



COMPLIANCE REVIEW REPORT

EMERGENCY MEDICAL SERVICES AUTHORITY

Compliance Review Unit
State Personnel Board
November 19, 2019

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INTRODUCTION

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Effective July 1, 2012, the Governor's Reorganization Plan Number One (GRP1) of 2011 consolidated all of the functions of the Department of Personnel Administration and the merit-related operational functions of the State Personnel Board (SPB) into the California Department of Human Resources (CalHR).

Pursuant to Government Code section 18502(c), CalHR and SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." CalHR and SPB, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

It should be noted that this report only contains findings from this hiring authority’s compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Emergency Medical Services Authority (EMSA) personnel practices in the areas of examinations, appointments, EEO, PSC’s, mandated training, compensation and pay, leave, and policy and processes¹. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Permanent Withhold Action Complied with Civil Service Laws and Board Rules
Appointments	Equal Employment Opportunity Questionnaires Were Not Separated from Applications
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Equal Employment Opportunity	Equal Employment Opportunity Officer’s Duty Statement Does Not Reflect EEO Duties
Equal Employment Opportunity	Department Does Not Maintain a Current Equal Employment Opportunity Policy
Mandated Training	Ethics Training Was Not Provided for All Filers
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Area	Finding
Leave	Department Did Not Properly Monitor Time Worked for All Positive Paid Employees
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records
Leave	Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
Leave	Departmental Leave Reduction Policy Was Not Developed
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Injured Employee Did Not Receive Claim Form Within One Working Day of Notice or Knowledge of Injury
Policy	Performance Appraisals Were Not Provided to All Employees

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

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

BACKGROUND

The EMSA is charged with providing leadership in developing and implementing Emergency Medical Services (EMS) systems throughout California and setting standards for the training, and scope of, the practices of various levels of EMS personnel. The EMSA also has the responsibility for promoting disaster medical preparedness throughout the state, and when required, coordinating and supporting the state's medical response to major disasters. Through standard setting, consensus building, and leadership, the EMSA plays a central role in improving the quality of EMS available to all Californians.

Day-to-day EMS system management is the responsibility of the local and regional EMS agencies. It is principally through these agencies that the EMSA works to promote quality EMS statewide. EMSA staff also work closely with many local, state and federal agencies, and private enterprises with emergency and/or disaster medical services roles and responsibilities. The EMSA is authorized 78 positions and also has 15 temporary positions totaling a staff of 93.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the EMSA's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if the EMSA's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

The EMSA did not conduct any examinations during the compliance review period. However the CRU reviewed the EMSA's Permanent Withhold Actions documentation, including Withhold Determination Worksheets, State applications, class specifications, and Withhold letters.

A cross-section of the EMSA's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the EMSA provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports

The EMSA did not conduct any unlawful appointment investigations during the compliance review period.

Additionally, the EMSA did not make any additional appointments during the compliance review period.

The EMSA's appointments were also selected for review to ensure the EMSA applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the EMSA provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: hiring above minimum (HAM) requests and monthly pay differentials.

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

During the compliance review period, the EMSA did not issue or authorize red circle rate requests, arduous pay, bilingual pay, alternate range movements or out-of-class assignments.

The review of the EMSA'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 reasonable accommodation program; and the Disability Advisory Committee (DAC).

The EMSA did not execute any PSC's during the compliance review period.

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

The CRU also identified the EMSA's employees whose current annual leave, or vacation leave credits, exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Additionally, the CRU asked the EMSA to provide a copy of their leave reduction policy.

The CRU reviewed the EMSA's Leave Activity and Correction Certification forms to verify that the EMSA created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected a small cross-section of the EMSA's units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of EMSA positive paid employees whose hours are tracked in order to ensure that they adhered to procedural requirements.

During the compliance review period, the EMSA did not have any employees with non-qualifying pay period transactions.

The EMSA also did not authorize Administrative Time Off (ATO).

