



COMPLIANCE REVIEW REPORT

**STATE COUNCIL ON DEVELOPMENTAL
DISABILITIES**

Compliance Review Unit
State Personnel Board
September 26, 2019

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INTRODUCTION

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

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

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

Pursuant to Government Code section 18502(c), the CalHR and the SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." The CalHR and the SPB, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which the 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, the 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.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the State Council on Developmental Disabilities (SCDD)'s personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
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
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Mandated Training Complied with Statutory Requirements
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or Policy and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave is Inputted Accurately and Timely
Leave	Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
Leave	Departmental Leave Reduction Policy Was Not Developed
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

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

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

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

BACKGROUND

The SCDD is established by federal law (Developmental Disabilities and Bill of Rights Act) and state law (Lanterman Act at Welfare and Institutions Code, section 4520 et. seq.) to ensure that individuals with developmental disabilities and their families participate in the planning, design, and receipt of the services and support they need which promote increased independence, productivity, inclusion, and self-determination.

Federal law requires the SCDD to identify methods to improve and increase services for individuals and their families and to submit these to the federal government in the form of a State Plan. The State Plan is approved by the Federal Administration on Intellectual and Developmental Disabilities (AIDD). The AIDD is the funding source for the SCDD and its State Plan Activities. The SCDD and its regional offices' primary work is achieving the State Plan goals, objectives, and strategies.

The Council is comprised of 31 members appointed by the Governor, including individuals with disabilities, their families, federally funded partners, and state agencies.

In addition to headquarters in Sacramento, the SCDD supports 12 regional offices that provide services to individuals with developmental disabilities and their families including, but not limited to, advocacy assistance, training, monitoring, and public information. By providing these services, regional offices ensure that appropriate laws, regulations, and policies pertaining to the rights of individuals are observed and protected. Each regional office participates in the development and implementation of the SCDD's goals and objectives.

SCOPE AND METHODOLOGY

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

A cross-section of the SCDD'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 SCDD provided, which included examination plans, examination bulletins, job analyses, and scoring results.

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

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

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

The SCDD's appointments were also selected for review to ensure the SCDD applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the SCDD provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application.

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

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

The review of the SCDD'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 SCDD's PSC's were also reviewed.³ It was beyond the scope of the compliance review to make conclusions as to whether the SCDD's justifications for the contracts were legally sufficient. The review was limited to whether the SCDD's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

The CRU reviewed the SCDD's Leave Activity and Correction Certification forms to verify that the SCDD 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 SCDD's units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the SCDD's employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the CRU reviewed a selection of the SCDD'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

³If 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.

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

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

On August 13, 2019, an exit conference was held with the SCDD to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the SCDD's revised written response on September 6, 2019, 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.) 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 in the office of the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934 (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, October 1, 2017 through September 30, 2018, the SCDD conducted one examination. The CRU reviewed the examination, which is listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) A, Chief of Administration	CEA	Statement of Qualifications (SOQ) ⁴	02/09/2018	22

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

The CRU reviewed the CEA examination that the SCDD administered in order to create an eligible list from which to make an appointment. The SCDD published and distributed the examination bulletin containing the required information for the examination. Applications received by the SCDD 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 examination that the SCDD 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).)

⁴ In a Statement of Qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

During the period under review, October 1, 2017 through September 30, 2018, the SCDD made 10 appointments that the CRU reviewed, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Government Program Analyst	Certification List	Permanent	Full Time	5
CEA A, Chief of Administration	Certification List	CEA	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	1
Staff Services Manager II	Certification List	Limited Term	Full Time	1
Staff Services Manager II	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Limited Term	Full Time	1

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

Summary: The SCDD did not provide two probationary reports of performance for one appointment.

Classification	Appointment Type	Number of Appointments	Total Number of Missing or Late Probation Reports
Associate Governmental Program Analyst	Certification List	1	2
Total		1	2

Criteria: The service of a probationary period is required when an employee enters in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) 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.*)

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: HR provides notifications and follow-up email reminders to managers to submit timely probation reports. However, all probation reports were not submitted as required.

Action: The SCDD submitted a corrective action plan to ensure all probation reports are completed timely. However, the SCDD must continue to monitor probation reports to ensure conformity with Government Code section 19171 and the California Code of Regulations, title 2, section 599.795. Furthermore, within 60 days of the Executive Officer's approval of the findings and recommendations, the SCDD must submit copies of relevant documentation including the internal tracking process.

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 by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation from the regular chain of command, as well as regular and unencumbered access to the head of the organization.

