



COMPLIANCE REVIEW REPORT

PUBLIC EMPLOYMENT RELATIONS BOARD

Compliance Review Unit
State Personnel Board
March 20, 2020

TABLE OF CONTENTS

Introduction	1
Executive Summary	2
Background	3
Scope and Methodology.....	3
Findings and Recommendations	5
Examinations	5
Appointments	8
Equal Employment Opportunity	10
Mandated Training	11
Compensation and Pay.....	13
Leave	19
Policy and Processes.....	25
Departmental Response.....	28
SPB Reply	28

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 Public Employment Relations Board (PERB) 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	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 Program Complied with Civil Service Laws and Board Rules
Mandated Training	Ethics Training Was Not Provided for All Filers
Compensation and Pay	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Pay Differentials
Leave	Positive Paid Employees' Tracked Hours 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 Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
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

Area	Finding
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 = Technical
- Green = In Compliance

BACKGROUND

The Public Employment Relations Board (PERB) is a quasi-judicial administrative agency charged with administering eight collective bargaining statutes covering employees of California's public schools, colleges, and universities, employees of the State of California, employees of California local public agencies (cities, counties and special districts), trial court employees, trial court interpreters, supervisory employees of the Los Angeles County Metropolitan Transportation Authority, and Judicial Council employees. The Board employs approximately 65 employees in the following 4 divisions: Office of the General Counsel, Administrative Services, Administrative Law, and State Mediation and Conciliation Services. The PERB is headquartered in Sacramento and has offices in Oakland and Glendale.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the PERB's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if the PERB'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 PERB's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the PERB provided, which included examination plans, examination bulletins, job analyses, and scoring results.

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

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

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

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

The PERB's appointments were also selected for review to ensure the PERB applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the PERB 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 related to monthly pay differentials.

During the compliance review period, the PERB did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, arduous pay, bilingual pay, or out-of-class assignments.

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

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

The CRU reviewed the PERB's Leave Activity and Correction Certification forms to verify that the PERB 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 PERB's units in order to ensure they maintained accurate and timely leave accounting records. Further, the CRU reviewed a selection of PERB's 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 PERB did not have any employees with non-qualifying pay period transactions.

Additionally, the PERB did not authorize Administrative Time Off (ATO).

Moreover, the CRU reviewed the PERB's policies and processes concerning nepotism, workers' compensation, performance appraisals, and Administrative Hearing and Medical Interpreter Program. The review was limited to whether the PERB's policies and processes adhered to procedural requirements.

On February 28, 2020, an exit conference was held with the PERB to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the PERB's written response on March 6, 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, May 1, 2017, through April 30, 2018, the PERB conducted one examination. The CRU reviewed that examination, which is listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Conciliator, Department of Industrial Relations	Open	Training and Experience (T&E) ²	4/6/2018	19

The CRU reviewed one open examination which the PERB administered in order to create eligible lists from which to make appointments. The PERB published and distributed examination bulletins containing the required information for all examinations. Applications received by the PERB 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.

However, in reviewing the PERB examination that was administered during the compliance review period, the CRU determined the following:

FINDING NO. 1 – Equal Employment Opportunity Questionnaires Were Not Separated From Applications

² The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

Summary: The examination reviewed included applications where EEO questionnaires were not separated from the STD. 678 employment application. Specifically, 3 of the 19 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): for example, 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 PERB states that the EEO questionnaires were not removed from all applications due to staff error. In addition to staff training, the PERB now uses the Examination and Certification Online System which automates this process for applications submitted through the system, which eliminates the potential for error for a vast majority of applications.

Corrective Action: Within 90 days of the date of this report, the PERB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that future EEO questionnaires are separated from all applications. Copies of relevant documentation demonstrating that the corrective action has

been implemented must be included with the corrective action response.