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

The EMSA elected not to have an exit conference. The CRU received and carefully reviewed the EMSA’s written response on November 8th, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) Once a candidate has obtained list eligibility, a department may discover information pertaining to that eligible which raises concerns regarding his/her eligibility or suitability for employment with the state. (CalHR Withhold Manual, p. 3.) A permanent withhold action is valid for the duration of the eligible’s list eligibility. (*Ibid.*) Departments are required to maintain a separate file for each withhold action and the file should include a copy of the withhold notification letter sent to the eligible, as well as all supporting documentation which form the basis of the withhold action. (CalHR Withhold Manual, p. 2.)

During the period under review, June 1, 2018 through February 28, 2019, the EMSA conducted one permanent withhold action. The CRU reviewed the permanent withhold action, which is listed below:

Exam Title	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Staff Services Analyst	4/30/18	4/30/19	Failed to Meet Minimum Qualifications

FINDING NO. 1 – Permanent Withhold Action Complied with Civil Service Laws and Board Rules

The CRU found no deficiencies in the permanent withhold action undertaken by the department during the compliance review period.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250 (b).) Interviews shall be conducted using job-related criteria. (Ibid.) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250 (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (Ibid.) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250 (e).)

For the purposes of temporary appointments, an employment list is considered not to exist where there is an open eligible list that has three or fewer names of persons willing to accept appointment and no other employment list for the classification is available. (Cal. Code Regs., tit. 2, § 265.) In such a situation, an appointing power may make a temporary appointment in accordance with section 265.1 (Ibid.) A Temporary Authorization Utilization (TAU) appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII, § 5.) In addition, when a temporary appointment is made to a permanent position, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment. (Gov. Code, § 19058.)

During the period under review, April 1, 2018 through December 31, 2018, the EMSA made 105 appointments. The CRU reviewed 24 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Government Program Analyst	Certification List	Permanent	Full Time	3
Program Manager I	Certification List	Permanent	Full Time	1
Assistant Telecommunications Engineer	Emergency	Emergency	Intermittent	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Emergency	Emergency	Intermittent	1
Health And Safety Officer	Emergency	Emergency	Intermittent	2
Nurse Practitioner	Emergency	Emergency	Intermittent	2
Office Technician (General)	Emergency	Emergency	Intermittent	1
Office Technician (Typing)	Emergency	Emergency	Intermittent	1
Pharmacist I	Emergency	Emergency	Intermittent	2
Physician And Surgeon	Emergency	Emergency	Intermittent	2
Supervising Registered Nurse	Emergency	Emergency	Intermittent	1
Various Duties	Emergency	Emergency	Intermittent	1
Attorney III	Permissive Reinstatement	Retired Annuitant	Intermittent	1
Special Investigator	Permissive Reinstatement	Retired Annuitant	Intermittent	1
Warehouse Worker	Permissive Reinstatement	Retired Annuitant	Intermittent	1
Seasonal Clerk	Temporary Authorization	Temporary	Intermittent	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Senior Emergency Services Coordinator, OES	Transfer	Permanent	Full Time	1

FINDING NO. 2 – Equal Employment Opportunity Questionnaires Were Not Separated from Applications

Summary:

Out of 24 appointments reviewed, one appointment file included applications where EEO questionnaires were not separated from the STD 678 employment application. Specifically, two of the 81 applications reviewed included EEO questionnaires that were not separated from the STD 678 employment application.

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 the 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.”

Severity: Very Serious. The applicants’ protected classes were visible, subjecting the agency to potential liability.

Cause: The EMSA states that EEO questionnaires were not removed from two applications due to human error.

Action: It is recommended that within 60 days of the SPB Executive Officer’s approval of these findings and recommendations, the EMSA submit to the CRU a written corrective action plan that the department will implement to ensure that future EEO questionnaires are separated from all applications. Copies of any relevant documentation should be included with the plan.

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

Summary: The EMSA did not provide three probationary reports of performance for one appointment reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Associate Governmental Program Analyst	Certification List	1	3

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (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 department rules may require. (Gov. Code, § 19172.) A report of the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board’s record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 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 EMSA states that despite notifications being sent, not all managers and supervisors completed the required probationary evaluations due to work demands and competing priorities.