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 SCDD’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 Director of the SCDD. In addition, the SCDD has an established DAC, which reports to the Director on issues affecting persons with disabilities. The SCDD also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities. Accordingly, the SCDD’s 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 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 the 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, October 1, 2017 through September 30, 2018, the SCDD had two PSC's in effect that the CRU reviewed, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Blue Chip Moving and Storage	Relocation and Storage Services	12/01/2017 – 12/31/2017	\$6,796.25	Yes
Crown Worldwide Moving and Storage, LLC.	Relocation of IT and Modular Furniture Services	12/28/2017 – 01/31/2018	\$1,578.80	Ye

FINDING NO. 4 – Personal Services Contracts Complied with Procedural Requirements

The total dollar amount of all the PSC's reviewed was \$8,375.05. It was beyond the scope of the review to make conclusions as to whether the SCDD's justifications for the contract were legally sufficient. For all PSC's reviewed, the SCDD provided specific and detailed factual information in the written justifications as to how each of the four contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Additionally, the SCDD complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the SCDD's PSC's complied with civil service laws and board rules.

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 the CalHR. (Gov. Code, § 19995.4, subs. (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.

After reviewing all the training records for the SCDD's mandated training program that was in effect during the compliance review period, the CRU determined the following:

FINDING NO. 5 – Mandated Training Complied with Statutory Requirements

The SCDD provided ethics training to its six new filers within six months of appointment and semiannual ethics training to its 14 existing filers. The SCDD also provided supervisory training to its one new supervisor within 12 months of appointment. In addition, the SCDD provided sexual harassment prevention training its eight new supervisors within six months of appointment, and sexual harassment prevention training to its 12 existing supervisors every two years. Thus, the SCDD complied with mandated training requirements within statutory timelines.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by the CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁵ 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 recruiting 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, October 1, 2017 through September 30, 2018, the SCDD made nine appointments that the CRU reviewed to determine if the SCDD applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Government Program Analyst	Certification List	Permanent	Full Time	\$4,784
Associate Government Program Analyst	Certification List	Permanent	Full Time	\$4,784
Associate Government Program Analyst	Certification List	Permanent	Full Time	\$4,784
Associate Government Program Analyst	Certification List	Permanent	Full Time	\$6,228
Associate Government Program Analyst	Certification List	Permanent	Full Time	\$4,954
Staff Services Analyst	Certification List	Permanent	Full Time	\$4,136
Staff Services Manager II	Certification List	Limited Term	Full Time	\$6,913
Staff Services Manager II	Certification List	Permanent	Full Time	\$6,287

⁵ "Rate" is any one of the salary rates in the resolution by the CalHR which establishes the salary ranges and steps of the Pay Plan. (Cal. Code Regs., tit. 2, § 599.666.)

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Transfer	Limited Term	Full Time	\$5,988

FINDING NO. 6 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the salary determinations that were reviewed. The SCDD 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.

Leave

Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. (Cal. Code Regs., tit.2, § 265.1, subd. (b).) When counting 189 days, every day worked, including partial days⁶ worked and paid absences,⁷ is counted. 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.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month 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

⁶ For example, two hours or ten hours counts as one day.
⁷ For example, vacation, sick leave, compensating time off, etc.

ensure the limitations set forth are not exceeded.⁸ (Cal. Code Regs., tit.2, § 265.1, subd. f.)

For student assistants, graduate student assistants, youth aides, and seasonal classifications, a maximum work-time limit of 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) without reinstatement, loss or interruption of benefits for all state employees.

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

Classification	Time Base	Time Frame	Time Worked
Associate Governmental Program Analyst	Intermittent	July 1, 2017 – June 30, 2018	68.75 Hours
Staff Services Manager I	Intermittent	July 1, 2017 – June 30, 2018	499 Hours

FINDING NO. 7 – Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, Policy and Guidelines

The CRU found no deficiencies in the employees whose hours were tracked during the compliance review period. The SCDD provided sufficient documentation and adhered to applicable laws, regulations, 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

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

when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) Additionally, ATO can 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, July 1, 2017 through June 30, 2018, the SCDD placed one employee on ATO. The CRU reviewed the ATO appointment to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

Classification	Time Frame	No. of Days on ATO
Attorney III	10/03/2017 – 10/10/2017	8 Days

FINDING NO. 8 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the employee placed on ATO during the compliance review period. The SCDD provided the proper justification for 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.) 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, April 1, 2018 through June 30, 2018, the SCDD reported five units comprised of 44 active employees. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
April 2018	110	7	7	0
May 2018	100	17	17	0
May 2018	103	2	2	0
June 2018	100	16	16	0
June 2018	103	2	2	0

FINDING NO. 9 – Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave is Inputted Accurately and Timely

Summary: The SCDD failed to implement a monthly internal audit process to verify all leave was inputted accurately and timely. The SCDD was unable to provide Completed Leave Activity and Correction Certification forms for all five of five units reviewed. Therefore, the SCDD was unable to demonstrate that they reconciled all leave input against the monthly timesheets.