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, April 1, 2017, through March 30, 2018, the PERB made 18 appointments. The CRU reviewed 9 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Attorney	Certification List	Limited Term	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Conciliator, Department of Industrial Relations	Certification List	Permanent	Full Time	1
Senior Legal Typist	Certification List	Limited Term	Full Time	1
Staff Services Analyst	Certification List	Limited Term	Full Time	2
Attorney	Transfer	Permanent	Full Time	1
Senior Legal Analyst	Transfer	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Transfer	Permanent	Full Time	1

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

Summary: The PERB did not provide four probationary reports of performance for three of the nine appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Attorney	Transfer	1	1
Attorney III	Certification List	1	2
Conciliator, Department of Industrial Relations	Certification List	1	1
Total		3	4

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 PERB acknowledges that supervisors and managers missed opportunities to provide feedback to their employees due to the lack of an effective tracking system and notification process. Since the review, the PERB has revised its process to track and inform supervisors and managers of probationary report deadlines.

Corrective Action: Within 90 days of the date of this report, the PERB 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 19172. 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 PERB, 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 PERB’s 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 PERB. The PERB also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

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 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 PERB's mandated training program that was in effect during the compliance review period, May 1, 2016, through April 30, 2018. The PERB's supervisory training and sexual harassment prevention training were found to be in compliance, while the PERB's ethics training was found to be out of compliance.

FINDING NO. 4 – Ethics Training Was Not Provided for All Filers

Summary: The PERB did not provide ethics training to 2 of 31 existing filers. In addition, the PERB did not provide ethics training to 3 of 11 new filers within six months of their appointment.

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

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

Cause: The PERB states that the responsibility to ensure compliance and track completion of ethics training fell solely on the direct supervisor or manager during the compliance review period. More

appropriately, the PERB’s current process includes a tracking system overseen by human resources staff to ensure compliance.

Corrective Action: Within 90 days of the date of this report, the PERB 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 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, 2017, through March 30, 2018, the PERB made 18 appointments. The CRU reviewed 9 of those appointments to determine if the PERB applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Attorney	Certification List	Limited Term	Full Time	\$9,385
Attorney III	Certification List	Permanent	Full Time	\$8,856
Conciliator, Department of Industrial Relations	Certification List	Permanent	Full Time	\$6,750
Senior Legal Typist	Certification List	Limited Term	Full Time	\$3,632

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 (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Staff Services Analyst	Certification List	Limited Term	Full Time	\$4,097
Staff Services Analyst	Certification List	Limited Term	Full Time	\$4,097
Attorney	Transfer	Permanent	Full Time	\$7,316
Senior Legal Analyst	Transfer	Permanent	Full Time	\$6,478
Staff Services Manager II (Supervisory)	Transfer	Permanent	Full Time	N/A

The CRU found no deficiencies in eight out of nine salary determinations that were reviewed. The PERB 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.

However, the PERB incorrectly applied compensation laws, rules and/or CalHR policies and guidelines for one salary determination reviewed.

FINDING NO. 5 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment

Summary: The CRU found the following error in the PERB's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Senior Legal Typist	Incorrect salary determination, resulting in overpayment.	Cal. Code Regs., tit. 2, § 599.675

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 PERB 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 PERB acknowledges the incorrect salary determination due to staff error. Currently, PERB staff who provide salary determinations have been given training; and a two-level review process has been implemented.

Corrective Action: Within 90 days of the date of this report, the PERB 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 PERB 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. In addition, the PERB must provide any relevant documentation showing the correction(s) that were made and that accounts receivable(s) were created to collect the overpayment(s).

