probation reports were originally submitted to the CRU.
2. CalPERS agrees with this finding as we were unable to find probation reports for one of the files.
3. CalPERS disputes this specific finding. The probation reports for the AGPA hire were not completed by the program since the employee previously passed probation in the Retirement Program Specialist II (a department specific classification) equivalent to the AGPA. In addition, CalPERS was in the process of transitioning our department specific classifications to generalist classifications, ahead of class consolidation and therefore, it was determined a new probationary period would be waived.

CalPERS is in the process of automating our annual performance evaluations and probationary reports and will be tracking completion through our internal Human Resources Management System (HRMS). Ultimately, the goal is for the system to generate electronic copies of the probationary report which will eliminate hard copy misfiles.

**Finding No. 4: Appointment documentation was not kept for the appropriate amount of time. (Non-Serious).**

The summary by the CRU reflected that of the 67 appointments reviewed, that nine of the files had deficiencies in retaining the Notice of Personnel Action (NOPA).

**Cause:** NOPAs are generated by the State Controller's Office and provided to CalPERS HRSD office to deliver to the employee for signature and then to be returned to HRSD to be filed in the OPF. NOPAs are not always returned to be filed and retained in the OPF.

**CalPERS Response:** When the NOPAs were initially requested, CalPERS was unable to locate NOPAs for nine of the 67 files; however, CalPERS has since been able to locate NOPAs for six of the nine files with findings. While NOPAs could have been distributed to employees for their signature, they were either not returned to be filed, had been delayed in being filed in the OPF, or misfiled altogether. HRSD continues to allocate time and resources to ensure NOPAs are tracked timely and returned to HRSD to be filed in the OPF. Furthermore, HRSD is exploring whether a new HRMS will assist us in tracking NOPAs, with the possibility of eliminating hard copies all together and instead file electronically to prevent misfiles.

**Finding No. 9: Incorrect application of Salary Determination laws, rules, and CalHR policies and guidelines for appointment. (Very Serious).**

The summary by the CRU reflected that of the 26 salary determination files reviewed, in one file, the "Employee's salary was not properly reconstructed – with all General Salary Increases (GSI) included – upon return from a permanent separation. Therefore, the employee upon reentry into the state, was not provided the correct salary, resulting in the employee being undercompensated."

**Cause:** Unable to determine without reviewing salary determination from SPB.

**CalPERS Response:** CalPERS requests documentation from SPB to determine if we agree with this finding. If we improperly reconstructed the salary, we will correct the employee's PIMS history appropriately to reflect the true salary and issue pay adjustments for the months of underpayment.

**Finding No. 10: Incorrect application of Salary Determination laws, rules, and CalHR policies and guidelines for Alternate Range Movements. (Very Serious).**

The summary by the CRU reflected CalPERS did not round the salary up to the nearest whole dollar, resulting in the employee being undercompensated.

**Cause:** There was an oversight in determining the salary.

**CalPERS Response:** CalPERS agrees with this finding. CalPERS will correct the employee's PIMS history to reflect the true salary and issue pay adjustments for the months of underpayment. In February 2018, the Salary Determination workload transitioned from our PTU to our Employment Services Unit (ESU) to provide a more end-to-end process regarding Salary Determinations. In preparation for the transition, ESU team members attended mandatory Salary Determinations training classes and, as an extra preventive measure, upon completion of Salary Determinations, a team leader reviews prior to approval and processing to ensure compliance with state civil service pay plans.

**Finding No. 12: Incorrect application of laws, rules, and CalHR policies and guidelines for Red Circle Rate Pay. (Very Serious).**

The summary by the CRU reflected that in reviewing the CalPERS' red circle policies and procedures that were in effect during the compliance review period, the CalPERS failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's



policies and guidelines. This resulted in civil service employees receiving incorrect and/or inappropriate compensation.

**Cause:** There was an oversight in determining the salary.

**CalPERS Response:** CalPERS agrees with this finding. CalPERS will correct the employee's PIMS history to reflect the true salary and issue pay adjustments for the months of underpayment. In February 2018, the Salary Determination workload transitioned from our PTU to our Employment Services Unit (ESU) to provide a more end-to-end process regarding Salary Determinations. In preparation for the transition, ESU team members attended mandatory Salary Determinations training classes and, as an extra preventive measure, upon completion of Salary Determinations, a team leader reviews prior to approval and processing to ensure compliance with state civil service pay plans.

**Finding No. 13: Incorrect authorization of Bilingual Pay. (Very Serious).**

The summary by the CRU reflected that the department failed to supply supporting documentation demonstrating the need for bilingual services.

**Cause:** CalPERS is updating the process and procedures for bilingual services to validate positions and determine if employees are tested, certified, and documented on the required tally sheets.

**CalPERS Response:** CalPERS agrees with this finding and is updating our process and procedures for bilingual services. We are working closely with our Equal Employment Officer on updates to the authorization of bilingual pay procedures to ensure required documentation (justification/certification to validate the position is bilingual, STD. Form 897, and tally sheets) are collected and kept on file for all bilingual positions identified. In addition, we are collaborating with program areas to ensure duty statements for each of the positions identified as bilingual are updated and kept on file.

**Finding No. 16: Appointed Actual Time Worked (ATW) employee exceeded nine months in a twelve-consecutive month period. (Very Serious).**

The summary by the CRU reflected CalPERS did not consistently monitor the actual number of days worked in order to ensure that Actual Time Worked (ATW) employees did not exceed the 194 days, or 1500 hours, in any 12-consecutive month. Specifically, one employee (of the 25 files reviewed) worked 210 hours over the 1500-hour limitation.

