



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF STATE HOSPITALS

Compliance Review Unit
State Personnel Board
November 9, 2017

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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 authority's 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. 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 California Department of State Hospitals (DSH) personnel practices in the areas of examinations, appointments, EEO, and PSC's from August 1, 2016, through January 31, 2017, and mandated training from January 1, 2015, through January 31, 2017. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed	Serious
Equal Employment Opportunity	A Disability Advisory Committee Has Not Been Established	Very Serious

Area	Finding	Severity
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements	In Compliance
Mandated Training	Supervisory Training Was Not Provided for All Supervisors	Very Serious
Mandated Training	Ethics Training Was Not Provided for All Filers	Very Serious
Mandated Training	Sexual Harassment Training Was Not Provided for All Supervisors	Very Serious

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 DSH manages the nation’s largest inpatient forensic mental health hospital system. Its mission is to provide evaluation and treatment in a safe and responsible manner, seeking innovation and excellence in state hospital operations, across a continuum of care and settings. The DSH is responsible for the daily care and provision of mental health treatment. In Fiscal Year 2015-16, DSH served almost 13,000 patients and the average inpatient and outpatient census was 6,700 in a 24/7 hospital system and 600 in its conditional release program.

The DSH oversees five state freestanding hospitals and three psychiatric programs located in state prisons employing approximately 12,000 staff. Additionally, the DSH provides services in jail-based competency treatment programs and conditional release programs throughout the 58 counties. The DSH’s five state hospitals are Atascadero, Coalinga, Metropolitan – Los Angeles, Napa, and Patton. The three psychiatric programs are located within the following state prisons: the California Medical Facility in Vacaville, the Salinas Valley State Prison, and the California Health Care Facility in Stockton.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing DSH examinations, appointments, EEO program, and PSC's from August 1, 2016, through January 31, 2017, and mandated training from January 1, 2015, through January 31, 2017. The primary objective of the review was to determine if the DSH personnel practices, policies, and procedures complied with state civil service laws and board regulations, and to recommend corrective action for those deficiencies identified.

A cross-section of the DSH's examinations and appointments were selected to ensure that various samples of examinations and appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the DSH provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action (NOPA) forms, vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The review of the DSH's EEO program included examining written EEO policies and procedures; the EEO officer's role, duties, and reporting relationship; the internal discrimination complaint process; the upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The DSH's PSC's were also reviewed.¹ It was beyond the scope of the compliance review to make conclusions as to whether the DSH justifications for the contracts were legally sufficient. The review was limited to whether the DSH practices, policies, and procedures relative to PSC's complied with procedural requirements.

In addition, the DSH's mandated training was reviewed to ensure all employees required to file statements of economic interest were provided ethics training and that all

¹ 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.

supervisors were provided basic supervisory and sexual harassment prevention training within statutory timelines.

On September 5, 2017, an exit conference was held with the DSH to explain and discuss the CRU's initial findings and recommendations. On September 18, 2017, the CRU received and carefully reviewed the response, which is attached to this final compliance report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as to fairly 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 of 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 in 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, the DSH conducted 400 examinations. The CRU reviewed 40 of those examinations, which are listed below:

Classification	Examination Type	Exam Components	Final File Date	No. of Applications
Physician & Surgeon (Safety)	Open	Education and Experience ²	Continuous	3
Physician & Surgeon (Safety)	Open	E&E	Continuous	3
Staff Psychiatrist (Safety)	Open	E&E	Continuous	3
CEA C, Deputy Director, Technology Services Division (CIO)	Open	Statement of Qualifications (SOQ) ³	9/26/2016	8
Architectural Assistant	Open	Training and Experience (T&E) ⁴	Continuous	8
Behavior Specialist I	Open	T&E	Continuous	41
Chief Psychologist, Correctional Facility	Open	T&E	Continuous	7

² 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.

³ 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.

⁴ 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, which are totaled by the online system or a department exam analyst, and then assigned a percentage score.