Action: It is recommended that within 60 days of the SPB Executive Officer’s approval of these findings and recommendations, the EMSA 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. Copies of any relevant documentation should be included with the plan.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department’s EEO program. (Gov. Code, § 19795, subd. (a).)

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like EMSA, the EEO Officer may be the Personnel Officer.

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

FINDING NO. 4 – Equal Employment Opportunity Officer’s Duty Statement Does Not Reflect EEO Duties

Summary: The EMSA’s Staff Services Manager (SSM) II (Supervisory) serves as the EEO Officer. The SSM II’s duty statement provided by EMSA does not contain EEO Officer-related duties.

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, subd. (a).) The EEO Officer shall, among other duties, analyze and report on appointments of employees, bring issues of concern regarding EEO to the appointing power and recommend appropriate action, and perform other duties necessary for the effective implementation of the agency EEO plans. (Gov. Code, § 19795, subd. (a).)

Severity: Very Serious. The EEO Officer is responsible for developing, implementing, coordinating, and monitoring an effective EEO program. Due to the substantial responsibilities held by each department's EEO Officer, it is essential that each department, dedicate sufficient staff resources to successfully maintain an effective EEO program.

Cause: The EMSA states that there is no requirement under Government Code section 19795 that the EEO duties be specified in the EEO Officer's duty statement.

Action: It is recommended that within 60 days of the SPB Executive Officer's approval of these findings and recommendations, the EMSA submit to the CRU a written report of compliance including an updated duty statement for the EEO Officer.

FINDING NO. 5 – Department Does Not Maintain a Current Equal Employment Opportunity Policy

Summary: The EMSA maintains a current written sexual harassment prevention policy, however they do not have an EEO policy.

Criteria: The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO. (Gov. Code, § 19794, subd. (a))

Severity: Very Serious. A policy statement committing to EEO is a vital step in preventing discrimination in the work place. Without an EEO policy in place, the agency cannot establish its expectation as an equal opportunity employer to its employees.

Cause: The EMSA states that they provided a copy of their sexual harassment and prevention policy which contains components of an EEO policy, including procedures for filing, processing, and resolving discrimination complaints.

Action: It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the EMSA submit to CRU a written report of compliance including a completed EEO policy in conformity with Government Code section 19794.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & 19995.4, subd. (b).)

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

conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

Within 12 months of the initial appointment of an employee to a management or Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, 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 EMSA's supervisory training was found to be in compliance. However, the EMSA's ethics training and sexual harassment prevention training were found to be out of compliance.

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

Summary: The EMSA did not provide ethics training to two of two existing filers. The EMSA did not have any new filers.

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 EMSA states that they failed to provide ethics training to two filers due to insufficient internal procedures.

Action: The EMSA must take appropriate steps to ensure that filers are provided ethics training within the prescribed time periods. It is therefore recommended that no later than 60 days after the SPB Executive Officer's approval of these findings and recommendations, the EMSA must establish a plan to ensure compliance with ethics training mandates and submit to the SPB a corrective action plan.

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

Summary: The EMSA provided sexual harassment prevention training to five of five new supervisors within six months of their appointment. However, the EMSA did not provide sexual harassment prevention training to one of 13 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 that all new and existing 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 EMSA states that despite notifications being sent, not all managers and supervisors completed the required trainings due to work demands and competing priorities.

Action: The EMSA must take appropriate steps to ensure that all sexual harassment prevention training is completed within the prescribed time periods. It is therefore recommended that no later than 60 days after the SPB Executive Officer's approval of these findings and recommendations, the EMSA must establish a plan to ensure compliance with sexual harassment training mandates and submit to the SPB a corrective action plan.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate³ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, April 1, 2018 through December 31, 2018, the EMSA made 105 appointments. The CRU reviewed 21 of those appointments to determine if the EMSA applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Government Program Analyst	Certification List	Permanent	Full Time	\$4,343
Associate Government Program Analyst	Certification List	Permanent	Full Time	\$4,761
Associate Government Program Analyst	Certification List	Permanent	Full Time	\$4,975
Program Manager I	Certification List	Permanent	Full Time	\$5,888
Assistant Telecommunications Engineer	Emergency	Emergency	Intermittent	\$6,458
Associate Governmental Program Analyst	Emergency	Emergency	Intermittent	\$4,975
Health And Safety Officer	Emergency	Emergency	Intermittent	\$5,383

³ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Health And Safety Officer	Emergency	Emergency	Intermittent	\$5,383
Nurse Practitioner	Emergency	Emergency	Intermittent	\$7,075
Nurse Practitioner	Emergency	Emergency	Intermittent	\$7,075
Office Technician (General)	Emergency	Emergency	Intermittent	\$2,983
Office Technician (Typing)	Emergency	Emergency	Intermittent	\$3,038
Pharmacist I	Emergency	Emergency	Intermittent	\$6,123
Pharmacist I	Emergency	Emergency	Intermittent	\$6,123
Physician And Surgeon	Emergency	Emergency	Intermittent	\$8,401
Physician And Surgeon	Emergency	Emergency	Intermittent	\$8,401
Supervising Registered Nurse	Emergency	Emergency	Intermittent	\$6,007
Various Duties	Emergency	Emergency	Intermittent	\$3,571
Seasonal Clerk	Temporary Authorization	Temporary	Intermittent	\$1,983
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$1,983
Senior Emergency Services Coordinator, Office Of Emergency Services	Transfer	Permanent	Full Time	\$5,381

FINDING NO. 8 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Hiring Above Minimum Requests

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

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

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action.⁴ (Gov. Code § 19836 subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and

⁴ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

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

During the period under review, April 1, 2018 through December 31, 2018, the EMSA authorized one HAM request. The CRU reviewed the authorized HAM request to determine if the EMSA correctly applied Government Code section 19836 and appropriately verified, approved and documented the candidate’s extraordinary qualifications, which is listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Program Manager I	Certification List	New to State	\$5,888 - \$7,327	\$7,327

FINDING NO. 9 – Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary

responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

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

During the period under review, April 1, 2018 through September 30, 2018, the EMSA issued pay differentials⁵ to one employee. The CRU reviewed the pay differential to ensure compliance with applicable CalHR policies and guidelines. It is listed below:

Classification	Pay Differential	Monthly Amount
Executive Assistant	52 (Executive Assistant)	1.5 Salary Steps

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

The CRU found no deficiencies in the pay differential that the EMSA authorized during the compliance review period. The pay differential was issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Leave

Positive Paid Employees

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

⁵ For the purposes of CRU’s review, only monthly pay differentials were selected for review at this time.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days⁶ worked and paid absences,⁷ is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded.⁸ (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1,500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Generally, permanent intermittent employees may work up to 1,500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2,000 hours in any calendar year.

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June) without reinstatement, loss or interruption of benefits for all state employers.

At the time of the review, the EMSA tracked the hours of 21 positive paid employees. The CRU reviewed 12 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

⁶ For example, two hours or ten hours counts as one day.

⁷ For example, vacation, sick leave, compensating time off, etc.

⁸ "California Code of Regulation section 265.1 became effective July 1, 2017, and did not apply at the time of all of these appointments. The current regulation sets forth the method for counting time for temporary appointments. The cap under the current regulation is 189 days.