**Cause:** Tracking cards were not kept updated.

**CalPERS Response:** CalPERS has been proactive in managing this issue. Desk procedures were revised in January 2018 and appropriate controls are in place, to ensure accurate tracking of all ATW employees. Furthermore, HRSD is exploring whether a new HRMS would provide automatic tracking, which will further our ability to accurately monitor actual number of days worked.

**Finding No. 17: Administrative Time Off (ATO) was not properly documented. (Serious).**

The summary by the CRU reflected that of the nine files reviewed, one file was found not in compliance for failing to document the justification for the ATO.

**Cause:** NA

**CalPERS Response:** CalPERS disputes this finding and request it be removed from the report. Of the nine files reviewed, only one was in question due to a misfiling of documents, which has since been provided to the CRU. Although we did not initially send the documents to the CRU, ATO in this case was applied correctly and is compliant with required laws and rules.

**Finding No. 18: Department did not account for all timesheets. (Very Serious).**

The summary by the CRU reflected in reviewing CalPERS' timekeeping practices and procedures, as applied to the three selected units from October 2016 to December 2016, the CRU found discrepancies between the timesheets used by CalPERS to monitor employee hours and the Standard 672 forms. Specifically, there were six missing timesheets from the October 2016 pay period for the three selected units; seven missing timesheets from the November 2016 pay period for the three selected units; and 11 missing timesheets from the December 2016 pay period for the three selected units.

**Cause:** There are various reasons a timesheet could be missing, including but not limited to, the employee failed to submit their time utilizing the eTimesheet System, the employee's manager failed to approve their time utilizing the eTimesheet System, the employee was on a leave of absence, and/or the PS did not update the system based on the paper timesheet received.

**CalPERS Response:** CalPERS agrees with this finding. The PS is responsible for running reports from the PeopleSoft HCM system that shows

employees that have not submitted their time and managers that have not approved time. Moving forward, the PS will be more diligent in running these reports to ensure there are no more missing timesheets. In addition, the PS will ensure that any paper timesheet received are uploaded in a timely manner. CalPERS is currently working on a formal, updated PS training program which includes on-the-job training sessions, a training manual, and an expansion of the materials provided by control agencies. We will continue to monitor the processing until the formal training program is in place. Furthermore, HRSD is exploring whether a new HRMS would provide automatic tracking, which will further our ability to accurately monitor attendance and time reporting.

**Finding No. 19: Leave reduction plans were not provide for all employees whose leave balances exceeded established limits. (Non-Serious).**

The summary by the CRU reflected CalPERS provided a leave reduction policy to all employees. However, CalPERS did not provide leave reduction plans for 22 of the 44 employees reviewed whose leave balances exceeded established limits.

**Cause:** In the annual reminder to all CalPERS employees, they are directed to work closely with their supervisor to reduce their vacation or annual leave; however, supervisors are not required submit those to HRSD for tracking and/or filing in the OPF.

**CalPERS Response:** CalPERS disputes this finding and requests it be removed from the report, as there is no requirement for these plans to be maintained in the OPFs. Furthermore, CalPERS has been proactive and successful in tracking and reducing the number of employees with balances that exceed the 640 cap. The focus here should be whether or not departments are reducing the number of employees with leave balances that exceed the 640 cap. To that end, CalPERS created a metric to track leave balances that exceed the 640 cap and sends a memo annually to all employees to remind them of the maximum number of accumulated hours for vacation and annual leave, and provides them the CalPERS policy regarding Excess Leave Reduction Plan, as well as the Excess Leave Reduction Plan Form. In addition, CalPERS began closely monitoring leave balances and set a goal of reducing the number of employees exceeding the 640 cap by five percent annually. In Fiscal Year (FY) 15-16, Quarter 3-4 there were 328 employees whose leave balances exceeded the maximum number of accumulated hours for vacation and annual leave. As of FY 16-17, Quarter 3-4, those numbers were reduced to 290 (11.5%) employees over the maximum. As of FY 17-18, Quarter 1-2, those numbers were reduced to 280 (3.44%) employees over the maximum. These efforts are in line with CalHR PML

2016-029. CalPERS does not require plans to be submitted to HRSD, as this is the responsibility of the manager and employee. In addition, requiring plans to be submitted to HRSD, would create additional workload by requiring the plans be filed in the OPF and conflicts with CalPERS goal for sustainability and greener approach by saving paper.

**Finding No. 20: Incorrect application of 715 Transactions. (Very Serious).**

The summary by the CRU reflected that of the nine 715 transactions (which is used to document a non-qualifying pay period) reviewed, CalPERS did not authorize leave accruals for one employee who worked a qualifying pay period. In addition, one employee received state service and leave accruals for a non-qualifying pay period.

**Cause:** There was an oversight in applying leave accruals correctly for qualifying and non-qualifying pay periods by the PS.

**CalPERS Response:** CalPERS is currently working on a formal, updated PS training program which includes on-the-job training sessions, a training manual, and an expansion of the materials provided by control agencies. The PTU team leaders are currently reviewing all transactions for new PS', and spot checking work for all senior level team members. We will continue to monitor the processing until the formal training program is in place. Furthermore, we will continue to monitor the appointment processing in the SCO system to ensure accuracy and consistency.

CalPERS strives to ensure good employment practices and remains committed to working with the State Personnel Board. Thank you for the opportunity to discuss and respond to the Draft Compliance Review Report.

If you have any questions, please contact me at (916) 795-3481 or at [Christina.Campbell@calpers.ca.gov](mailto:Christina.Campbell@calpers.ca.gov).