Classification	Examination Type	Exam Components	Final File Date	No. of Applications
Clinical Social Worker (Health/Correctional Facility) - Safety	Open	T&E	Continuous	13
Clinical Social Worker (Health/Correctional Facility) - Safety	Open	T&E	Continuous	12
Communication Operator	Open	T&E	Continuous	29
Cook Specialist I	Open	T&E	Continuous	6
Correctional Case Records Analyst	Open	T&E	Continuous	15
Correctional Case Records Analyst	Open	T&E	Continuous	13
Food Service Technician	Open	T&E	Continuous	31
Fusion Welder	Open	T&E	Continuous	11
Health Record Technician	Open	T&E	Continuous	22
Health Record Technician II (Specialist)	Open	T&E	Continuous	3
Health Services Specialist (Safety)	Open	T&E	Continuous	13
Licensed Vocational Nurse (Safety)	Open	T&E	Continuous	3
Nursing Coordinator (Safety)	Open	T&E	Continuous	8
Patient Benefit & Insurance Officer I	Open	T&E	Continuous	3
Patient Benefit & Insurance Officer III	Open	T&E	Continuous	3
Pharmacist I	Open	T&E	Continuous	7

Classification	Examination Type	Exam Components	Final File Date	No. of Applications
Psychologist (Health Facility Clinical Safety)	Open	T&E	Continuous	9
Registered Nurse (Safety)	Open	T&E	Continuous	17
Registered Nurse (Safety)	Open	T&E	Continuous	15
Rehabilitation Therapist State Facility (Art-Safety)	Open	T&E	Continuous	3
Respiratory Care Practitioner, Dept. of Mental Health & Developmental Services	Open	T&E	Continuous	8
Senior Psychiatric Technician (Safety)	Open	T&E	Continuous	12
Senior Psychiatric Technician (Safety)	Open	T&E	Continuous	12
Senior Psychologist (Health Facility)(Specialist)	Open	T&E	Continuous	6
Senior Radiologic Technologist (Specialist-Safety)	Open	T&E	Continuous	2
Sexually Violent Predator Evaluator	Open	T&E	Continuous	7
Stationary Engineer Apprentice (Four-Year Program)	Open	T&E	Continuous	3
Supervising Housekeeper	Open	T&E	Continuous	13
Supervising Registered Nurse (Safety)	Open	T&E	Continuous	10
Supervising Rehabilitation Therapist	Open	T&E	Continuous	6

Classification	Examination Type	Exam Components	Final File Date	No. of Applications
Unit Supervisor (safety)	Open	T&E	Continuous	14
Hospital Police Officer	Open	Written ⁵	Continuous	40

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

The DSH administered 40 open examinations to create eligible lists from which to make appointments. The DSH published and distributed examination bulletins containing the required information for all examinations. Applications received by the DSH 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 DSH conducted during the compliance review period. Accordingly, the DSH fulfilled its responsibilities to administer those examinations in compliance with civil service laws and board rules.

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,

⁵ A written examination is a testing procedure in which candidates’ job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

