



# **COMPLIANCE REVIEW REPORT**

## **FAIR POLITICAL PRACTICES COMMISSION**

Compliance Review Unit  
State Personnel Board  
March 11, 2020

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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.

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, 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 Fair Political Practices Commission (FPPC) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Timely
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Ethics Training Was Not Provided for All Filers in a Timely Manner
Compensation and Pay	Incorrect Application of Compensation Laws, Rules, and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Out of Class Pay Commenced before the 91 <sup>st</sup> Day
Leave	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records
Leave	Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

Area	Finding
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisal Were Not Provided to All Employee

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

- Red = Very Serious
- Orange = Serious
- Yellow = Technical
- Green = In Compliance

## **BACKGROUND**

The FPPC is a five-member independent, non-partisan commission that has primary responsibility for the impartial and effective administration of the Political Reform Act. The Political Reform Act regulates campaign financing, conflicts of interest, lobbying, and governmental ethics. The FPPC's objectives are to ensure that public officials act in a fair and unbiased manner in the governmental decision-making process, to promote transparency in government, and to foster public trust in the political system. As of July 1, 2019, the FPPC has approximately 80 employees and 3 divisions.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the FPPC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>1</sup>. The primary objective of the review was to determine if the FPPC'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.

A cross-section of the FPPC's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The

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

CRU examined the documentation that the FPPC provided, which included examination plans, examination bulletins, job analyses, and scoring results.

The FPPC did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the FPPC'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 FPPC 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 FPPC did not conduct any unlawful appointment investigations during the compliance review period.

The FPPC's appointments were also selected for review to ensure the FPPC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the FPPC 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: alternate range movements, and out-of-class assignments.

During the compliance review period, the FPPC did not issue or authorize any hiring above minimum requests, red circle rate requests, arduous pay, bilingual pay, and monthly pay differentials.

The review of the FPPC'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; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The FPPC's PSC's were also reviewed.<sup>2</sup> It was beyond the scope of the compliance review to make conclusions as to whether the FPPC's justifications for the contracts were

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<sup>2</sup>If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

legally sufficient. The review was limited to whether the FPPC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The FPPC'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 FPPC'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 FPPC to provide a copy of their leave reduction policy.

The CRU reviewed the FPPC's Leave Activity and Correction Certification forms to verify that the FPPC 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 FPPC's units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the FPPC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of FPPC positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

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

On February 7, 2020, an exit conference was held with the FPPC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the FPPC's written response on February 26, 2020, which is attached to this final compliance review report.

## FINDINGS AND RECOMMENDATIONS

### Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) 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, August 1, 2018, through July 31, 2019, the FPPC conducted one examination. The CRU reviewed that examination, which is listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
General Counsel, Career Executive Assignment (CEA)	Open	Qualification Appraisal Panel (QAP) <sup>3</sup>	Until Filled	1

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

The CRU reviewed one open examination which the FPPC administered in order to create an eligible list from which to make appointments. The FPPC published and distributed

<sup>3</sup> The 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 in a job classification.



examination bulletins containing the required information for all examinations. Applications received by the FPPC 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 FPPC conducted 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, subd. (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, subd. (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, subd. (e).)

During the period under review, August 1, 2018, through July 31, 2019, the FPPC made 30 appointments. The CRU reviewed 14 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
CEA, A	CEA	Permanent	Full Time	1
Assistant Chief Counsel	Certification List	Permanent	Full Time	1
Budget Analyst	Certification List	Permanent	Full Time	1
FPPC Counsel	Certification List	Permanent	Full Time	1
Information Technology Technician	Certification List	Limited Term	Full Time	1
Political Reform Consultant II	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Special Investigator	Certification List	Limited Term	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
FPPC Counsel	Reinstatement	Permanent	Full Time	1
FPPC Counsel	Transfer	Permanent	Full Time	1
Staff Services Analyst	Transfer	Permanent	Full Time	1
Supervising Attorney	Transfer	Permanent	Full Time	1

**FINDING NO. 2 – Probationary Evaluations Were Not Timely**

**Summary:** The FPPC did not provide, in a timely manner, 8 probationary reports of performance for 4 of 14 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Assistant Chief Counsel	Certification List	1	2
Political Reform Consultant I	Certification List	1	3
FPPC Counsel	Transfer	1	2
Supervising Attorney	Transfer	1	1

**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. (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 FPPC provides that with respect to the four employees who received untimely reports, workload demands and mission-critical initiatives of their respective supervisors resulted in the untimely completion of probation reports.