Classification	Tenure	Time Base	Time Frame	Time Worked
Associate Governmental Program Analyst	Retired Annuitant	Intermittent	7/1/17 - 6/30/18	278.5 Hours
Associate Governmental Program Analyst	Retired Annuitant	Intermittent	7/1/17 - 6/30/18	598 Hours
Attorney III	Retired Annuitant	Intermittent	7/1/18 - 6/30/19	599.5 Hours
Attorney III	Retired Annuitant	Intermittent	7/1/17 - 6/30/18	147 Hours
Attorney III	Retired Annuitant	Intermittent	7/1/17 - 6/30/18	590 Hours
Attorney III	Retired Annuitant	Intermittent	7/1/17 - 6/30/18	593 Hours
Health Program Specialist II	Retired Annuitant	Intermittent	7/1/17 - 6/30/18	136 Hours
Senior Program Analyst (Specialist)	Retired Annuitant	Intermittent	7/1/17 - 6/30/18	298.5 Hours
Warehouse Worker	Retired Annuitant	Intermittent	7/1/17 - 6/30/18	525 Hours
Warehouse Worker	Retired Annuitant	Intermittent	7/1/17 - 6/30/18	0 Hours
Warehouse Worker	Retired Annuitant	Intermittent	7/1/18 - 6/30/19	570.5 Hours
Seasonal Clerk	Temporary	Intermittent	10/17/18-12/30/18	39 Days

FINDING NO. 11 – Department Did Not Properly Monitor Time Worked for All Positive Paid Employees

Summary: The CRU found two payroll and/or timekeeping errors when reviewing positive paid employees:

Classification	Description of Findings
Associate Governmental Program Analyst	Employee did not receive pay for five hours worked during the July 2018 pay period.
Attorney III	Employee did not receive pay for 4.5 hours worked during the July 2018 pay period.

- Criteria:** Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)
- Severity:** Serious. Failure to properly monitor attendance records and employees' time worked results in civil service employees receiving incorrect and/or inappropriate compensation and/or benefits.
- Cause:** The EMSA states that they are working with DGS to determine why the two payroll and/or timekeeping errors occurred.
- Action:** It is recommended that within 60 days of the SPB Executive Officer's approval of these findings and recommendations, the EMSA submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure all positive paid employees' hours are tracked and processed in conformity with Government Code Section 21224 and California Code of Regulations, title 2, section 599.665. In addition, the EMSA must provide relevant documentation showing the corrections that were made and that accounts receivables were created to collect the payment errors.

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)

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

During the period under review, September 1, 2018 through November 30, 2018, the EMSA reported two units comprised of 20 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
September, 2018	500	8	4	0
September, 2018	700	19	16	0
October, 2018	500	8	4	0
October, 2018	700	20	16	0
November, 2018	500	8	4	0
November, 2018	700	19	16	0

FINDING NO. 12 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records

Summary: The EMSA failed to provide completed Leave Activity and Correction Certification forms for two out of two units reviewed during the September, October, and November 2018 pay periods.

Criteria: Departments are responsible for maintaining accurate and timely leave accounting records for their employees. (Cal. Code Regs., tit. 2, § 599.665.) Departments shall identify and record all errors found using a Leave Activity and Correction form. (Human Resources Manual Section 2101.) Furthermore, departments shall certify that all leave records for the unit/pay period identified on the certification form have been reviewed and all leave errors identified have been corrected. (*Ibid.*)

Severity: Technical. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. For post audit purposes, the completion of Leave Activity and Correction Certification forms demonstrates compliance with CalHR policies and guidelines.

Cause: The EMSA states that they are working with DGS to determine why the Leave Activity and Correction Certification forms were not completed.

Action: The EMSA must take appropriate steps to ensure that their monthly internal audit process is documented. It is therefore recommended that no later than 60 days after the SPB Executive Officer's approval of these findings and recommendations, the EMSA must work with DGS to incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected.

Leave Reduction Efforts

Departments must create a leave reduction policy for their organization and monitor employees' leave to ensure compliance with the departmental leave policy; and ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. (Human Resources Manual Section 2124.)

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, the employee may accumulate the unused portion."⁹ (Cal. Code Regs., tit. 2, § 599.737.) If it appears an excluded employee will have a vacation or annual leave balance that will be above the maximum amount¹⁰ as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

"It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation. (Cal. Code Regs., tit. 2, § 599.742.1.), ensuring employees maintain the capacity to optimally perform their jobs. For excluded employees, "the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee

⁹ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining unit 6 there is no established limit and for bargaining unit 5 the established limit is 816 hours.