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

During the compliance review period, the DSH made 1,603 appointments. The CRU reviewed 176 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full time	2
Assistant Directors of Dietetics	Certification List	Permanent	Full time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full time	6
Associate Personnel Analyst	Certification List	Permanent	Full time	2
Automotive Equipment Operator I, DMHDS	Certification List	Permanent	Full time	1
Chief Engineer II	Certification List	Permanent	Full time	1
Chief of Plant Operation I	Certification List	Permanent	Full time	1
Clinical Social Worker (Health Correctional Facility) - Safety	Certification List	Permanent	Full time	10
Cook Specialist II	Certification List	Permanent	Full time	2
Custodian	Certification List	Permanent	Full time	7
Data Processing Manager II	Certification List	Permanent	Full time	2
Data Processing Manager III	Certification List	Permanent	Full time	2
Data Processing Manager IV	Certification List	Permanent	Full time	1
Dentist	Certification List	Permanent	Full time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Food Service Technician I	Certification List	Permanent	Full time	2
Health and Safety Officer	Certification List	Permanent	Full time	1
Hospital Police Officer	Certification List	Permanent	Full time	5
Labor Relations Specialist	Certification List	Permanent	Full time	1
Medical Technical Assistant (Psychiatric)	Certification List	Permanent	Full time	1
Office Technician (Typing)	Certification List	Limited Term	Full time	1
Office Technician (Typing)	Certification List	Permanent	Full time	13
Psychiatric Technician (Safety)	Certification List	Permanent	Full time	14
Psychiatric Technician Trainee	Certification List	Limited Term	Full time	2
Psychologist (Health Facility – Clinical – Safety)	Certification List	Permanent	Full time	4
Research Analyst I	Certification List	Permanent	Full time	1
Senior Psychiatric Technician (Safety)	Certification List	Permanent	Full time	2
Staff Services Analyst (General)	Certification List	Limited Term	Full time	2
Staff Services Analyst (General)	Certification List	Permanent	Full time	6
Staff Services Manager I	Certification List	Permanent	Full time	4
Staff Services Manager II	Certification List	Permanent	Full time	1
Staff Services Manager III	Certification List	Permanent	Full time	1
Stationary Engineer	Certification List	Permanent	Full time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Supervising Psychiatric Social Worker I	Certification List	Permanent	Full time	1
Supervising Registered Nurse III	Certification List	Permanent	Full time	1
Supervisor of Building Trades	Certification List	Permanent	Full time	1
Food Service Technician I	Mandatory Reinstatement	Permanent	Part Time	2
Health Services Specialist (Safety)	Mandatory Reinstatement	Permanent	Full time	2
Office Assistant (Typing)	Mandatory Reinstatement	Permanent	Full time	2
Office Technician	Mandatory Reinstatement	Permanent	Full time	1
Psychiatric Technician	Mandatory Reinstatement	Permanent	Full time	1
Registered Nurse (Safety)	Mandatory Reinstatement	Permanent	Full time	2
Seamer	Mandatory Reinstatement	Permanent	Full time	1
Senior Information Systems Analyst (Specialist)	Mandatory Reinstatement	Permanent	Full time	1
Staff Psychiatrist (Safety)	Mandatory Reinstatement	Permanent	Full time	2
Staff Services Analyst (General)	Mandatory Reinstatement	Permanent	Full time	1
Labor Relations Analyst	Permissive Reinstatement	Permanent	Full time	1
Office Technician (Typing)	Permissive Reinstatement	Limited Term	Full time	1
Painter I	Permissive Reinstatement	Limited Term	Intermittent	1
Psychologist (Health Facility-Clinical-Safety)	Permissive Reinstatement	Limited Term	Intermittent	1
Psychologist (Health Facility-Clinical-Safety)	Permissive Reinstatement	Permanent	Full time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Registered Nurse	Permissive Reinstatement	Permanent	Full time	2
Supervising Registered Nurse (Safety)	Permissive Reinstatement	Permanent	Full time	1
Office Assistant (Typing)	Retired Annuitant	Limited Term	Intermittent	1
Senior Information Systems Analyst (Specialist)	Retired Annuitant	Limited Term	Intermittent	1
Casual Labor Employment (Carpenter)	Temporary Authorization Utilization (TAU)	Temporary	Intermittent	1
Casual Labor Employment (Plumber)	TAU	Temporary	Intermittent	1
Office Technician (Typing) - LEAP	TAU	Temporary	Intermittent	2
Limited Examination and Appointment Program Candidate (Identified Class)	TAU	Temporary	Full Time	1
Pre-Licensed Psychiatric Technician (Safety)	TAU	Temporary	Fulltime	1
Pre-Licensed Psychiatric Technician (Safety)	TAU	Temporary	Intermittent	1
Correctional Case Record Analyst	Training and Development	Permanent	Full time	1
Pre-Licensed Psychiatric Technician	Training and Development	Permanent	Full time	1
Office Technician (Typing)	Transfer	Limited Term	Full time	1
Painter I	Transfer	Limited Term	Full time	1
Accounting Officer Specialist	Transfer	Permanent	Full time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Accounting Technician	Transfer	Permanent	Full time	1
Associate Government Program Analyst	Transfer	Permanent	Full time	7
Associate Personnel Analyst	Transfer	Permanent	Full time	1
Fire Fighter	Transfer	Temporary	Full time	1
Health Records Technician I	Transfer	Permanent	Full time	1
Office Technician (Typing)	Transfer	Permanent	Full time	6
Pharmacy Technician, Department of Mental Health and Developmental Services	Transfer	Permanent	Full time	1
Program Director (Mental Disabilities-Safety)	Transfer	Permanent	Full time	1
Psychiatric Technician (Safety)	Transfer	Permanent	Full time	2
Psychologist (Health Facility Clinical Safety)	Transfer	Permanent	Full time	1
Registered Nurse (Safety)	Transfer	Permanent	Full time	1
Research Analyst II	Transfer	Permanent	Full time	1
Senior Personnel Specialist	Transfer	Permanent	Full time	1
Senior Psychiatrist (Supervisor), Correctional and Rehabilitative Services (Safety)	Transfer	Limited Term	Full time	1
Staff Services Analyst (General)	Transfer	Limited Term	Full time	3