**Corrective Action:** Within 60 days of the date of this report, the FPPC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### **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 FPPC, 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. 3 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules**

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the FPPC EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the FPPC. In addition, the FPPC has an established DAC, which reports to the Executive Director on issues affecting persons with disabilities. The FPPC also provided evidence of its efforts to promote EEO in its hiring and employment practices, and to increase its hiring of persons with disabilities. Accordingly, the FPPC EEO program complied with civil service laws and Board rules.

**Personal Services Contracts**

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC's, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, August 1, 2018, through July 31, 2019, the FPPC had two PSC's that were in effect. The CRU reviewed both of those contracts, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notified
Escribers	Transcription Services	12/2018 - 11/2020	\$9,000	Yes	No
Unleashing Leaders	Leadership Training	8/2018 - 6/2020	\$15,000	Yes	No

**FINDING NO. 4 – Unions Were Not Notified of Personal Services Contracts**

**Summary:** The FPPC did not notify unions prior to entering into both of the PSC's reviewed.

**Criteria:** The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

**Severity:** Serious. Unions must be notified of impending PSC's in order to ensure they are aware contracts are being proposed for work that their members could perform.

**Cause:** The FPPC states that they determined there were no organizations performing the services, therefore, no organizations were notified. However, it will update its internal procedures to ensure employee organizations are notified before executing a PSC.

**Corrective Action:** It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the work to be contracted prior to executing the PSC. The PSCs reviewed during

this compliance review involved transcription and training services, functions that various rank-and-file civil service classifications perform. Within 60 days of the date of this report, the FPPC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### **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 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 biennial 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 FPPC's mandated training program that was in effect during the compliance review period, August 1, 2017, to July 31, 2019. The FPPC's supervisory training and sexual harassment training were found to be in compliance, while the FPPC's ethics training was found to be out of compliance.

**FINDING NO. 5 – Ethics Training Was Not Provided for All Filers in a Timely Manner**

**Summary:** The FPPC provided ethics training to all 37 existing filers. However the FPPC did not provide ethics training to 8 of 13 new filers within 6 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 FPPC states that the failure to timely provide ethics training to eight new filers was due to insufficient internal procedures.

**Corrective Action:** Within 60 days of the date of this report, the FPPC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that all filers are

provided ethics training within the time periods prescribed. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee’s salary rate<sup>4</sup> 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, August 1, 2018, through July 31, 2019, the FPPC made 30 appointments. The CRU reviewed 13 of those appointments to determine if the FPPC applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Assistant Chief Counsel	Certification List	Permanent	Full Time	\$12,406
Budget Analyst	Certification List	Permanent	Full Time	\$5,224
FPPC Counsel	Certification List	Permanent	Full Time	\$5,602
Information Technology Technician	Certification List	Permanent	Full Time	\$3,362
Political Reform Consultant II	Certification List	Permanent	Full Time	\$5,759

<sup>4</sup> “Rate” is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).



Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Political Reform Consultant II	Certification List	Permanent	Full Time	\$5,759
Special Investigator	Certification List	Permanent	Full Time	\$6,539
Staff Services Analyst	Certification List	Permanent	Full Time	\$4,158
Staff Services Manager I	Certification List	Permanent	Full Time	\$7,183
FPPC Counsel	Reinstatement	Permanent	Full Time	\$7,098
FPPC Counsel	Transfer	Permanent	Full Time	\$6,118
Staff Services Analyst	Transfer	Permanent	Full Time	\$3,571
Supervising Attorney	Transfer	Permanent	Full Time	\$11,828

**FINDING NO. 6 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment**

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

Classification	Description of Findings	Criteria
1. FPPC Counsel	Incorrect salary determination for a permissive reinstatement upon return from a permanent separation. The employee should have received the minimum salary rate of Range C. The salary rate shall not exceed the rate the employee would receive if reinstated or reappointed to the same classification from which they separated.	Cal. Code Regs., tit. 2, §599.677
2. Staff Services Analyst	Incorrect salary determination for a list appointment. Employee should not have received a five percent salary increase. Employee was entitled to receive the range differential which was 4.46 percent.	Cal. Code Regs., tit.2, §599.674

**Criteria:** Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

**Severity:** Very Serious. The FPPC failed to comply with the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

**Cause:** 1. The FPPC states that the incorrect salary determination for the FPPC Counsel was the result of human error; the salary was incorrectly keyed even though the amount in the supporting document was correct.

