CALIFORNIA
STATE PERSONNEL BOARD

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Governor Edmund G. Brown Jr.

BOARD RESOLUTION ADOPTING THE COMPLIANCE REVIEW REPORT AND FINDINGS BY THE SPB COMPLIANCE REVIEW DIVISON OF THE CALIFORNIA STUDENT AID COMMISSION

WHEREAS, the State Personnel Board (SPB or Board) at its duly noticed meeting of November 21, 2013, carefully reviewed and considered the attached Compliance Review Report of the California Student Aid Commission submitted by SPB's Compliance Review Division.

WHEREAS, the Report was prepared following a baseline review of the California Student Aid Commission'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

STATE PERSONNEL BOARD

COMPLIANCE REVIEW REPORT
CALIFORNIA STUDENT AID COMMISSION
FINDINGS AND RECOMMENDATIONS
NOVEMBER 6, 2013

Examinations

During the period under review, from May 1, 2011 through October 31, 2012, the California Student Aid Commission (CSAC) conducted four examinations. The SPB reviewed all of those examinations, which are listed below:

Classification Title	Examination Type	Examination Component(s)	No. of Eligibles
CEA I, Information Technology	Career Executive Assignment (CEA)	Statement of Qualifications	14
Administrative Adviser II C.E.A.	Career Executive Assignment (CEA)	Statement of Qualifications	5
Program Technician II	Departmental Promotional	Education and Experience[1]	7
Supervising Program Technician	Departmental Promotional	E&E	3

FINDING NO. 1 – CSAC Did Not Separate the Equal Employment Opportunity (EEO) Questionnaire from All Applications

Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, age, or sexual orientation). Applicants for employment in state civil service are asked to provide voluntarily ethnic data about themselves where such data is determined by the California Department of Human Resources (CalHR) to be necessary to an assessment

[1] In an Education and Experience (E&E) examination, one or more raters scores and ranks applicants based upon the applicant's Standard 678 application form. The raters use a predetermined rating scale that includes years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

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."

The completed EEO questionnaire was stapled to all applications for both the Program Technician II and Supervising Program Technician examinations. Therefore, it is recommended that within 60 days of the Board's Resolution adopting these findings and recommendations CSAC submit to the Board a written corrective action plan that addresses the corrections the department will implement to ensure that in the future the EEO questionnaire is separated from all applications. Copies of any relevant documentation should be included with the plan.

FINDING NO. 2 – The CSAC Accepted Late Applications for a CEA Examination

California Code of Regulations, title 2, section 174 (Rule 174) requires timely filing of applications:

> All applications must be filed at the place, within the time, in the manner, and on the form specified in the examination announcement....
>
> Filing an application 'within the time' shall mean postmarked by the postal service or date stamped at one of the State Personnel Board offices (or the appropriate office of the agency administering the examination) by the date specified.

An application that is not postmarked or date stamped by the specified date shall be accepted, if one of the following conditions as detailed in Rule 174 apply: (1) the application was delayed due to a verified error; (2) the application was submitted in error to the wrong state agency and is either postmarked or date stamped on or before the specified date; (3) the employing agency verifies examination announcement distribution problems that prevented timely notification to an employee of a promotional examination; or (4) the employing agency verifies that the applicant failed to receive timely notice of a promotional examination. (Cal. Code Reg., tit. 2, § 174, suds. (a), (b), (c) & (d).)

CSAC accepted four applications for the CEA I, Information Technology examination that were date stamped after the final filing deadline stated on the examination announcement. None of the late applications had postmarked envelopes or any notations indicating the reason CSAC accepted the late applications. The SPB noted that for the other three examinations CSAC staff had stapled the postmarked envelopes to the applications that were untimely submitted.

It is recommended that within 60 days of the Board's Resolution adopting these findings and recommendations the CSAC submit to the Board a written corrective action plan that addresses the changes the department will implement to ensure conformity with the requirements of Rule 174. Copies of any relevant documents should be included with the plan.