¹⁰ Excluded employees shall not accumulate more than 80 days.

to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*Ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work- life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2018, 10 EMSA employees exceeded the established limits of vacation or annual leave. The CRU reviewed 10 of those employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Administrative Adviser II, CEA	M02	140	No
Health Program Manager II	S01	310	No
Information Technician Specialist I	R01	334.75	No
Information Technician Specialist I	R01	326.75	No
Program Manager I, OES	S07	144.5	No
Program Manager I, OES	S07	67.5	No
Program Manager II, OES	S07	256	No
Senior Emergency Services Coordinator	R07	23.5	No
Special Investigator	R07	88.5	No
Staff Services Manager III	M01	98	No
Total		1789.5	

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

Summary: The EMSA did not provide leave reduction plans for the 10 employees reviewed whose leave balances significantly exceeded established limits.

Criteria: “It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by

both internal customers and the citizens of California. (Human Resources Online Manual Section 2124.) Therefore, appointing authorities and state managers and supervisors must create a leave reduction policy for the organization and monitor employees' leave to ensure compliance with the departmental leave policy. Employees who have significant "over-the-cap" leave balances must have a leave reduction plan in place and be actively reducing hours." (*Ibid.*)

Severity: Technical. California state employees have accumulated significant leave hours creating an unfunded liability for departmental budgets. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.

Cause: The EMSA states that they do not currently have a process or policy in place to enforce the development and implementation of leave reduction plans.

Action: The EMSA must take appropriate steps to ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place and are actively reducing hours. It is therefore recommended that no later than 60 days after the SPB Executive Officer's approval of these findings and recommendations, the EMSA must submit to the CRU a policy and plan to address leave reduction efforts.

FINDING NO. 14 – Departmental Leave Reduction Policy Was Not Developed

Summary: The EMSA did not develop and communicate general departmental leave reduction policy, procedures, and practices.

Criteria: "It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. (Human Resources Manual Section 2124.) Therefore, appointing authorities and state managers and supervisors must create a leave reduction policy for the organization and monitor employees' leave to ensure compliance with the departmental leave policy; and; ensure employees who have significant 'over-the-cap' leave balances have

a leave reduction plan in place and are actively reducing hours”.
(*Ibid.*)

Severity: Technical. California state employees have accumulated significant leave hours creating an unfunded liability for departmental budgets. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.

Cause: The EMSA states that they do not currently have a leave reduction process or policy in place.

Action: It is recommended that within 60 days of the SPB Executive Officer’s approval of these findings and recommendations, the EMSA submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.742 and Human Resources Online Manual Section 2124. A new leave reduction policy should be included with the plan.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) In addition, there may be personal relationships beyond this general definition that could be subject to these policies. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

FINDING NO. 15 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the policy was disseminated to all staff and emphasized the EMSA's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the EMSA's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers' Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880 subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code Section 4600. (Cal. Code Regs., tit. 8, § 9880 subd. (c)(7)(8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401 subd. (a).)

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

In this case, the EMSA did not employ volunteers during the compliance review period.

FINDING NO. 16 – Injured Employee Did Not Receive Claim Form Within One Working Day of Notice or Knowledge of Injury

Summary: Of the five injured employees reviewed by the CRU, one employee did not receive a claim form within one working day of notice or knowledge of injury.

- Criteria:** An employer shall provide a claim form and notice of potential eligibility for workers' compensation benefits to their employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness. (Lab. Code, § 540.1.)
- Severity:** Very Serious. Injured employees were not provided the form within the 24-hour time period. Providing the form within 24-hours of injury prevents any delay in treatment to which the employee is entitled. A work related injury can result in lost time beyond the employee's work shift at the time of injury and/or result in additional medical treatment beyond first aid.
- Cause:** The EMSA states that the workplace injury in question occurred during an emergency response and was not reported to management until many days after the injury occurred.
- Action:** It is recommended that within 60 days of the SPB Executive Officer's approval of these findings and recommendations, the EMSA submit to the CRU a written corrective action plan that the department will implement to ensure conformity with Labor Code section 540.1. Copies of any relevant documentation should be included with the plan.

