



## 2015 REPORT TO THE LEGISLATURE

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## COMPLIANCE REVIEW AND SPECIAL INVESTIGATION ACTIVITIES

Prepared by

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**October 2015**



## TABLE OF CONTENTS

<b>BACKGROUND .....</b>	<b>1</b>
<b>SUMMARY OF COMPLIANCE REVIEW ISSUES .....</b>	<b>2</b>
<b>VERY SERIOUS ISSUES .....</b>	<b>4</b>
<b>SERIOUS ISSUES .....</b>	<b>10</b>
<b>NON-SERIOUS OR TECHNICAL ISSUES.....</b>	<b>14</b>
<b>SUMMARY OF SPECIAL INVESTIGATIONS .....</b>	<b>17</b>
<b>COMPLIANCE REVIEW UNIT COSTS .....</b>	<b>17</b>
<b>INDEX OF REVIEWED AREAS.....</b>	<b>18</b>
<b>INDEX OF FINDINGS FOR COMPLIANCE REVIEWS .....</b>	<b>19</b>
<b>INDEX OF COMPLETED REVIEWS AND SPECIAL INVESTIGATIONS COSTS.....</b>	<b>26</b>

## BACKGROUND

Effective July 1, 2012, the Governor's Reorganization Plan #1 (GRP1) of 2011 consolidated all of the functions of the Department of Personnel Administration and the merit-related transactional functions of the State Personnel Board (SPB) into the Department of Human Resources (CalHR). Specifically, SPB programs related to appointments consultation, career executive assignment (CEA) allocations, test development, recruitment, examinations, psychological and medical screening, training, and the Office of Civil Rights transferred to the CalHR along with the associated staff and funding. In addition, all of the SPB's accounting, budget, business services, human resources, information technology, legislative affairs, and public information office resources were transferred to the CalHR. The CalHR staff is now charged with providing these services to the SPB.

The GRP1 recognized and preserved the SPB's exclusive constitutional authority to administer the merit system. As a result, in addition to retaining the Appeals Division, the GRP1 created both a Policy Unit and Compliance Review Unit (CRU) at the SPB to establish merit-related policy and conduct reviews of departmental merit-related practices to ensure compliance with laws, rules, and board policy. The CRU performs cyclical standard reviews of four major areas: examinations, appointments, equal employment opportunity (EEO), and personal services contracts (PSC's). The CRU also conducts special investigations of certain departments' personnel practices as determined by the Board. Special investigations may be initiated in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

Government Code section 18662, subdivision (e), provides, "On or before October 1, 2014, and every October 1 thereafter, the board shall report to the Chairperson of the Joint Legislative Budget Committee the audit and special investigation activities of the board pursuant to this article from the preceding fiscal year. The board shall include in the report the following information:

- (1) A summary of each audit and special investigation, including findings.
- (2) The number and total cost of audits and special investigations, by department."

This report, which is due October 1, 2015, describes the compliance review and special investigation activities of the CRU from July 1, 2014, to June 30, 2015. The report summarizes the compliance review and special investigation findings by state department and includes the numbers and total cost of compliance reviews and special investigations by state department in compliance with the statute cited above.

## SUMMARY OF COMPLIANCE REVIEW ISSUES

From July 1, 2014 to June 30, 2015, the CRU completed full compliance reviews of 33 state departments. Three out of the 33 departments reviewed, or 9%, had no deficiencies. PSC procedural deficiencies were not found at any of the 33 departments. The examination, appointment, and EEO deficiencies found at the other 30 departments are described beginning on page 7.

A color-coded system is used to identify the severity of the violations as follows:

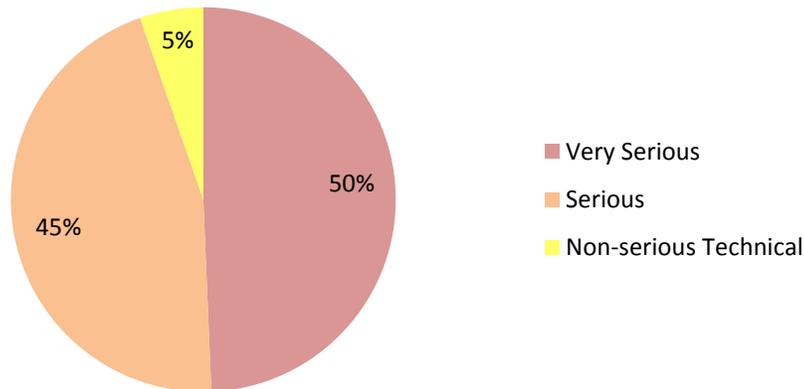
- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical

In addition the frequency occurrence is classified as follows:

- 1-9% of departments reviewed = Low
- 10-19% of departments reviewed = Medium
- 20%+ of departments reviewed = High

The following chart displays the frequency of violations by severity. These findings are as anticipated given the need for education and oversight of the state's delegated selection process.