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Staff Services Analyst (General)	Transfer	Permanent	Full time	4
Supervising Registered Nurse (Safety)	Transfer	Permanent	Full time	1

For each of the 105 list appointments, the DSH properly advertised the job vacancies, sent out contact letters, screened applications, interviewed candidates, and cleared the certification lists for SROA and reemployment, and conducted background and reference checks as appropriate.

The DSH made 15 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 DSH complied with the rules and laws governing mandatory reinstatements.

The CRU reviewed two retired annuitant appointments. The individuals submitted their applications and were eligible to be hired as retired annuitants, not to exceed 960 hours in a fiscal year.

The CRU reviewed seven TAU appointments. When there is no employment list from which a position maybe filled, the appointing power, with the consent of the department, may fill the position by temporary appointment. (Gov. Code, §19058.) No person may serve in one or more positions under temporary appointment longer than nine months in a 12 consecutive month period. The DSH complied with the rules and laws governing TAU appointments.

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 appointments, and determined them to be in compliance with applicable civil service laws and board rules (Gov. Code, § 438, subd. (a)(b)).

The CRU reviewed 37 DSH appointments made via transfer and eight appointments made via permissive reinstatement. 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 Reg., tit. 2, § 425.) The DSH verified the eligibility of each candidate to his or her appointed class.

However, the DSH did not provide probation reports for all appointments as described in finding 2.

FINDING NO. 2 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The DSH did not provide 21 required probationary reports of performance.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Accounting Administrator I (Supervisor)	List Appointment	1	1
Clinical Social Worker (Health Correctional Facility) – Safety	List Appointment	2	2
Custodian	List Appointment	3	3
Data Processing Manager II	List Appointment	1	1
Health and Safety Officer	List Appointment	1	1
Office Technician (Typing)	List Appointment	5	7
Psychologist (Health Facility-Clinical Safety)	List Appointment	2	3
Associate Governmental Program Analyst	Transfer	1	3
Total		16	21

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 The California Department of Human Resources (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.” (Code Reg., 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, however, require that appointing powers retain all probationary reports. (Code Reg., titl. 2, § 26, subd. (a)(3).)

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 DSH states that DSH Human Resource Offices make a good faith effort to inform supervisors and managers regarding the requirements of completing probationary evaluations. Supervisors and managers are provided the forms and due dates of probationary evaluations of their employees. However, the DSH does not have a consistent process to send reminders and track completion.

Action: It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the DSH submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19172.

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 equal employment opportunity; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the CalHR by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

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).)

The CRU reviewed the DSH EEO policies, procedures, and programs in effect during the compliance review period.

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

Summary: The DSH does not have an active DAC.

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

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

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

Cause: The DSH states that it has made a concerted effort to develop a DAC by soliciting its employees for interest and no responses were received.

Action: The DSH must take immediate steps to ensure the establishment of a DAC, comprised of members who have disabilities or who have an interest in disability issues. The DSH must submit to the CRU a written report of compliance, including the DAC roster, agenda, and meeting minutes, no later than 60 days from the date of the Executive Officer's approval of these findings and recommendations.