Performance Appraisals

According to Government Code section 19992.2 subsection (a), appointing powers must "prepare performance reports." Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee's probationary period.

The CRU selected 16 permanent EMSA employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

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

Summary: The EMSA did not provide performance appraisals to 16 of 16 employees reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period which are listed below:

Classification	Date Performance Appraisals Due
Associate Health Program Adviser	2/1/2018
Executive Assistant	10/4/2018
Health Program Specialist I	7/22/2018
Health Program Specialist II	2/3/2018
Office Technician (Typing)	9/4/2018
Office Technician (Typing)	5/7/2018
Program Technician III	5/2/2018
Senior Emergency Services Coordinator, OES	4/1/2018
Special Investigator	7/1/2018
Staff Services Analyst (General)	6/13/2018
Staff Services Analyst (General)	8/3/2018
Staff Services Manager I	12/17/2018
Staff Services Manager I	8/2/2018
Staff Services Manager I	7/13/2018
Staff Services Manager II (Supervisory)	2/9/2018
Staff Services Manager III	8/17/2018

Criteria: “Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule.” (Gov. Code § 19992.2 subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

Severity: Serious. The department does not ensure that all of its employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The EMSA states that despite notifications being sent, not all managers and supervisors completed the required appraisals due to work demands and competing priorities.

Action: It is recommended that within 60 days of the SPB Executive Officer's approval of these findings and recommendations, the EMSA submit to the SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of any relevant documentation should be included with the plan.

DEPARTMENTAL RESPONSE

The EMSA's response is attached as Attachment 1.

SPB REPLY

Based upon the EMSA's written response, the EMSA will comply with the CRU's recommendations and findings.

It is further recommended that the EMSA 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.

EMERGENCY MEDICAL SERVICES AUTHORITY

10901 GOLD CENTER DRIVE, SUITE 400
RANCHO CORDOVA, CA 95670-6073
(916) 322-4336 FAX (916) 324-2875

Attachment 1

November 8, 2019

Suzanne Ambrose
Executive Officer
State Personnel Board

SUBJECT: 2019 State Personnel Board (SPB) Compliance Review (CR) Response

This letter is in response to the draft SPB CR Report submitted to the Emergency Medical Services Authority (EMSA)/Department of General Services (DGS) by the State Personnel Board (SPB) for review. Both EMSA/DGS have reviewed the CR report and does not dispute the findings.

Both EMSA/DGS take these compliance issues very seriously and have taken into account the findings identified in the CR report and begun the necessary corrective actions to bring the Department into compliance. Subsequent action beyond the responses to each finding below will be addressed and documented in a separate corrective action plan.

Finding # 2: Equal Employment Opportunity Questionnaires Were Not Separated from Applications

Cause: EMSA acknowledges this finding that the EEO questionnaires were not removed from the two applications.

Corrective Action: EMSA has shifted to the online application process through the Examination and Certification Online System, which, in combination with proper controls, will ensure that EEO information is not disclosed to staff or management in the future.

Finding # 3: Probationary Evaluations Were Not Provided for All Appointments Reviewed

Cause: EMSA's HR analyst notifies supervisors and managers of all their employees, which are due probationary reports. Despite notifications being sent, not all managers and supervisors complete the required appraisals due to work demands and competing priorities.

Corrective Action: EMSA is aware of the importance to evaluate the work and efficiency of a probationer at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. By December 31, 2019, EMSA will develop and implement a policy and process which emphasizes and stresses the importance of completing probationary reports within the probationary period with the understanding that this policy will also serve as a reminder to complete and submit any outstanding probationary reports.

Finding # 4: Equal Employment Opportunity Officer's Duty Statement Does Not Reflect EEO Duties

Cause: EMSA's Chief of Administration serves as the EEO Officer and reports directly to the Director of the Department to develop, implement, coordinate, and monitor the agency's equal employment opportunity program. Under Government Code, § 19795 there is no requirement that these EEO duties be specified in the EEO Officer's duty statement.

Corrective Action: EMSA believes that no corrective action is needed at this time.