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, April 1, 2017, through March 30, 2018, the PERB employees made three alternate range movements within a classification. The CRU reviewed those three alternate range movements to determine if the PERB applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Attorney	Range N	Range O	Full Time	\$7,237
Attorney	Range L	Range M	Full Time	\$5,656
Staff Services Analyst	Range M	Range N	Full Time	\$4,298

FINDING NO. 6 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

Classification	Description of Finding(s)	Criteria
Attorney	Incorrect salary determination	Cal. Code Regs., tit. 2, § 599.681
Attorney	Incorrect salary determination and anniversary date	Cal. Code Regs., tit. 2, § 599.681
Staff Services Analyst	Incorrect salary determination	Cal. Code Regs., tit. 2, § 599.681

Criteria: Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)

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 PERB failed to comply, in three instances, with the state civil service pay plan, by incorrectly applying compensation laws and rules not in accordance with CalHR’s policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The PERB acknowledges salary determinations for alternate range movements were incorrect due to staff error. Currently, PERB staff who provide salary determinations have been provided additional training; and a two-level review process has been implemented to ensure salary calculations are accurate.

Corrective Action: Within 90 days of the date of this report, the PERB 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 PERB 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. In addition, the PERB must provide any relevant documentation showing the correction(s) that were made and that accounts receivable(s) were created to collect the overpayment(s); and/or accounts payable(s) were made to compensate employees for underpayment(s).

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, 2017, through March 30, 2018, the PERB issued pay differentials⁴ to eight employees. The CRU reviewed all of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Administrative Law Judge I, PERB	National Judicial College Differential Pay	5% of salary

⁴ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Administrative Law Judge II, PERB	National Judicial College Differential Pay	5% of salary
Administrative Law Judge II, PERB	National Judicial College Differential Pay	5% of salary
Administrative Law Judge II, PERB	National Judicial College Differential Pay	5% of salary
Administrative Law Judge I, PERB	National Judicial College Differential Pay	5% of salary
Administrative Law Judge II, PERB	National Judicial College Differential Pay	5% of salary
Administrative Law Judge I, PERB	National Judicial College Differential Pay	5% of salary
C.E.A.	National Judicial College Differential Pay	5% of salary

FINDING NO. 7 – Incorrect Authorization of Pay Differentials

Summary: The CRU found three errors in the eight pay differentials reviewed:

Classification	Area	Description of Finding(s)	Criteria
Administrative Law Judge II, PERB	National Judicial College Differential Pay	The incumbent's certification of completion for the designated training courses was not available for verification.	Pay Differential 84
Administrative Law Judge II, PERB	National Judicial College Differential Pay	The incumbent's certification of completion for the designated training courses was not available for verification.	Pay Differential 84
C.E.A.	National Judicial College Differential Pay	The employee's classification is not eligible to receive the pay differential.	Pay Differential 84

Criteria: A pay differential may be appropriate 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. 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. (CalHR Classification and Pay Manual Section 230.)

Severity: Very Serious. The PERB 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 PERB acknowledges that two certifications for completion of designated training were unavailable during the compliance review period due to incomplete transfer of records. Since the review, certifications for both employees have been obtained and placed in the appropriate personnel files. The third error was caused by a data entry error when the employee was appointed to the CEA position. The PERB states this error will be corrected.

Corrective Action: Within 90 days of the date of this report, the PERB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 84 and ensure that employees are compensated correctly and that transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented, including documentation showing that accounts receivables were created to collect overpayments where applicable, must be included with the corrective action response.

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

days⁵ worked and paid absences, ⁶ 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 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 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.

At the time of the review, the PERB had two positive paid employees whose hours were tracked. The CRU reviewed all of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Time Base	Time Frame	Time Worked
Accounting Officer (Specialist)	Intermittent	Calendar Year	2016 - 666.00 hours 2017 - 284.00 hours
Personnel Specialist	Intermittent	Calendar Year	2018 - 414.75 hours

⁵ For example, two hours or ten hours counts as one day.

⁶ For example, vacation, sick leave, compensating time off, etc.