### Compliance Review Violations



The most common very serious and serious violations and corrective actions from the compliance reviews are:

#### Very Serious Issues:

- EEO Questionnaires were not separated from applications
  - Corrective action: Departments must ensure all EEO questionnaires are separated from applications
  
- Job analyses were not developed or used for the examination process
  - Corrective action: Departments must abolish active eligible lists and develop job analyses before administering future examinations

#### Serious Issues

- Probationary evaluations were not provided
  - Corrective action: Departments must ensure probationary evaluations are completed and retained
  
- Appointment documentation not kept for the appropriate amount of time
  - Corrective action: Departments must ensure documentation is retained in the future

The CRU is continuing to conduct full compliance reviews. The CRU will continue to post review findings and consult with departments during reviews in order to educate departments regarding appropriate personnel practices. The CRU will monitor to ensure departments adopt corrective actions within the period prescribed.

The CRU will monitor violations to view trends and make further corrective action, if warranted. Departments found in repeated violation will face severe corrective action which could include mandating training, additional monitoring, voiding examinations or appointments, and revocation or modification of delegated agreements.

Based on the results of the compliance reviews and special investigations, the CRU has recommended regulatory changes to the Policy Unit to clarify existing law and to adopt long-standing best practices into regulation. Examples of proposed changes include, clarifying competitive recruitment and selection procedures, examination and vacancy posting requirements, and records retention requirements.

In addition, the CRU will periodically report violation trends to human resource forums. The CRU will also post best practices and tools on its webpage to aid departments in appropriately carrying out their personnel transactions.

## VERY SERIOUS ISSUES

### Issue 1: EEO Questionnaires Were Not Separated from Applications

**Criteria:** Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status). Applicants for employment in state civil service are asked to voluntarily provide ethnic data about themselves where such data is determined by CalHR to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD 678) states, "This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions."

**Cause:** Lack of policies, procedures, and training related to the proper processing of EEO information; lack of staff resources; and inadvertent oversight.

**Severity:** Very Serious. The applicants' protected classes were visible, subjecting the departments to potential liability.

**Frequency:** High. 13 out of 33 departments or 39%.

**Action:** The departments were required to submit a corrective action plan to the CRU to ensure that, in the future, all EEO questionnaires will be separated from applications.

### Issue 2: Job Analyses Were Not Developed or Used for the Examination Process

**Criteria:** The Merit Selection Manual (MSM), which is incorporated in California Code of Regulations (CCR), title 2, section 50, mandates the development and use of a job analysis for the examination process. A "job analysis shall serve as the primary basis for

demonstrating and documenting the job-relatedness of examination processes conducted for the establishment of eligible lists within the State's civil service." (MSM (Oct. 2003), § 2200, p. 2.) The MSM requires that job analyses adhere to the legal and professional standards outlined in the job analysis section of the MSM and that certain elements must be included in the job analysis studies. (*Ibid.*) Those requirements include the following: (1) that the job analysis be performed for the job for which the subsequent selection procedure is developed and used; (2) the methodology utilized be described and documented; (3) the job analytic data be collected from a variety of current sources; (4) job tasks be specified in terms of importance or criticality, and their frequency of performance; (5) and job tasks be sufficiently detailed to derive the requisite knowledge, skills, abilities (KSA's), and personal characteristics that are required to perform the essential tasks and functions of the job classification. (MSM, § 2200, pp. 2-3.)

**Severity:** Very Serious. The examinations may not have been job-related or legally defensible.

**Frequency:** High. 9 out of 31 departments or 29%.

**Cause:** Lack of process and training; records retention issues; inadequate staffing; impact of reorganization; and the belief that education and experience examinations could be developed without a job analysis.

**Action:** Eligible lists from examinations without a job analysis were abolished and the departments were required to submit corrective action plans to the CRU to ensure that, in the future, job analyses will be developed and used for the examination process.

<b>Issue 3:</b>	<b>No Disability Advisory Committees</b>
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**Criteria:** Each state department 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 department on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

**Severity:** Very Serious. The department heads did not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a Disability Advisory Committee (DAC) may limit a department's ability to recruit and retain a qualified workforce, impact productivity, and subject the department to liability.

**Frequency:** Medium. 4 out of 33 departments or 12%.

**Cause:** Prior DAC's became inactive, recruitment issues, and loss of staff in reorganization.

**Action:** The departments were required to submit a corrective action plan to the CRU to ensure the establishment of a legally compliant DAC.

<b>Issue 4:</b>	<b>The EEO Officers Did Not Report Directly to the Heads of the Departments</b>
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**Criteria:** The appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.) In a state department with less than 500 employees, the EEO Officer may be the personnel officer. (*Ibid.*)

**Severity:** Very Serious. The EEO Officers did not have direct access to the head of the organization, diminishing the significance of the EEO program.