Criteria: Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.) Departments are directed to create an audit process to verify all leave input is keyed accurately and timely. (Human Resources Manual Section 2101.) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

Severity: Serious. In order for agency leave accounting records to reflect accurate data, the review of the leave accounting records and corrections if necessary, are to be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. This means corrections are to be made prior to the next monthly leave activity report being produced.

Cause: The SCDD contracts with another department for transactions services. The SCDD was not aware that there no internal audit process in place to reconcile leave accuracy.

Action: The SCDD submitted a corrective action plan to ensure all leave is input accurately and timely. However, the SCDD must continue to audit leave and reconcile usage against timesheets to ensure conformity with the California Code of Regulations, title 2, section 599.795 and Human Resources Manual Section 2101.) Furthermore, within 60 days of the Executive Officer’s approval of the findings and recommendations, the SCDD must submit copies of relevant documentation to demonstrate that employees’ timesheets are reconciled against the monthly Leave Accounting Balance report.

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

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

⁹ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.

¹⁰ Excluded employees shall not accumulate more than 80 days.

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 Section 2124.)

As of December 2017, five SCDD 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:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
CEA	M01	17	No
Community Program Specialist II	R01	49.5	No
Community Program Specialist III	S01	116	No
Community Program Specialist IV	S01	289	No
Staff Services Manager II	M01	31.5	No
Total		503	

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

Summary: The SCDD did not provide leave reduction plans for the five of five 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 monitor employees’ leave to ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are actively reducing hours. (Ibid.)

Severity: Non-serious or 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 SCDD was inconsistent in requesting staff who maintained leave balances of 640 and above to submit a leave reduction plan.

Action: The SCDD has submitted a corrective action plan to ensure all employees whose leave balances exceed established limits submit a leave reduction plan. However, the SCDD must continue to monitor employees' leave reduction plans to ensure employees conformity with Human Resources Manual Section 2124. Furthermore, within 60 days of the Executive Officer's approval of the findings and recommendations, copies of relevant documentation including employee's leave reduction plans approved after the compliance review period, must be submitted to the CRU.

FINDING NO. 11 – Departmental Leave Reduction Policy Was Not Developed

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

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

Severity: Non-serious or 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: A consistent enforcement system has not been implemented.

Action: The SCDD has submitted a corrective action plan to develop a departmental leave reduction policy in accordance with Human Resources Manual Section 2124. Within 60 days of the Executive Officer’s approval of the findings and recommendations, the SCDD must submit copies of relevant documentation including the department-wide leave reduction policy to the CRU.

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 the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

FINDING NO. 12 – 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 SCDD’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the SCDD’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 of Regs., tit. 8, § 9880 subd. (a).) This notice shall be in writing; a form that the employee may use as an optional method for notifying the employer of the name of the employee’s “personal physician” as defined by Labor Code Section 4600. (Cal Code of Regs., tit. 8, §9880 subd. (c)(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 liability for benefits to the injured employee. (Labor Code, 5401.)

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 (SCIF) office to discuss the status of volunteers. (*Ibid.*)

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

FINDING NO. 13 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the SCDD's workers' compensation process that was in effect during the compliance review period, the CRU verified that when the SCDD 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 SCDD received workers' 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, appointing authorities 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 22 permanent SCDD employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policy and guidelines, which are listed below:

Classification	Date Performance Appraisals Due
Associate Governmental Program Analyst	09/30/2017

Classification	Date Performance Appraisals Due
Associate Governmental Program Analyst	01/30/2017
Associate Governmental Program Analyst	02/28/2017
Community Program Specialist II	07/31/2017
Community Program Specialist II	03/07/2017
Community Program Specialist II	06/05/2017
Community Program Specialist II	02/28/2017
Community Program Specialist II	05/29/2017
Community Program Specialist II	07/31/2017
Community Program Specialist II	03/19/2017
Community Program Specialist III	09/30/2017
Community Program Specialist IV	02/28/2017
Office Technician (Typing)	07/31/2017
Office Technician (Typing)	07/01/2017
Office Technician (Typing)	12/04/2006
Office Technician (Typing)	06/25/2017
Office Technician (Typing)	09/30/2017
Office Technician (Typing)	12/29/2017
Staff Services Manager II	10/14/2017
Staff Services Manager II	11/29/2017
Staff Services Manager II	11/29/2017
Staff Services Manager II	10/14/2017

