

**BOARD RESOLUTION ADOPTING THE COMPLIANCE REVIEW REPORT AND
FINDINGS BY THE SPB COMPLIANCE REVIEW UNIT OF
THE PUBLIC EMPLOYMENT RELATIONS BOARD**

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

WHEREAS, the Report was prepared following a baseline review of the Public Employment Relations Board's personnel practices. It details the background, scope, and methodology of the review, and the findings and recommendations.

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


SUZANNE M. AMBROSE
Executive Officer

COMPLIANCE REVIEW REPORT PUBLIC EMPLOYMENT RELATIONS BOARD FINDINGS AND RECOMMENDATIONS MARCH 3, 2014

Examinations

During the period under review, Public Employment Relations Board (PERB) conducted two examinations including one Career Executive Assignment (CEA) examination. The SPB reviewed each of those examinations, which are listed below:

Classification	Examination Type	Examination Components	No. of Eligibles
Legal Analyst	Promotional	Qualifications Appraisal Panel (QAP) ¹	1
Chief, Administrative Law Judge (CEA V)	Open	Education and Experience (E&E) ²	1

FINDING NO. 1 - PERB Was Unable to Provide a Job Analysis for the Legal Analyst Examination

The Merit Selection Manual (MSM), which is incorporated in California Code of Regulations, title 2, section 50, mandates the development and use of a job analysis for the examination process. A "job analysis shall serve as the primary basis for demonstrating and documenting the job-relatedness of examination processes conducted for the establishment of eligible lists within the State's civil service." (MSM (Oct. 2003), § 2200, p. 2.) The MSM requires that job analyses adhere to the legal and

¹ The qualification appraisal panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

² In an Education and Experience (E&E) examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience

professional standards outlined in the job analysis section of the MSM, and that certain elements must be included in the job analysis studies. (*Ibid.*) Those requirements include the following: (1) that the job analysis be performed for the job for which the subsequent selection procedure is developed and used; (2) the methodology utilized be described and documented; (3) the job analytic data be collected from a variety of current sources; (4) job tasks be specified in terms of importance or criticality, and their frequency of performance; (5) and job tasks must be sufficiently detailed to derive the requisite knowledge, skills, abilities (KSAs), and personal characteristics that are required to perform the essential tasks and functions of the job classification. (MSM, § 2200, pp. 2-3.)

While a job analysis was not required for the CEA examination that PERB administered, a job analysis was required for the Legal Analyst examination. PERB did not develop a job analysis for the Legal Analyst examination. Without a copy of the job analysis to review, the SPB is unable to determine if the civil service examination was administered utilizing job-related examination procedures as required by the MSM. Furthermore, the Compliance Review Division (CRD) found the appointment that was made from the examination was made in good faith, was over a year old and did not merit being voided. The list expired on November 29, 2013.

PERB must create and develop examinations based upon a job analyses that meet the requirements of the MSM prior to administering any future examinations.

Appointments

During the compliance review period, PERB made 27 civil service appointments. The SPB reviewed the 24 of those appointments, which are listed below:

Classification	Appointment Type	Tenure (Status)	Time Base	Number of Appointments
Legal Analyst	Certification List	Permanent	Full Time	1
Administrative Law Judge I	Certification List	Permanent	Full Time	2
Attorney III	Certification List	Permanent	Full Time	3

Attorney I	Certification List	Permanent	Full Time	2
Attorney III	Transfer	Permanent	Full Time	1
Accounting Administrator I (Specialist)	Transfer	Permanent	Full Time	1
Supervisor of Conciliation	Transfer	Permanent	Full Time	1
Presiding Conciliator	Transfer	Permanent	Full Time	3
Conciliator	Transfer	Permanent	Full Time	8
Officer Technician (Typing)	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1

FINDING NO. 2 - PERB Properly Complied with Civil Service Laws and Board Rules for All Appointments Made During the Compliance Review Period

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.) Except as provided by law, appointments to vacant positions shall be made from employment lists. (*Ibid.*) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

For each of the four list appointments, PERB ordered a certification list of candidates ranked competitively. After properly clearing the SROA³ list, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification list. Regarding the transfer appointments, PERB verified the transfer eligibility of each candidate to the appointed class. Accordingly, as to those appointments, PERB complied with civil service laws and Board rules.

³ The State Restriction of Appointments (SROA) Program is intended to prevent the layoff and separation of skilled and experienced employees from State service. The SROA Program assists in placing affected employees by temporarily restricting the methods of appointment available to appointing powers. Employees on SROA lists are granted preferential consideration over all other types of appointments except appointments from reemployment lists and mandatory reinstatements.

The SPB thus found that all the appointments PERB made during the compliance review period satisfied civil service laws and Board rules.

DEPARTMENTAL RESPONSE

PERB was provided a copy of the initial report to review. PERB's response to the initial report was PERB is a small agency that conducts very few examinations. The few that are carried out are conducted through a contract with the Department of General Services (DGS). PERB was unaware that a job analysis was not prepared by DGS for the Legal Analyst exam. PERB is committed to working with DGS to ensure that all future examinations have a current job analysis in place.

SPB REPLY

Based upon PERB's written response, PERB has job analysis development work plans for future examinations that will be administered.

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

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