**Frequency:** Low. 3 out of 33 departments or 9%.

**Cause:** Department heads delegated the direct reporting relationship down to the second in charge of the organization.

**Action:** The departments were required to submit a corrective action plan to the CRU to ensure that their EEO Officers report directly to the head of each department.

**Issue 5: EEO Officers Did Not Monitor the Composition of Oral Panels in Department Exams**

- Criteria:** The EEO Officer at each department must monitor the composition of oral panels in departmental examinations (Gov. Code, § 19795, subd. (a)).
- Severity:** Very Serious. Requiring the EEO Officer to monitor oral panels is intended to ensure protection against discrimination in the hiring process.
- Frequency:** Low. 3 out of 33 departments or 9%.
- Cause:** Lack of process; position vacancy; and the belief that having a certified chairperson conduct the panel eliminated the need for the EEO Officer to be involved.
- Action:** The departments were required to submit a corrective action plan to the CRU to ensure that the EEO Officer monitors the composition of oral panels in departmental exams.

**Issue 6: Unlawful Appointments**

- Criteria:** Article VII of the State Constitution requires that permanent appointments in State civil service be based on merit as ascertained by competitive examination. Unlawful appointments may occur for a variety of reasons including administrative errors, oversight, misinformation, or, in rare cases, attempts to circumvent the state's civil service system. Some of the most common reasons for unlawful appointments are:
- Transfer of an individual based on inaccurate interpretation of the transfer requirements.
  - Appointment of an individual from a non-reachable rank of the certification list.
  - Appointment of an individual who does not meet the minimum qualifications of the classification.
- Severity:** Very Serious. An unlawful appointment provides the employee with an unfair and unearned appointment advantage over other employees whose appointments have been processed in compliance with the requirements of civil service law. Unlawful appointments which are not corrected also create appointment

inconsistencies that jeopardize the equitable administration of the civil service merit system.

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If “bad faith” is determined on the part of the appointing power, civil or criminal action may be initiated. Disciplinary action may also be pursued against any officer or employee in a position of authority who directs any officer or employee to take action in violation of the appointment laws. If bad faith is determined on the part of the employee, the employee may be required to reimburse all compensation resulting from the unlawful appointment and may also be subject to disciplinary action.

**Frequency:** Low. 2 out of 33 departments or 6%.

**Cause:** Established process was not followed and department providing HR services under contract failed to verify employment history.

**Action:** The departments were required to submit a corrective action plan to the CRU that addresses the corrections the departments will implement to ensure the departments will improve their hiring practices.

<b>Issue 7:</b>	<b>Discrimination Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period</b>
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**Criteria:** The appointing power must issue a written decision to the complainant within 90 days of the discrimination complaint being filed. (Cal. Code Regs., tit. 2, § 64.4, subd. (a).) If the appointing power is unable to issue its decision within the prescribed time period, the appointing power must inform the complainant in writing of the reasons for the delay. (*Ibid.*)

**Severity:** Very Serious. Employees were not informed of the reasons for delays in decision for complaints of discrimination. Employees may feel their concerns are not being taken seriously, which can leave the department open to liability and low employee morale.

**Frequency:** Low. 1 out of 33 departments or 3%.

**Cause:** The department thought that the 90-day window for issuing a decision on a discrimination complaint was only applicable for complaints based on mental disability, physical disability, and medical condition.

**Action:** The department was required to submit a corrective action plan to the CRU to ensure that complainants are notified of the reasons for delays in decisions within the prescribed time period.

<b>Issue 8:</b>	<b>Job Opportunities Were Not Advertised</b>
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**Criteria:** Departments are required to have recruitment strategies designed to be “as broad and inclusive as necessary to ensure the identification of an appropriate candidate group.” (Merit Selection Manual [MSM], § 1100, p. 1100.2 (Oct. 2003); Cal. Code Reg., tit. 2, § 50.) Generally, the typical steps a department takes after determining that approval to fill a vacant position has been secured include: determining whether there is an eligible list for the classification in which the vacancy exists; determining whether an eligible list is necessary to fill the vacancy; advertise the vacancy, which may include certifying the eligible list; receive applications, and if no applications are received, re-advertise the position with increased recruitment efforts; screen applications to determine which candidates meet minimum qualification requirements and are eligible for appointment; and conduct hiring interviews. (MSM, § 1200, pp. 1200.7-1200.8; Cal. Code Reg., tit. 2, § 50.)

**Severity:** Very Serious. All interested individuals were not provided the opportunity to apply. By failing to advertise, the department cannot be certain that it has hired the most qualified workforce.