Finding # 5: Department Does Not Maintain a Current Equal Employment Opportunity Policy

Cause: EMSA understands the importance of complying with Government Code, § 19794, subd. (a). As part of the CR process EMSA did provide a copy of the Department's Sexual Harassment and Prevention policy which does contain components of an EEO policy including procedures for filing, processing, and resolving discrimination complaints within EMSA.

Corrective Action: EMSA understands the importance of complying with Government Code, § 19794 to ensure Equal Employment Opportunities for all and by December 31, 2019 will issue a standalone EEO policy committing to equal employment opportunity and ensuring compliance with all requirements of Government Code, § 19794

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

Cause: EMSA acknowledges failing to provide Ethics training to two filers due to insufficient internal procedures.

Corrective Action: EMSA recognizes the importance of compliance with mandatory training requirements. EMSA will develop and implement an electronic system by December 31, 2019 to track the due dates for all mandated and required training and each employee, along with their supervisor, will receive sufficient and timely notification to complete required training within the mandated time frames.

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

Cause: EMSA's HR analyst notifies supervisors and managers of upcoming training needs. Despite the notifications being sent, not all managers and supervisors complete the required trainings due to work demands and competing priorities.

Corrective Action: EMSA recognizes the importance of compliance with mandatory training requirements. EMSA will develop and implement an electronic system by December 31, 2019 to track the due dates for all mandated and required training and each employee, along with their supervisor and Division Chief, will receive sufficient and timely notification to complete required training within the mandated time frames.

Finding # 11: Department Did Not Properly Monitor Time Worked for All Positive Paid Employees

Cause: EMSA acknowledges this finding and is working with our partners at DGS to determine why these two payroll and/or timekeeping errors occurred.

Corrective Action: EMSA and DGS are working together to ensure that complete and accurate time and attendance record are kept for all employees.

Finding # 12: Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records

Cause: EMSA acknowledges this finding and is working with our partners at DGS to determine why these Leave Activity and Correction Certification forms were not completed.

Corrective Action: EMSA and DGS are working together to strength the current process to ensure that complete and accurate Leave Activity and Correction Certification forms are completed for all employees.

Finding # 13: Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits

Cause: EMSA agrees with this finding and acknowledges that it does not currently have a process or policy in place to enforce the development and implementation of leave reduction plans.

Corrective Action: EMSA will begin to issue issue notices to employees, including their supervisors, who have leave balances above the maximum accrual limit and set a requirement for a Leave Reduction plan to be on file.

Finding # 14: Departmental Leave Reduction Policy Was Not Developed

Cause: EMSA agrees with this finding and acknowledges that it does not currently have a Departmental Leave Reduction process or policy in place.

Corrective Action: EMSA recognizes the importance of monitoring leave balances to ensure that all employees make every effort to adhere to a maximum cap of annual leave/vacation hours. By December 31, 2019, EMSA will develop and implement a Excess Leave Reduction Policy.

Finding # 16: Injured Employee Did Not Receive Claim Form Within One Working Day of Notice or Knowledge of Injury

Cause: While EMSA agrees with this finding it must be noted that the workplace injury in question occurred during the an emergency response and was not reported to management until many days after the injury occurred.

Corrective Action: EMSA believes that no corrective action is needed at this time.

If you have questions or need additional information, feel free to contact me at 916-431-3737 or by email at rick.trussell@emsa.ca.gov.

Finding # 17: Performance Appraisals Were Not Provided for All Employees

Cause: EMSA's HR analyst notifies supervisors and managers of all their employees, which are due performance appraisal reports. Despite notifications being sent, not all managers and supervisors complete the required appraisals due to work demands and competing priorities.

Corrective Action: EMSA is aware of the importance to evaluate the work and efficiency of all employees on a yearly basis. By December 31, 2019, EMSA will develop and implement a policy and process which emphasizes and stresses the importance of completing performance appraisals ensuring that all of its employees are apprised of work performance issues and/or goals in a systematic manner.

Sincerely,



Richard Trussell
Chief of Administration
Emergency Medical Services Authority