2. The FPPC states that the incorrect salary determination for the Staff Services Analyst resulted from an incorrect reading of the law which was interpreted as allowing a 5% salary increase, resulting in an increase that was .54% above the allowable amount.

**Corrective Action:** Within 60 days of the date of this report, the FPPC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The FPPC must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, May 1, 2018, through April 30, 2019, FPPC employees made five alternate range movements within a classification. The CRU reviewed all five alternate range movements to determine if the FPPC applied salary regulations accurately and correctly processed employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
FPPC Counsel	B	C	Full Time	\$6,760
FPPC Counsel - Enforcement	C	D	Full Time	\$7,524
Management Services Technician	A	B	Full Time	\$3,186
Special Investigator	A	B	Full Time	\$4,868
Special Investigator	B	C	Full Time	\$5,823

**FINDING NO. 7 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU determined that the alternate range movements the FPPC made during the compliance review period satisfied civil service laws, Board rules and CalHR policies and guidelines.

Out-of-Class Assignments and Pay

For excluded<sup>5</sup> and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives

<sup>5</sup> “Excluded employee” means an employee as defined in section 3527, subd. (b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Classification and Pay Guide Section 375.)

During the period under review, May 1, 2018, through April 30, 2019, the FPPC issued OOC pay to three employees. The CRU reviewed all three OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Assistant Chief Counsel	M02	General Counsel (CEA B)	5/14/18 – 9/28/18
Chief of Administration and Technology Division, CEA B	M01	Executive Director	7/23/18 - 6/28/19
Program Specialist II	R01	Supervising Management Auditor	11/30/18 – 3/29/19

**FINDING NO. 8 – Out of Class Pay Commenced before the 91<sup>st</sup> Day**

**Summary:** The CRU found the following payroll error in the FPPC’s issuing of OOC pay:

Classification	Area	Description of Finding	Criteria
Assistant Chief Counsel	Out of Class Pay	Employee was compensated prior to the 91st day.	Pay Differential 101

**Criteria:** Employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in writing and the employee is given a copy of the assignment; and the duties performed by the employee are not described in a training and development assignment and further, taken as a whole are fully consistent with the types of jobs described in the specification for the higher classification; and the employee does not perform such duties

for more than 120 days in a fiscal year. (Cal. Code Regs., tit. 2, § 599.810, subd. (b)(1)(3)(4).)

Managerial OOC compensation is not delegated to any appointing power. Requests for payment of managerial OOC must be submitted and approved by CalHR (Pay Differential 101). Managerial OOC compensation will commence on the 91<sup>st</sup> day. Compensation shall not exceed nine months. (*Ibid.*)

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

**Cause:** The FPPC states that the Political Reform Act mandates that the FPPC be permanently staffed with a General Counsel, and unique circumstances arose which presented the FPPC with either having an attorney working OOC as General Counsel, or failing to execute its statutory mission.

**Corrective Action:** Within 60 days of the date of this report, the FPPC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810, and Pay Differential 101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Additionally, when the FPPC isn't sure of the proper human resources/compensation action to take, they must reach out to CalHR for guidance and direction prior to making the applicable hiring decision, in order to adhere to applicable rules and regulations.

## 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

9 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.

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 days<sup>6</sup> worked and paid absences,<sup>7</sup> 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. (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 1500 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), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

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<sup>6</sup> For example, two hours or ten hours counts as one day.

<sup>7</sup> For example, vacation, sick leave, compensating time off, etc.