In reviewing the SCDD performance appraisals policies and processes, the CRU determined the following:

FINDING NO. 14 – Performance Appraisals Were Not Provided to All Employees

Summary: The SCDD did not provide performance appraisals to 21 of 22 employees reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2). Each supervisor, as designated by the appointing power shall make an appraisal in writing and shall discuss overall work performance at

least once in each twelve calendar months after the completion of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798 subd. (c).)

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 SCDD's HR continues good faith efforts to inform managers regarding the requirements of completing annual performance evaluations along with email notification reminders. However, all performance appraisals were not submitted as required.

Action: The SCDD has submitted a corrective action plan to monitor and track the timely completion of performance appraisals. However, the SCDD must continue to monitor employees' performance appraisals to ensure conformity with the Government Code section 19992.2 and the California Code of Regulations, title 2, section 599.798 subdivision (c). Furthermore, within 60 days of the Executive Officer's approval of the findings and recommendations, copies of relevant documentation including the tracking mechanism must be submitted to the CRU.

DEPARTMENTAL RESPONSE

The SCDD's response is attached as Attachment 1.

SPB REPLY

It is further recommended that the SCDD will comply with the afore-stated recommendations and submit documentation required to the CRU within 60 days that shows the corrective actions have been implemented.



September 3, 2019

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

RE: State Council on Developmental Disabilities (SCDD) Response to the State Personnel Board's (SPB) Compliance Review Report

Dear Ms. Ambrose,

The SCDD has received the draft of the State Personnel Board's (SPB) Compliance Review. Based on the compliance review conducted by the Compliance Review Unit (CRU) of SCDD'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, the SCDD provides the following responses to each of the findings presented by SPB.

Finding No. 2: Probationary Evaluations Were Not Provided for All Appointments Reviewed

Cause: HR provides notifications and follow-up email reminders to SCDD managers to submit timely probationary reports; however, all performance reports were not submitted as required.

SCDD Response: The SCDD HR will continue to send email reminders to managers in advance of the due date. Additionally, HR will implement an internal tracking process to ensure all probationary reports are completed in a timely manner and returned to HR for retention in each employee's official personnel file.

Finding No. 7: Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave is Inputted Accurately and Timely

Cause: Currently SCDD does not have an internal audit process to verify all leave is inputted accurately and timely.

SCDD Response: The SCDD will develop an internal tracking system to audit and ensure all leave is inputted accurately per CalHR's PML 2015-007. SCDD will compare each staff member's

monthly timesheet against the Leave Accounting Balance (LAB) report to ensure accuracy and utilize STD 672 for any corrections.

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

Cause: SCDD was inconsistent in requesting staff who maintained leave balances of 640 and above to submit a leave reduction plan.

SCDD Response: SCDD will monitor employee leave to ensure those employees having significant “over-the-cap” leave balances submit a leave reduction plan. The employee’s manager will be responsible for ensuring the leave plan is followed.

Finding No. 11: Departmental Leave Reduction Policy Was Not Developed

SCDD Response: The SCDD will create a department-wide leave reduction policy and monitor employee’s leave to ensure compliance.

Finding No. 14: Performance Appraisals Were Not Provided to All Employees

Cause: SCDD HR continues good faith efforts to inform managers regarding the requirements of completing annual performance evaluations along with email notification reminders; however, all appraisals were not submitted as required.

SCDD Response: SCDD strives to provide performance appraisals to each employee in accordance with Government Code Section 19992.2. Moving forward, SCDD personnel will provide all managers a list of their subordinate staffs’ annual performance date. The managers will be encouraged to calendar these dates to provide timely performance appraisals to their staff. Further, SCDD personnel will track the appraisals and send email reminders to the manager.

We appreciate the opportunity to discuss the findings in this report and to discuss our proposed process changes for increasing compliance with the CRU. We thank the CRU for their dedication and professionalism throughout the audit process.

If you have any further questions, please contact Janet L. Butts, Personnel Officer, Administration Branch, at (916) 263-8121 or janet.butts@scdd.ca.gov.

Sincerely,



Aaron C. Carruthers
SCDD Executive Director