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 Reg., 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 the 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 compliance review period, the DSH had 41 PSC's that were in effect and subject to Department of General Services (DGS) approval, and thus our procedural review. The CRU reviewed 11 of those contracts, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Cell Staff, LLC	Physical Therapy Services	11/1/2016-6/30/2018	\$547,430.40	Yes
Cooperative Personnel Services dba CPS HR Consulting	Training	9/1/2016-6/30/2018	\$869,600	Yes
Essential Aesthetics, Inc.	Temp/Relief Chief Physician and Surgeon Services	9/1/2016-8/30/2018	\$760,320	Yes
Imperial Locum Services, A.P.C	Temp-Relief Licensed Vocational Nurse	10/1/2015-9/30/2019	\$1,922,342.40	Yes
Intuitive Health Services, Inc, A Professional Corporation	Temp-Relief Licensed Vocational Nurse	10/1/2015-9/30/2017	\$1,810,828.80	Yes
Latara Enterprise Inc. dba Foundation Laboratory	Laboratory Services	11/1/2016-10/30/2018	\$2,500,000	Yes
Platinum Empire Group, Inc.	Temp-Relief Licensed Vocational Nurse	10/1/2015-9/30/2018	\$1,843,776	Yes
Preferred Healthcare Registry, Inc.	Physical Therapy Services	11/1/2016-6/30/2018	\$582,912	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Spectrum Accountable Care Company	Consulting	7/1/2016-6/30/2018	\$749,844	Yes
The Regents of the University of California, Davis	Consulting	7/1/2016-6/30/2019	\$4,759,022	Yes
VISTAM, Inc.	Maintenance and Repair of Switchgears, Automatic Transfer Switches and Transformers	7/1/2016-6/30/2018	\$749,844	Yes

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

When a state agency requests approval from the DGS for a subdivision (b) contract, the agency must include with its contract transmittal 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 Reg., tit. 2, § 547.60.)

The total amount of all the PSC’s reviewed was \$18,246,875.60. It was beyond the scope of the review to make conclusions as to whether the DSH justifications for the contract were legally sufficient. For all PSC’s subject to DGS approval, the DSH provided specific and detailed factual information in the written justifications as to how each of the 11 contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the DSH PSC’s complied with procedural requirements.

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 CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & (c), & 19995.4, subd. (b).) The training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

Within 12 months of the initial appointment of an employee to a management or career executive assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, §§ 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs, the training must be a minimum of 20 hours. (*Ibid.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a 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 DSH's mandated training program that was in effect during the compliance review period.

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

Summary: The DSH did not provide basic supervisory training to 48 of 177 new supervisors within twelve months of appointment.

Criteria: Each department must provide its new supervisors supervisory training within twelve months of appointment. (Gov. Code, § 19995.4 subd. (b) and (c).) The training must be a minimum of 80 hours, 40 of which must be structured and given by a qualified instructor. The other 40 hours may be done on the job by a higher-level supervisor or manager. (Gov. Code, § 19995.4 subd. (b).)

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

Cause: The DSH states that the DSH Policy Directive 5305 mandates new supervisors and managers attend supervisory training within the first 12 months of appointment. Despite Policy Directive 5305, supervisors and managers do not always ensure their employees take the training, possibly due to workload or remote location of staff.

Action: The DSH must take appropriate steps to ensure that new supervisors are provided supervisory training within the twelve months.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the DSH must establish a plan to ensure compliance with supervisory training mandates and submit to the SPB a written report of compliance.

FINDING NO. 6 – Ethics Training Was Not Provided for All Filers

Summary: The DSH did not provide ethics training to 20 of 110 existing filers. In addition, the DHS did not provide ethics training to 32 of 83 new filers within six months of their appointment.

Criteria: New filers must be provided ethics training within six months of appointment. Existing filers must be trained at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).)

Severity: Very Serious. The department does not ensure that its filers are aware of prohibitions related to their official position and influence.

Cause: The DSH states that it implemented Policy Directive 5306 identifying filers and mandates completion of the Department of Justice ethics training within six months of an employee's hire. However, DSH does not have a consistent process to remind filers of the requirement and track that training has been completed.

Action: The DSH must take appropriate steps to ensure that filers are provided ethics training within the time periods prescribed.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the DSH must establish a plan to ensure compliance with ethics training mandates and submit to the SPB a written report of compliance.

FINDING NO. 7 – Sexual Harassment Training Was Not Provided for All Supervisors

Summary: The DSH did not provide sexual harassment prevention training to 87 of 270 new supervisors within six months of their appointment. In Addition, the DSH did not provide sexual harassment prevention training to 64 of 606 existing supervisors every two years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors

must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1 subd. (a).)

Severity: Very Serious. The department does not ensure its new supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

Cause: The DSH states that it mandates that sexual harassment prevention training be taken within six months of a supervisor's hire date. It appears not all training coordinators are aware of the mandate; some managers have failed to attend scheduled training and the DSH does not have a consistent process to track that training has been completed.