At the time of the review, the FPPC had one positive paid employee. The CRU reviewed the positive paid appointment to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Time Base	Time Frame	Time Worked
Program Specialist II, Franchise Tax Board	Intermittent	7/1/2018-5/30/2019	958 Hours

**FINDING NO. 9 – Positive Paid Employee’s Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies in the positive paid employee’s time reviewed during the compliance review period. The FPPC provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also be granted when employees need time off for reasons such as blood or organ donation; extreme weather preventing safe travel to work; states of emergency; voting; and when employees need time off to attend special events. (*Ibid.*)

During the period under review, May 1, 2018, through April 30, 2019, the FPPC placed two employees on ATO. The CRU reviewed those ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Days on ATO
Attorney IV	5/23/2018-5/25/2018	3
Program Specialist II, FTB	4/15/2019-4/19/2019	3

**FINDING NO. 10 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The FPPC provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

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.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. (*Ibid.*) 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, February 1, 2019, through April 30, 2019, the FPPC reported 2 units comprised of 28 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
February 2019	1	7	7	0
March 2019	1	21	21	0



**FINDING NO. 11 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed**

**Summary:** The FPPC failed to provide completed Leave Activity and Correction Certification forms for both units reviewed during the February and March 2019 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 FPPC acknowledges the errors noted in the findings, and has updated internal procedures to ensure that the monthly internal audit process is documented.

**Corrective Action:** Within 60 days of the date of this report, the FPPC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that their monthly internal audit process is documented. The FPPC must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## 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."<sup>8</sup> (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 amount<sup>9</sup> 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, ensuring employees maintain the capacity to optimally perform their jobs. (Cal. Code Regs., tit. 2, § 599.742.1.) 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 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, three FPPC employees exceeded the established limits of vacation or annual leave. The CRU reviewed those employees' leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

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<sup>8</sup> For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 06 there is no established limit and for Bargaining Unit 05 the established limit is 816 hours.

<sup>9</sup> Excluded employees shall not accumulate more than 80 days.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Attorney IV	R02	36	Yes
CEA	M01	244	Yes
Staff Services Manager I	S01	240	Yes
<b>Total</b>		520	

**FINDING NO. 12 – Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU reviewed employee vacation and annual leave to ensure that those employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are actively reducing hours. In addition, the CRU reviewed the department’s leave reduction policy to verify its compliance with applicable rule and law, and to ensure its accessibility to employees. Based on our review, the CRU found no deficiencies in this area.

**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. 13 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU verified that the FPPC’s nepotism policy was disseminated to all staff and emphasized the FPPC’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the FPPC’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 subds. (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 FPPC did not employ volunteers during the compliance review period.

**FINDING NO. 14 – Workers’ Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU verified that the FPPC provides notice to their employees to inform them of their rights and responsibilities under California’s Workers’ Compensation Law. Furthermore, the CRU verified that when the FPPC received worker’s compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

## Performance Appraisals

According to Government Code section 19992.2, subdivision (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 23 permanent FPPC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Attorney IV	3/1/2019
Business Services Assistant	5/30/2019
FPPC Counsel	11/8/2018
FPPC Counsel	2/26/2019
FPPC Counsel - Enforcement	5/31/2019
Information Technology Specialist I	11/30/2018
Political Reform Consultant II	7/31/2019
Political Reform Consultant II	7/31/2019
Political Reform Consultant II	10/3/2018
Political Reform Consultant II	3/18/2019
Research Analyst I	2/28/2019
Special Investigator	12/31/2018
Special Investigator	5/19/2019
Special Investigator	8/18/2018
Special Investigator	5/31/2019
Senior Commission Counsel, FPPC	6/30/2019
Senior Commission Counsel Specialist, FPPC	9/15/2018
Staff Services Analyst	6/30/2018
Staff Services Analyst	10/9/2018
Staff Services Manager I	8/31/2018
Staff Services Manager I	12/31/2018
Staff Services Manager III	6/30/2019
Staff Services Manager III	1/31/2019

**FINDING NO. 15 – Performance Appraisals Were Not Provided to All Employees**

**Summary:** The FPPC did not provide annual performance appraisals for all 23 employees after the completion of the employees' probationary period.

**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 FPPC acknowledges that the 23 individuals identified did not receive an annual evaluation after the completion of the probationary period, which was the result of insufficient internal procedures.

**Corrective Action:** Within 60 days of the date of this report, the FPPC must submit to the SPB a written corrective action response which 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 relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

**DEPARTMENTAL RESPONSE**

The FPPC's response is attached as Attachment 1.