FINDING NO. 8 – Positive Paid Employees’ Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

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, November 1, 2017, through January 30, 2018, the PERB reported 5 units comprised of 60 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
November 2017	003	9	8	1
November 2017	007	19	15	4
December 2017	007	19	16	3

FINDING NO. 9 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records

Summary: The PERB failed to provide completed Leave Activity and Correction Certification forms for all units reviewed during the November and December 2017, 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 PERB states that it used an internal audit process to ensure accurate and timely leave accounting records on a monthly basis, however, it did not use the Leave Activity and Correction Certification form (CalHR 139). Staff were unaware of the requirement to use the form to document the process. Moving forward, the PERB will incorporate the use of the CalHR 139 into its monthly internal audit process.

Corrective Action: Within 90 days of the date of this report, the PERB 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 PERB 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."⁷ (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 amount⁸ 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 2017, seven PERB employees exceeded the established limits of vacation or annual leave. The CRU reviewed all of those employees' leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

⁷ 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.

⁸ Excluded employees shall not accumulate more than 80 days.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Administrative Assistant	E97	496	No
Administrative Law Judge II	E97	373	Yes
CEA	E97	722	Yes
Conciliator, DIR	E97	20	Yes
Conciliator, DIR	E97	36	Yes
Attorney IV	E97	15.75	No
Attorney III	E97	127	No
Total		1,789.75	

FINDING NO. 10 – Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits

Summary: Although the PERB made a reasonable effort to ensure that all employees over the maximum vacation or annual leave hours had leave reduction plans in place, the PERB did not provide leave reduction plans for three 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 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 PERB states that the responsibility to monitor and issue leave reduction plans fell solely on the direct supervisor or manager during

the compliance review period. More appropriately, the PERB's revised process includes a tracking system overseen by human resources staff to ensure compliance, and a supervisor review of leave balances on a quarterly basis. The PERB states it is now current on all leave reduction plans.

Corrective Action: Within 90 days of the date of this report, the PERB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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. 11 – 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 PERB's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the PERB'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 PERB did not employ volunteers during the compliance review period.

FINDING NO. 12 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the PERB 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 PERB 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 17 permanent PERB 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	3/1/2018
Attorney IV	8/1/2017
Staff Services Analyst	5/17/2018
Attorney	6/29/2017
Legal Secretary	5/19/2017
Accounting Administrator I (Specialist)	6/1/2017
Associate Governmental Program Analyst	3/31/2017
Administrative Law Judge II	4/30/2017
Administrative Law Judge I	5/4/2017
Administrative Law Judge II	12/31/2017
Staff Services Analyst	9/10/2017
Administrative Law Judge I	3/31/2017
Conciliator Department of Industrial Relations	5/1/2017
Presiding Conciliator, Department of Industrial Relations	11/12/2017
Conciliator Department of Industrial Relations	4/30/2017
Conciliator Department of Industrial Relations	3/31/2017
Supervisor of Conciliation, Department of Industrial Relations, CEA	6/30/2017

FINDING NO. 13 – Performance Appraisals Were Not Provided to All Employees

Summary: The PERB did not provide annual performance appraisals to 11 of 17 non-probationary employees.

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 PERB acknowledges that supervisors and managers have missed opportunities to provide feedback to their employees due to the lack of a performance review process. The PERB is in the process of establishing performance review procedures to include a tracking system for supervisors and managers and regular oversight by the executive team.

Corrective Action: Within 90 days of the date of this report, the PERB 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 PERB's response is attached as Attachment 1.

SPB REPLY

Based upon the PERB's written response, the PERB will comply with the corrective actions specified in these report findings. Within 90 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.

PUBLIC EMPLOYMENT RELATIONS BOARD

1031 18th Street
Sacramento, CA 95811-4124
Telephone: 916-322-3198

**ATTACHMENT 1**

TO: STATE PERSONNEL BOARD
FROM: JOSHUA GOLKA, EXECUTIVE DIRECTOR
SUBJECT: PERB RESPONSE TO COMPLIANCE REVIEW REPORT
DATE: MARCH 6, 2020

The Public Employment Relations Board (PERB) would like to thank the Compliance Review Unit for its thorough review of PERB's personnel practices in the areas of examinations, appointments, Equal Employment Opportunity (EEO), Personal Services Contracts, mandated training, compensation and pay, leave, and policy and processes. PERB appreciates the opportunity to better ensure our compliance and looks forward to remedying the findings identified in the report. The majority of staff responsible for this process during the compliance review timeframe are no longer with the department. PERB has reviewed the report and prepared the following responses to the findings.