**Frequency:** Low. 1 out of 33 departments or 3%.

**Cause:** The department had not yet implemented policies and procedures requiring VPOS posting of all vacancies.

**Action:** The department was required to submit a corrective action plan to the CRU to ensure that recruitment strategies are broad and inclusive and that vacancies are posted on VPOS.

**Issue 9: Accepted Unverified Out-of-Class Experience for an Applicant to Meet the Minimum Qualifications**

**Criteria:** Government Code section 19050.8 mandates out-of-class experience as viable for meeting the minimum qualifications for an examination if it is “verified under the standards prescribed by board rule” (Gov. Code, § 19050.8. & Cal. Code Reg., tit. 2, §212.). Specifically, for verification of out-of-class assignments the applicant must perform the full range of duties for “30 consecutive calendar days”. (Cal. Code Reg., tit. 2, § 212, suds. (b)(1)(E)). In addition, state agencies are required to retain all verification statements for at least five years. (Cal. Code Reg., tit. 2, § 212, suds. (b)(2)(d).)

**Severity:** Very Serious. Allowing an individual to use uncertified out-of-class experience to meet the minimum qualifications for an examination could result in an illegal appointment.

**Frequency:** Low. 1 out of 31 departments or 3%.

**Cause:** The department did not ensure all of the criteria was met as defined in SPB Rule 212.

**Action:** The department confirmed that the candidate did not meet the minimum qualifications, and permanently withheld the candidate from the eligible list.

**SERIOUS ISSUES**

**Issue 10: Probationary Evaluations Were Not Provided for All Appointments**

**Criteria:** A new probationary period is not required when an employee is appointed by reinstatement with a right of return. (Cal. Code Regs., tit. 2, § 322, subd. (d)(2).) However, the service of a probationary period is required when an employee enters state civil service by permanent appointment from an employment list. (Cal. Code Regs., tit. 2, § 322, subd. (a).) In addition, unless waived by the appointing power, a new probationary is required when an employee is appointed to a position under the following circumstances: (1) without a break in service in the same class in which the employee has completed the probationary period, but under a different

appointing power; and (2) without a break in service to a class with substantially the same or lower level of duties and responsibilities and salary range as a class in which the employee has completed the probationary period. (Cal. Code Regs., tit. 2, § 322, subd. (c)(1) & (2).)

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.

**Frequency:** High. 19 out of 33 departments or 58%.

**Cause:** Lack of or deficiency in process, tracking system, training; workload issues; or staff failed to follow existing policies and procedures.

**Action:** The departments were required to submit to the CRU a written corrective action plan that addresses how they will ensure full compliance from supervisory/managerial staff to meet with the probationary requirements of Government Code section 19172.

<b>Issue 11:</b>	<b>Appointment Documentation Was Not Kept for the Appropriate Amount of Time</b>
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**Criteria:** In relevant part, civil service laws require that the employment procedures of each state department shall conform to the federal and state laws governing employment practices. (Gov. Code, § 18720.) State departments are required to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after the records and files are initially created or received. (Gov. Code, § 12946.) State departments are also required to retain personnel

files of applicants or terminated employees for a minimum period of two years after the date the employment action is taken. (*Ibid.*)

**Severity:** Serious. Without documentation, the CRU could not verify if the appointments were legal.

**Frequency:** Medium. 11 out of 33 departments or 33%.

**Cause:** Lack of policies and procedures and training; or erroneous destruction of documents by hiring manager.

**Action:** The departments were required to submit a corrective action plan to the CRU to ensure that, in the future, appointment documentation is retained for the appropriate period of time.

<b>Issue 12:</b>	<b>Examination Documentation Was Not Kept for the Appropriate Amount of Time</b>
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**Criteria:** In relevant part, civil service laws require that the employment procedures of each state department shall conform to the federal and state laws governing employment practices. (Gov. Code, § 18720.) State departments are required to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after the records and files are initially created or received. (Gov. Code, § 12946.) State departments are also required to retain personnel files of applicants or terminated employees for a minimum period of two years after the date the employment action is taken. (*Ibid.*) In addition, all applications for a state civil service position must be maintained and preserved on file for at least two years. (Cal. Code Reg., tit. 2, §174.)

The appointing power must maintain a CEA examination file for a period of three years that includes, but is not limited to, the specific job-related evaluation criteria and selection procedures that were used in the examination; documentation on how those criteria were applied to the candidates and the competitiveness of the candidates' qualifications relative to each other; and the appointing power's rationale for selecting the successful candidate. (Cal. Code Regs., tit. 2, § 548.40 [Rule 548.40].)

**Severity:** Serious. Without documentation, the CRU cannot verify if examinations were properly conducted.

**Frequency:** Medium. 3 out of 31 departments or 10%.

**Cause:** Lack of policies, procedures, and training.

**Action:** The departments were required to submit a corrective action plan to the CRU to ensure that, in the future, all employment documentation is retained for the appropriate amount of time.