**SPB REPLY**

Based upon the FPPC's written response, the FPPC will comply with the corrective actions specified in these report findings. Within 60 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified must be submitted to the CRU.



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3000 • Sacramento, CA 95811

Attachment 1

February 26, 2020

Ms. Suzanne M. Ambrose, Executive Officer  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814

SUBJECT: RESPONSE TO AUDIT FINDINGS

Dear Ms. Ambrose,

This letter is in response to the draft State Personnel Board (SPB), Compliance Review Report (CRR) submitted to the Fair Political Practices Commission (FPPC). The FPPC provides the following responses to the findings as presented by the SPB.

**FINDING NO. 2 – Probationary Evaluations Were Not Timely**

Cause: Under FPPC procedures, supervisors and managers are notified of the dates for submission of probationary reports, which are completed in a timely manner by supervisors and managers in the vast majority of cases. However, with respect to the four individuals identified in the CRR, workload demands and mission-critical initiatives of their respective supervisors resulted in the untimely completion of probation reports.

Response: The FPPC has updated the internal procedures that track the status of employees' probationary reports more efficiently and will continue to emphasize the importance of completing probationary reports in a timely during future supervisor trainings.

**FINDING NO. 4 – Unions were Not Notified of Personal Services Contract**

Cause: The FPPC recognizes that, when entering into a personal services contract, Gov. Code sec. 19132 (b)(2) requires the FPPC to contact "all organizations that represent state employees who perform the type of work to be contracted." With respect to the two contracts identified in the CRR, determined there were no organizations performing transcriptions services. Therefore, no organization was notified.

Response: The FPPC now understands that, in situations where no employee organization performs the work specified by a PSC, FPPC will notify all employee organizations. The FPPC has updated its internal procedures accordingly.



**FINDING NO. 5 – Ethics Training Was Not Provided for All Filers in a Timely Manner**

Cause: The failure to timely provide ethics training to 8 new filers was due to insufficient internal procedures.

Response: The FPPC has implemented procedures to ensure that all new filers complete ethics training within six months of appointment. The FPPC notes that all eight persons identified in the CRR received ethics training (albeit in an untimely manner).

**FINDING NO. 6 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment**

Cause:

1. The incorrect salary determination for FPPC Counsel was the result of human error. It was incorrectly keyed in even though the amount in the supporting document was correct.
2. The incorrect salary determination for Staff Services Analyst resulted from an incorrect reading of the law, which the FPPC interpreted as allowing a 5% salary increase, resulting in an increase that was .54% above the allowable amount.

Response: The FPPC has updated its internal procedures in an attempt to improve the oversight of salary determination and implementation.

**FINDING NO. 8 – Out of Class Pay Commenced before the 91st Day**

Cause: The Political Reform Act mandates that the FPPC be permanently staffed with a General Counsel. Unique circumstances arose that presented the Hobson's choice of either having an attorney working out of class as General Counsel, or failing to execute its statutory mission.

Response: If presented with such unique circumstances in the future, the FPPC will solicit CalHR for guidance and direction.

**FINDING NO. 11 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed**

Cause: The FPPC acknowledges the errors noted in the findings for the three employees identified in the CRR.

Response: The FPPC has updated the internal procedure to ensure that the monthly internal audit process is documented.



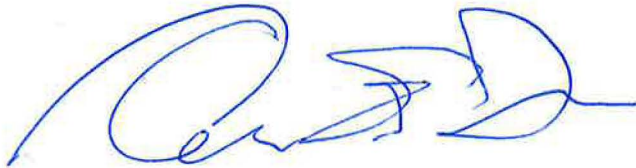
**FINDING NO. 15 – Performance Appraisals Were Not Provided to All Employees**

Cause: The FPPC acknowledges that the 23 individuals identified in the CRR did not receive an annual evaluation after the completion of the probationary period.

Response: The FPPC has updated the internal procedure that tracks the status of employee performance appraisals and will emphasize the importance of the matter in future supervisor trainings.

The FPPC appreciate the opportunity to provide a response to the compliance report. If you have any questions, please contact Loressa Hon, Chief of Administration at (916) 322-7578.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Thomas Jones', with a stylized flourish at the end.

Thomas Jones

Executive Director