Finding No. 1 – Equal Employment Opportunity Questionnaires Were Not Separated From Applications

Due to staff error, three of the 19 applications included EEO questionnaires. Staff have been trained on removing the EEO questionnaire from applications. In addition, PERB now uses the Examination and Certification Online System (ECOS) which automates this process for applications submitted through the system, which will eliminate the potential for error for a vast majority of applications.

Finding No. 2 – Probationary Evaluations Were Not Provided for all Appointments Reviewed

PERB recognizes the importance of probationary reports for both the employee and the organization. PERB acknowledges that supervisors and managers missed opportunities to provide feedback to their employees. The revised process includes a tracking system for all employees as well as an email and calendaring notification process to inform supervisors and managers of probationary report deadlines. Additionally, a quarterly report detailing probationary report status is provided to management staff.

Finding No. 4 – Ethics Training Was Not Provided for all Filers

During the compliance review timeframe, the responsibility to ensure compliance and track completion of ethics training fell solely on the direct supervisor or manager. PERB's current process includes a tracking system overseen by human resources staff to ensure compliance.

Finding No. 5 – Incorrect Application of Compensation Laws, Rules, and CalHR Policies and Guidelines

Due to staff error, one out of nine salary determinations was incorrect. PERB acknowledges the previous incorrect determination of salary rules. Currently, PERB employees who provide salary determinations have been provided training and a two-level review process has been implemented to ensure accuracy.

Finding No. 6 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Due to staff error, three salary determinations for alternate range movements were incorrect. Currently, PERB employees who provide salary determinations have been provided training and a two-level review process has been implemented to ensure accuracy.

Finding No. 7 – Incorrect Authorization of Pay Differentials

Two of the three errors identified involve certifications for completion of designated training being unavailable in the employee personnel file. For one employee, the training was completed and differential authorized while at another department. When the employee joined PERB, the differential followed, but the certificate was not included in the personnel file. For the second employee, at the time of the training PERB was under contract with DGS for personnel services. The certification was not transferred with the records when the contract was terminated. Certifications for both employees have been obtained and placed in the appropriate personnel files.

The third error was caused by a data entry error when the employee was appointed to the CEA position. The employee should have received the total salary plus a 5% promotional increase but was keyed into the system as the total salary plus the pay differential. PERB will correct this error.

Finding No. 9 – Leave Activity and Correction Certification Forms Were Not Completed for all Leave Records

PERB used an internal audit process to ensure accurate and timely leave accounting records on a monthly basis, including reviewing and correcting leave input errors, but not the Leave Activity and Correction Certifications (CalHR 139) to document this process. Moving forward, PERB will incorporate the use of the CalHR 139 into its monthly internal audit process.

Finding No. 10 – Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits

During the compliance review timeframe, the responsibility to monitor and issue leave reduction plans fell solely on the direct supervisor or manager. PERB's current process includes a tracking system overseen by human resources staff to ensure compliance, a supervisor review of leave balances on a quarterly basis. PERB is now current on all leave reduction plans.

Finding No. 13 – Performance Appraisals Were Not Provided to All Employees

PERB recognizes the importance of performance appraisals for both the employee and the organization. PERB acknowledges that supervisors and managers have missed opportunities to provide valuable feedback to their employees. PERB is in the process of establishing a performance review process to include a tracking system overseen by human resources, an email and calendaring reminder system for supervisors and managers and regular oversight by the executive team.

If you have any questions, please do not hesitate to call me at (916) 322-5289 or reach out via email – Joshua.Golka@perb.ca.gov

Sincerely,



Joshua Golka
Executive Director