

BOARD RESOLUTION ADOPTING THE COMPLIANCE REVIEW REPORT AND FINDINGS BY THE SPB COMPLIANCE REVIEW UNIT OF THE CALIFORNIA DEPARTMENT OF ALCOHOL AND BEVERAGE CONTROL

WHEREAS, the State Personnel Board (SPB or Board) at its duly noticed meeting of March 3, 2014, carefully reviewed and considered the attached Compliance Review Report of the California Department of Alcohol and Beverage Control submitted by SPB's Compliance Review Unit.

WHEREAS, the Report was prepared following a baseline review of the California Department of Alcohol and Beverage Control's personnel practices. It details the background, scope, and methodology of the review, and the findings and recommendations.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the Report, including all findings and recommendations contained therein. A true copy of the Report shall be attached to this Board Resolution and the adoption of the Board Resolution shall be reflected in the record of the meeting and the Board's minutes.



SUZANNE M. AMBROSE
Executive Officer

COMPLIANCE REVIEW REPORT DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL FINDINGS AND RECOMMENDATIONS MARCH 3, 2014

Examinations

During the period of review, May 1, 2011 through October 31, 2012 the Department of Alcoholic Beverage Control (ABC) conducted 15 examinations. The SPB reviewed 8 of those examinations, which are listed below:

Classification Title	Examination Type	Examination Component	No. of Eligibles
Accounting Officer (Specialist)	Promotional	Education & Experience ¹ (E&E)	1
Assistant Director Northern Division (CEA II)	CEA	Statement of Qualifications ² (SOQ)	5
Assistant Director Southern Division (CEA II)	CEA	SOQ	6
Chief Prosecuting Counsel (CEA III)	CEA	SOQ	8
District Administrator, ABC	Promotional	Qualifications Appraisal Panel ³ (QAP) and Written	19
Program Technician	Promotional	Written	2
Program Technician II	Promotional	QAP	3

¹ In an Education and Experience (E&E) examination, one or more raters reviews, scores, and ranks an applicant's Standard 678 application form 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.

² In a Statement of Qualifications (SOQ) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, who are typically subject matter experts, evaluate the summaries according to a predetermined rating scale designed to assess an applicant's ability to perform the duties of the job classification for which he/she is testing. The raters also assign scores and rank the applicants on a list.

³ The Qualifications Appraisal Panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform the duties of the job classification for which he/she is testing.

Classification Title	Examination Type	Examination Component	No. of Eligibles
Senior Personnel Specialist	Promotional	E&E	1

FINDING NO. 1 – ABC Did Not Conduct a Job Analysis for the Civil Service Examinations Reviewed

The Merit Selection Manual (MSM), which is incorporated in California Code of Regulations, title 2, § 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 must be sufficiently detailed to derive the requisite knowledge, skills, abilities (KSAs), and personal characteristics that are required to perform the essential tasks and functions of the job classification. (MSM, § 2200, pp. 2-3.)

While a job analysis was not required for the CEA examinations that ABC administered, a job analysis was required for each of the civil service examinations. ABC was unable to provide a job analysis for the following examinations: Accounting Officer, District Administrator, Program Technician, Program Technician II and Senior Personnel Specialist. As a result, the SPB was unable to determine if the examinations were developed using job-related examination processes.

Classification	List Active Date	List Expiration Date	No. of Eligibles	Number of Vacant Positions as of 11/29/13
Accounting Officer	6/9/2011	6/9/2015	1	0
District Administrator	5/11/2011	5/11/2015	15	1
Program Technician	9/28/2009	9/28/2010	0	1
Program Technician II	7/30/2009	7/30/2010	0	3
Senior Personnel Specialist	8/13/2012	8/13/2013	0	0

To correct this deficiency, ABC must abolish the examination lists that have not expired for the following classifications:

- (1) Accounting Officer
- (2) District Administrator

Within 60 days of the Board's Resolution adopting these findings and recommendations, ABC must submit to the SPB a written report of compliance verifying that the above-stated examination lists have been abolished. In addition, prior to ABC administering any future examinations, ABC must create and develop each examination based upon a job analysis that meets the requirements of the MSM.

Furthermore, the Compliance Review Division (CRD) finds the appointments that were made from the examinations that were administered without a job analysis were made in good faith, are over a year old and did not merit being voided.

The Board is aware of the complex nature of and amount of time required to develop and complete a job analysis. It is thus also recommended that within 60 days of the Board's Resolution adopting these findings and recommendations, the ABC submit to the SPB a written corrective action plan describing what steps will be taken to develop job analyses for any new examinations that ABC conducts in the future.