<b>Issue 13:</b>	<b>Hiring Individual Below Rank Three Was Not Documented</b>
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**Criteria:** California Code of Regulations, title 2, section 254 (Rule 254) mandates that each vacancy for a class in which the certification of eligibles is under Government Code section 19057, the department shall fill a vacancy by eligibles in the three highest names certified. Government Code section 19057 refers to promotional employment lists. Rule 254 additionally mandates that each vacancy for a class in which the certification of eligibles is under Government Code sections 19057.1, 19057.2 and 19057.3, the department shall fill a vacancy by eligibles in the three highest ranks certified. Government Code sections 19057.1, 19057.2 and 19057.3 refer to professional, scientific, administrative and management classifications.

**Severity:** Serious. Without documentation establishing the basis for hiring below the top three ranks, the CRU could not verify whether one appointment to Office Technician was properly conducted.

**Frequency:** Low. 1 out of 33 departments or 3%.

**Cause:** The department had a documentation process for appointing candidates from ranks four and below. However, that process was not properly followed in this instance.

**Action:** The department was required to submit to the CRU a written corrective action plan that addresses the corrections the department will implement to improve its hiring practices.

## NON-SERIOUS OR TECHNICAL ISSUES

<b>Issue 14:</b>	<b>Applications Were Not Date Stamped</b>
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**Criteria:** California Code of Regulations, title 2, section 174 (Rule 174) requires timely filing of applications: All applications must be filed at the place, within the time, in the manner, and on the form specified in the examination announcement. Filing an application 'within the time' shall mean postmarked by the postal service or date stamped at one of the department's offices (or appropriate office of the agency administering the examination) by the date specified.

An application that is not postmarked or date stamped by the specified date shall be accepted, if one of the following conditions as detailed in Rule 174 apply: (1) the application was delayed due to verified error; (2) the application was submitted in error to the wrong state agency and is either postmarked or date stamped on or before the specified date; (3) the employing agency verifies examination announcement distribution problems that prevented timely notification to an employee of a promotional examination; or (4) the employing agency verifies that the applicant failed to receive timely notice of promotional examination. (Cal. Code Reg., tit. 2, § 174, subds. (a), (b), (c), & (d).) The same final filing date procedures are applied to the selection process used to fill a job vacancy.

**Severity:** Non-serious or Technical. Final filing dates are established to ensure all applicants are given the same amount of time in which to apply for a job vacancy and to set a deadline for the recruitment. Therefore, although the acceptance of applications after the final filing date may give some applicants more time to prepare their application than other applicants who meet the final filing date, the acceptance of late applications will not impact the results of the job vacancy selection.

**Frequency:** Low. 1 out of 33 departments or 3%.

**Cause:** The department's practice had been informal and it only date-stamped applications received after the final file date.

**Action:** The department was required to submit a written corrective action plan that the department will implement to ensure conformity with Rule 174.

**Issue 15: Applications Were Accepted After the Final Filing Date**

**Criteria:** California Code of Regulations, title 2, section 174 (Rule 174) requires timely filing of applications: All applications must be filed at the place, within the time, in the manner, and on the form specified in the examination announcement.

Filing an application "within the time" shall mean postmarked by the postal service or date stamped at one of the SPB offices (or the appropriate office of the department administering the examination) by the date specified.

An application that is not postmarked or date stamped by the specified date shall be accepted, if one of the following conditions as detailed in Rule 174 apply: (1) the application was delayed due to a verified error; (2) the application was submitted in error to the wrong state department and is either postmarked or date stamped on or before the specified date; (3) the employing department verifies examination announcement distribution problems that prevented timely notification to an employee of a promotional examination; or (4) the employing department verifies that the applicant failed to receive timely notice of a promotional examination. (Cal. Code Reg., tit. 2, § 174, subds. (a), (b), (c) & (d).)

**Severity:** Non-serious or Technical. Final filing dates are established to ensure all applicants are given the same amount of time in which to apply for an examination and to set a deadline for the recruitment phase of the examination. Therefore, although the acceptance of applications after the final filing date may give some applicants more time to prepare their application than other applicants who meet the final filing date, the acceptance of late applications will not impact the results of the examination.

**Frequency:** Low. 1 out of 31 departments or 3%.

**Cause:** The proper procedures for date stamping applications and retaining envelopes were not followed due to vacant clerical positions and untrained staff opening the mail.

**Action:** The department was required to submit a written corrective action plan that the department will implement to ensure conformity with Rule 174.

**Issue 16: The Qualifications Appraisal Team Members Did Not Sign Rating Sheets**

**Criteria:** California Code of Regulations, title 2, section 199 (Rule 199) mandates that panel members rate each applicant on forms prescribed by the Board's executive officer. The panel members are also required to sign the forms. (*Ibid.*)

**Severity** Non-serious or Technical. The regulation was established to ensure the accountability of panel members. Technical compliance is not essential to preserve the integrity of the examination process.