Action: The DSH must take appropriate steps to ensure that its supervisors are provided sexual harassment prevention training within the time periods prescribed.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the DSH must establish a plan to ensure compliance with sexual harassment prevention training mandates and submit to the SPB a written report of compliance.

DEPARTMENTAL RESPONSE

The DSH's response is attached as Attachment 1.

SPB REPLY

Based upon the DSH's written response, the DSH will comply with the CRU recommendations and findings and provide the CRU a corrective action plan.

It is further recommended that the DSH 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.

OFFICE OF THE DIRECTOR1600 Ninth Street, Room 151
Sacramento, CA 95814

September 15, 2017

Susan Ambrose
Executive Director
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. Ambrose:

The Department of State Hospitals (DSH) has received the State Personnel Board (SPB) draft report dated August 29, 2017. The draft report concludes the compliance review conducted at DSH.

The draft report identified that DSH is compliant with personnel practices in the area of examinations and personal services contracts. However, DSH is not in compliance with personnel practices in the area of appointments, establishment of a Disability Advisory Committee and mandated training requirements.

DSH agrees with SPB's findings, and will take immediate steps to develop and submit a Corrective Action Plan within 60 days of the release of the report to address the deficiencies identified.

Thank you for the opportunity to respond to your draft report. If you have any questions, please contact Cindy Woolston, Chief, Office of Audits at (916) 651-9984 or by email at cindy.woolston@dsh.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Pamela Ahlin".

Pam Ahlin, Director
Department of State Hospitals

cc: Listed on next page

Ms. Nirmeth Paddi, State Personnel Board
Policy and Compliance Review Unit
Diana Dooley, Secretary
California Health and Human Services Agency
Stephanie Clendenin, Chief Deputy Director,
California Department of State Hospitals
Lupe Alonzo-Diaz, Deputy Director, Administration,
California Department of State Hospitals
Sean Hammer, Chief of Human Resources,
California Department of State Hospitals
Cindy Woolston, Chief Office of Audits
California Department of State Hospitals

Response to State Personnel Board Review Draft Report

Department of State Hospitals: Compliance Review Report

Finding #2 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Cause:

DSH Human Resource Offices make a good faith effort to inform supervisors and managers regarding the requirements of completing probationary evaluations. Supervisors and managers are provided the forms and due dates of probationary evaluations of their employees. However, DSH does not have a consistent process to send reminders and track completion.

Department's Response:

DSH will implement a process to monitor and track probationary evaluations and remind supervisors and management staff to follow established policy and processes.

Finding #3 – A Disability Advisory Committee (DAC) Has Not Been Established

Cause:

DSH has made a concerted effort to develop a Disability Advisory Committee by soliciting its employees for interest and no responses were received.

Department's Response:

DSH will establish a Disability Advisory Committee comprised of members who have a disability or who have an interest in disability issues.

Finding #5 – Supervisor Training Was Not Provided for All Supervisors

Cause:

DSH Policy Directive 5305 mandates new supervisors and managers attend supervisory training within the first 12 months of appointment. Despite Policy Directive 5305, supervisors and managers do not always ensure their employees take the training, possibly due to workload or remote location of staff.

Department's Response:

DSH will conduct a targeted review to identify supervisors and managers that may not be compliant with DSH training mandates, identify in house or local training options and implement a process to track completion.

Finding #6 – Ethics Training Was Not Provided for All Filers

Cause:

DSH implemented Policy Directive 5306 identifying filers and mandates completion of the Department of Justice Ethics training within six months of an employee's hire. However, DSH does not have a consistent process to remind filers of the requirement and track that training has been completed.

Department's Response:

DSH will implement a process to ensure filers are notified of the training requirement, and track that training has been completed.

Finding #7 – Sexual Harassment Training Was Not Provided for All Supervisors

Cause:

DSH mandates that Sexual Harassment Training be taken within six months of a supervisor's hire date. It appears not all training coordinators are aware of the mandate; some managers have failed to attend scheduled training and DSH does not have a consistent process to track that training has been completed.

Department's Response:

DSH will identify training options, and implement a process to communicate the mandate, remind supervisors and managers of the requirement and track completion of training.