Appointments

During the compliance review period, ABC made 111 appointments. The SPB reviewed 57 of those appointments, which are listed below:

Classification	Appointment Type	Number
Agent, ABC	Certification List	6
Associate Budget Analyst	Certification List	1
Associate Information Systems Analyst (Specialist)	Certification List	1
District Administrator, ABC	Certification List	2
Investigator	Certification List	5
LEAP Candidate	Certification List	1
Licensing Representative I, ABC	Certification List	1
Office Assistant (Typing)	Certification List	1
Office Technician (Typing)	Certification List	3
Program Technician II	Certification List	3
Senior Information Systems Analyst (Supervisor)	Certification List	1
Supervising Investigator, ABC	Certification List	4

Classification	Appointment Type	Number
Supervising Program Technician II	Certification List	1
Business Services Officer I, Specialist	Mandatory Reinstatement	1
Licensing Representative II, ABC	Mandatory Reinstatement	2
Office Technician (Typing)	Mandatory Reinstatement	2
Program Technician	Mandatory Reinstatement	1
Agent, ABC	Permissive Reinstatement	2
Investigator	Permissive Reinstatement	3
Licensing Representative II, ABC	Permissive Reinstatement	1
Program Technician, LEAP	Temporary Authorization (TAU)	1
Seasonal Clerk	TAU	1
Staff Services Analyst – Retired Annuitant	TAU	1
Agent, ABC	Transfer	4
Licensing Representative II	Transfer	1
Management Services Technician	Transfer	1
Program Technician II	Transfer	3
Senior Legal Typist	Transfer	1
Staff Services Manager I	Transfer	1
Supervising Investigator, ABC	Transfer	1

FINDING NO. 2 – ABC Did Not Retain Applications for All the Appointments Reviewed

In relevant part, civil service laws require that the employment procedures of each state agency shall conform to the federal and state laws governing employment practices. (Gov. Code, § 18720.) State agencies 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.)

ABC failed to maintain applications for several of the appointments for the minimum two year period of time. Therefore, it is recommended that within 60 days of the Board's Resolution adopting these findings and recommendations ABC submit to the Board a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the record retention requirements of Government Code section 12946. Copies of any relevant documents should be attached to the plan.

Equal Employment Opportunity

The SPB reviewed ABC's EEO policies, procedures, and programs that were in effect during the compliance review period. In addition, the SPB interviewed appropriate ABC staff.

FINDING NO. 3 – ABC's EEO Program Complies with Civil Service Laws and Rules

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 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.)

Further, 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).)

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the SPB determined that the EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. In addition, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer reports directly to the director of ABC. ABC completed a workforce analysis, which was submitted to the SPB. The workforce analysis provided statistical information necessary to evaluate the effectiveness of the EEO program. ABC provided evidence of its efforts to promote equal employment opportunity in its hiring and

employment practices, to increase its hiring of disabled persons, and to offer upward mobility opportunities for its entry-level staff. In addition, ABC has a Disability Advisory Committee (DAC).

Thus, the SPB found that ABC's EEO program complies with civil service laws and rules.

DEPARTMENTAL RESPONSE

ABC was provided a copy of the initial report to review. A copy of ABC's response is attached as Attachment 1

SPB REPLY

Based upon ABC's written response, ABC has implemented new procedures to ensure compliance with record retention laws. ABC has also developed job analysis and exam development work plans for the 2014 calendar year.

It is recommended that ABC comply with the afore-stated recommendations within 60 days of the Board's Resolution and submit to the SPB a written report of compliance.

The SPB appreciates the professionalism and cooperation of ABC during this compliance review.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

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Sacramento, CA 95834
(916) 419-2500



Attachment 1

February 12, 2014

Michael Brunette
State Personnel Board
Compliance Review Division
800 Capitol Mall
Sacramento, CA 95814

Dear Mr. Brunette:

The Department of Alcoholic Beverage Control (ABC) agrees with the findings and thanks the State Personnel Board (SPB) for conducting the compliance review. ABC's Human Resources Office has implemented new procedures to ensure compliance with the record retention policy, specifically the retention of applications. A worksheet of hiring guidelines has been developed and distributed to assist managers with the advertisement, hiring, documentation and retention requirements associated with appointments.

ABC's Human Resources Office has also developed job analyses and exam development work plans for the 2014 calendar year. Since the compliance review, several analyses have been completed and several more job analyses are in progress. In addition, ABC has participated in many of the service-wide consortium exams, including the development and completion of job analyses, with California Department of Human Resources (CalHR).

Thank you for the opportunity to respond to SPB's findings.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Jimenez", written over a horizontal line.

Ed Jimenez
Assistant Director of Administration