**Frequency:** Low. 1 out of 31 departments or 3%.

**Cause:** The Human Resources Office did not conduct briefings with the exam chairperson to review the necessary requirements for each exam.

**Action:** The department was required to submit a written corrective action plan that addresses the corrections the department will implement to ensure conformity with Rule 199.

**Issue 17: Notice of Personnel Action Forms Were Not All Signed**

**Criteria:** Requiring signatures on Notice of Personnel Action (NOPA) forms is meant to ensure that the appointee to the best of his or her knowledge has certified that he or she has provided the department with complete and factual information necessary for a proper appointment; that he or she intends to serve in this class, ensure, location, and other elements of the appointment as reflected on the NOPA form; and that the employee will make a reasonable attempt to seek correction of any aspect of the appointment that they know to be illegal.

**Severity** Non-Serious or Technical. Although the NOPA serves as a legal document for recording the employee's signature verifying appointment information, the failure to attain signatures on NOPA's does not compromise the results of the selection process.

- Frequency:** Low. 1 out of 33 departments or 3%.
- Cause:** The staff having a specific role in ensuring NOPA's failed to follow procedures.
- Action:** The department was required to submit a written corrective action plan that addresses how the department will ensure that NOPA's are signed by every appointee.

## **SUMMARY OF SPECIAL INVESTIGATIONS**

In response to the Board ruling in *Angelina Endsley v. DFEH*, Case No. 13-1216N, the CRU conducted a special investigation into the Department of Fair Employment Housing's (DFEH) personnel practices related to appointments made from January 1, 2012, to January 23, 2014; and from January 1, 2011, through January 23, 2014, for CEA's. Based upon the review of the information contained in DFEH appointment files and staff interviews, the CRU uncovered no direct evidence of further unlawful appointments. However, the CRU did find violations in DFEH hiring practices. Specifically, appointment documentation was not retained for the appropriate amount of time and probation reports were not provided.

In addition, the CRU investigated the Department of Insurance and the Department of Transportation based on complaints of improper hiring practices. No deficiencies were found at either department.

## **COMPLIANCE REVIEW UNIT COSTS**

The CRU completed 33 compliance reviews and 3 special investigations from July 1, 2014, to June 30, 2015. The total cost of the combined completed reviews is \$1,495,938.95. The total only includes completed reviews and special investigations and does not include compliance reviews or special investigations currently in process. A per department breakdown of costs for each review and special investigation is listed in the Index of Compliance Review Costs on page 26.

## INDEX OF REVIEWED AREAS

#	<u>Department</u>	<u>Exam</u>	<u>Appt</u>	<u>EEO</u>	<u>PSC</u>
1	California Agricultural Labor Relations Board	✓	✓	✓	✓
2	California Board of Equalization	✓	✓	✓	✓
3	California Coastal Commission	✓	✓	✓	✓
4	California Conservation Corp	✓	✓	✓	✓
5	California Debt and Investment Advisory Commission	✓	✓	✓	✓
6	California Department of Conservation	✓	✓	✓	X
7	California Department of Corrections and Rehabilitation	✓	✓	✓	✓
8	California Department of Developmental Services	✓	✓	✓	✓
9	California Department of Housing and Community Development	✓	✓	✓	✓
10	California Department of Managed Health Care	✓	✓	✓	✓
11	California Department of Public Health	✓	✓	✓	✓
12	California Department of Transportation	✓	✓	✓	✓
13	California Expositions and State Fair	✓	✓	✓	X
14	California Gambling Control Commission	✓	✓	✓	X
15	California Pollution Control Financing Authority	✓	✓	✓	✓
16	California Public Utilities Commission	✓	✓	✓	✓
17	California State Lands Commission	✓	✓	✓	✓
18	California State Teachers' Retirement System	✓	✓	✓	X
19	California Tax Credit Allocation Committee	✓	✓	✓	✓
20	California Victim Compensation and Government Claims Board	✓	✓	✓	✓
21	California Wildlife Conservation Board	✓	✓	✓	X
22	California Workforce Investment Board	X	✓	✓	✓
23	Colorado River Board of California	✓	✓	✓	X
24	Delta Stewardship Council	✓	✓	✓	✓
25	Employment Development Department	✓	✓	✓	✓
26	Financial Information Systems for California	✓	✓	✓	✓
27	Office of Environmental Health Hazard Assessment	✓	✓	✓	X
28	Office of Statewide Health Planning and Development	✓	✓	✓	✓
29	Office of Inspector General	✓	✓	✓	✓
30	Scholarshare Investment Board	✓	✓	✓	✓
31	Secretary of State	✓	✓	✓	✓
32	State Treasurer's Office	✓	✓	✓	✓
33	Wildlife Conservation Board	X	✓	✓	✓
	<b>Total</b>	<b>31</b>	<b>33</b>	<b>33</b>	<b>26</b>

Key: ✓ Signifies that a review of the area was conducted  
X Signifies that a review of the area was not conducted

## **INDEX OF FINDINGS FOR COMPLIANCE REVIEWS**

### **California Agricultural Labor Relations Board**

- Examinations Complied with Civil Service Laws and Board Rules
- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Questionnaires Were Not Separated From All Applications
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Board of Equalization**

- Examinations Complied with Civil Service Laws and Board Rules
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Coastal Commission**

- Job Analyses Were Not Developed or Used for the Examination Process
- Equal Employment Opportunity Questionnaires Were Not Separated from Applications
- Probationary Evaluations Were Not Provided for All Appointments Reviewed
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Conservation Corps**

- Job Analyses Were Not Developed or Used for All the Civil Service Examinations Reviewed
- Appointments Complied with Civil Services Laws and Board Rules
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Debt and Investment Advisory Commission**

- Examinations Complied with Civil Service Laws and Board Rules
- Appointments Complied with Civil Service Laws and Board Rules
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Department of Conservation**

- Job Analyses Were Not Developed or Used for the Examination Process
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules

### **California Department of Corrections and Rehabilitation**

- Job Analyses Were Not Developed or Used for All the Civil Service Examinations Reviewed
- Appointments Complied with Civil Services Laws and Board Rules
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Department of Developmental Services**

- Job Analyses Were Not Developed or Used for All the Civil Service Examinations Reviewed
- Appointments Complied with Civil Service Laws and Board Rules
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Department of Housing and Community Development**

- Accepted Unverified Out-Of-Class Experience for an Applicant to Meet the Minimum Qualifications
- Probationary Evaluations Were Not Provided for All Appointments
- Discrimination Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period
- Personal Services Contracts Complied with Procedural Requirements

### **California Department of Managed Health Care**

- Equal Employment Opportunity Questionnaires Were Not Separated from Applications
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Department of Public Health**

- Examination Documentation Was Not Kept for the Appropriate Amount of Time

- Equal Employment Opportunity Questionnaires Were Not Separated from Applications
- Appointment Documentation Was Not for the Appropriate Amount of Time
- Probationary Evaluations Were Not Provided for All Appointments
- Notice of Personnel Action Forms Were Not All Signed
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Department of State Hospitals**

- Job Analyses Were Not Developed or Used for the Examination Process
- Examination Files Were Missing Documentation
- Equal Employment Opportunity Questionnaires Were Not Separated from Applications
- Unlawful Appointment
- Hiring Individuals Below Rank Three Was Not Documented
- Appointment Files Were Missing Documentation
- Probationary Evaluations Were Not Provided for All Appointments Reviewed
- Equal Employment Opportunity Officer Does Not Monitor the Composition of Oral Panels in Departmental Exams
- Personal Services Contracts Complied with Procedural Requirements

### **California Department of Transportation**

- Examinations Complied with Civil Service Laws and Board Rules
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Expositions and State Fair**

- Job Analyses Were Not Developed or Used for the Examination Process
- Equal Employment Opportunity Questionnaires Were Not Separated from Applications
- Probationary Evaluations Were Not Provided for All Appointments Reviewed
- Disability Advisory Committee Was Not Established
- The EEO Officer Does Not Report Directly to the Department Head

### **California Gambling Control Commission**

- Examinations Complied with Civil Service Laws and Board Rules
- Equal Employment Opportunity Questionnaires Were Not Separated from All Applications

- No Disability Advisory Committee Was Established

### **California Pollution Control Financing Authority**

- Examinations Complied with Civil Service Laws and Board Rules
- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Public Utilities Commission**

- Examinations Complied with Civil Service Laws and Board Rules
- Appointments Complied with Civil Service Laws and Board Rules
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California State Lands Commission**

- Examinations Complied with Civil Service Laws and Board Rules
- Job Opportunities Were Not Properly Advertised
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California State Teachers' Retirement System**

- Job Analyses Were Not Developed or Used for All the Civil Service Examinations Reviewed
- Appointments Complied with Civil Service Laws and Board Rules
- Equal Employment Opportunity Officer Does Not Report to the Department Head

### **California Tax Credit Allocation Committee**

- Examinations Complied with Civil Service Laws and Board Rules
- Appointments Complied with Civil Service Laws and Board Rules
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

### **California Victim Compensation and Government Claims Board**

- Job Analyses Were Not Developed or Used for the Examination Process
- Examination Documentation Was Not Kept For the Appropriate Amount of Time
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Applications Were Not Date Stamped

- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

#### **California Wildlife Conservation Board**

- Examinations Complied with Civil Service Laws and Board Rules
- The Equal Employment Opportunity Questionnaires Were Not Separated from All Applications
- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

#### **California Workforce Investment Board**

- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules

#### **Colorado River Board of California**

- Examinations Complied with Civil Service Laws and Board Rules
- Appointment Complied with Civil Service Laws and Board Rules
- The EEO Officer Does Not Report to the Department Head
- No Disability Advisory Committee Was Established

#### **Delta Stewardship Council**

- Unlawful Appointment
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

#### **Employment Development Department**

- Examinations Complied with Civil Service Laws and Board Rules
- Equal Employment Opportunity Questionnaires Were Not Separated from Applications
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Probationary Evaluations Were Not Provided for all Appointments Reviewed
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

#### **Financial Information Systems for California**

- Equal Employment Opportunity Questionnaires Were Not Separated from Applications

- Qualifications Appraisal Team Members Did Not Sign Rating Sheets
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Officer Does Not Monitor the Composition of Oral Panels in Departmental Exams
- Personal Services Contracts Complied with Procedural Requirements

#### **Office of Environmental Health Hazard Assessment**

- Examinations Complied with Civil Services Laws and Board Rules
- Probationary Evaluations Were Not Provided for All Appointments Reviewed
- No Disability Advisory Committee Was Established

#### **Office of Statewide Health Planning and Development**

- Accepted Applications After the Final File Date
- Equal Employment Opportunity Questionnaires Were Not Separated From Applications
- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Officer Does Not Monitor the Composition of Oral Panels in Departmental Exams
- Personal Services Contracts Complied with Procedural Requirements

#### **Office of Inspector General**

- Examinations Complied with Civil Service Laws and Board Rules
- Equal Employment Opportunity Questionnaires Were Not Separated from Applications
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

#### **Scholarshare Investment Board**

- Examinations Complied with Civil Service Laws and Board Rules
- Probationary Evaluations Were Not Provided for All Appointments
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

#### **Secretary of State**

- EEO Questionnaires Were Not Separated from Applications
- Probationary Evaluations Were Not Provided for All Appointment
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

**State Treasurer's Office**

- Examinations Complied with Civil Service Laws and Board Rules
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
- Personal Services Contracts Complied with Procedural Requirements

## INDEX OF COMPLETED REVIEWS AND SPECIAL INVESTIGATIONS COSTS

Department	Compliance Review Completed	Special Investigation Completed	Total Cost
California Agricultural Labor Relations Board	Yes	No	\$18,808.13
California Board of Equalization	Yes	No	\$89,697.50
California Coastal Commission	Yes	No	\$34,398.75
California Conservation Corp	Yes	No	\$48,120.63
California Debt and Investment Advisory Commission	Yes	No	\$14,925.00
California Department of Conservation	Yes	No	\$37,167.50
California Department of Corrections and Rehabilitation	Yes	No	\$84,568.75
California Department of Developmental Services	Yes	No	\$71,264.38
California Department of Fair Employment and Housing	No	Yes	\$64,687.35
California Department of Housing and Community Development	Yes	No	\$35,880.00
California Department of Insurance	No	Yes	\$11,274.90
California Department of Managed Health Care	Yes	No	\$35,663.13
California Department of Public Health	Yes	No	\$92,090.63
California Department of State Hospitals	Yes	No	\$136,016.25
California Department of Transportation	Yes	Yes	\$137,566.52
California Expositions and State Fair	Yes	No	\$45,060.63
California Gambling Control Commission	Yes	No	\$7,488.75
California Pollution Control Financing Authority	Yes	No	\$16,864.50
California Public Utilities Commission	Yes	No	\$54,532.50
California State Lands Commission	Yes	No	\$26,543.13
California State Teachers' Retirement System	Yes	No	\$64,813.13
California Tax Credit Allocation Committee	Yes	No	\$2,863.75
California Victim Compensation and Government Claims Board	Yes	No	\$21,090.00
California Wildlife Conservation Board	Yes	No	\$8,885.00
California Workforce Investment Board	Yes	No	\$11,335.00
Colorado River Board of California	Yes	No	\$5,585.00
Delta Stewardship Council	Yes	No	\$13,250.00
Employment Development Department	Yes	No	\$97,885.00
Financial Information Systems for California	Yes	No	\$24,431.25
Office of Environmental Health Hazard Assessment	Yes	No	\$24,741.88
Office of Statewide Health Planning and Development	Yes	No	\$31,216.88
Office of Inspector General	Yes	No	\$18,796.25
Scholarshare Investment Board	Yes	No	\$5,950.00
Secretary of State	Yes	No	\$69,987.50
State Treasurer's Office	Yes	No	\$32,489.38
<b>Total</b>			<b>\$1,495,938.95</b>

The costs only include completed reviews and special investigations from July 1, 2014, to June 30, 2015, and do not include reviews and special investigations currently in progress.