Appointments

During the compliance review period, CSAC made 33 appointments. The SPB reviewed 21 of those appointments, which are listed below:

Classification	Appointment Type	Status	No. of Employees
Administrative Adviser II C.E.A.	Certification List	Permanent	1
Assistant Information Systems Analyst	Certification List	Permanent	1
CEA I, Information Technology	Certification List	Permanent	1
Data Processing Manager II	Certification List	Permanent	1
Information Officer II	Certification List	Permanent	1
Limited Examination and Appointment Program Candidate (Identified Class)	Certification List	Permanent	2
Program Technician II	Certification List	Permanent	3
Senior Accounting Officer (Specialist)	Certification List	Permanent	1
Supervising Program Technician II	Certification List	Permanent	1
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	1
Staff Services Analyst	Mandatory Reinstatement	Permanent	1
Staff Services Analyst	Permissive Reinstatement	Limited Term	1
Management Services Technician	Transfer	Permanent	1

Classification	Appointment Type	Status	No. of Employees
Program Technician	Transfer	Permanent	1
Program Technician II	Transfer	Permanent	1
Research Analyst II (General)	Transfer	Permanent	1
Staff Services Analyst	Transfer	Permanent	1
Systems Software Specialist I (Technical)	Transfer	Permanent	1

FINDING NO. 3 - CSAC Properly Complied with Civil Service Laws and Board Rules for Appointments Reviewed by the SPB 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).)

Departments are also required to have recruitment strategies designed to be "as broad and inclusive as necessary to ensure the identification of an appropriate candidate group." (Merit Selection Manual [MSM], § 1100, p. 1100.2 (Oct. 2003); Cal. Code Reg., tit. 2, § 50.) Generally, the typical steps a department takes after determining that approval to fill a vacant position has been secured include: determining whether there is an eligible list for the classification in which the vacancy exits; determining whether an eligible list is necessary to fill the vacancy; advertise the vacancy, which may include certifying the eligible list; receive applications, and if no applications are received, re-advertise the position with increased recruitment efforts; screen applications to determine which candidates meet minimum qualification requirements and are eligible for appointment; and conduct hiring interviews. (MSM, § 1200, pp. 1200.7-1200.8; Cal. Code Reg., tit. 2, § 50.)

CSAC advertised all the positions that were reviewed by the SPB, except for the three positions that were filled by way of mandatory reinstatement.

For the 12 list appointments, CSAC ordered a certification list of candidates and properly cleared any reemployment and SROA[2] candidates. CSAC interviewed eligible applicants who were reachable within the first three ranks of the certification list and hired the best suited candidate. Accordingly, these appointments complied with civil service laws and Board rules.

As to mandatory reinstatement appointments, a state agency or department is required to reinstate an employee to his or her former position if the employee is (1) terminated from a temporary or limited-term appointment by either the employee or the appointing power; (2) rejected during probation; or (3) demoted from a managerial position. (Gov. Code, § 19140.5.) However, the following conditions must apply: the employee accepted the appointment without a break in continuity of service and the reinstatement is requested within 10 working days after the effective date of the termination. (*Ibid.*)

The two employees who were appointed as mandatory reinstatements to CSAC accepted the appointments without a break in the continuity of their state service and requested reinstatement within 10 working days after the effective date of the termination of their other position. Thus, these appointments were made in compliance with civil service laws and Board rules.

Civil service laws also allow permissive reinstatements but only in certain circumstances. An appointing power may, in his or her discretion, reinstate any person having probationary or permanent status who was separated from his or her position by: (1) resignation; (2) service retirement; (3) termination from limited-term, temporary, career executive assignment, or exempt appointment; (4) absence without leave, as defined; or (5) without a break in continuity of state service to accept another civil service or exempt appointment. (Gov. Code, § 19140.)

A Staff Services Analyst was permissively reinstated to CHFFA after a break in state service due to resignation. CSAC interviewed the applicant and verified that he/she had permanent status in a classification similar in duties and responsibilities. Thus, in making the appointment, CSAC exercised its discretion within the civil service laws and rules.

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[2] 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 permissive reinstatement was for a limited term. CSAC ensured that the appointment did not, individually or consecutively, exceed one year. (Gov. Code., § 19080.3.) CSAC notified the limited-term employee in writing of his or her separation of appointment (Cal. Code Regs., tit. 2, § 282), and thus complied with civil service laws and Board rules.

CSAC appointed two employees by way of transfer from another agency. "A transfer of an employee from a position under one appointing power to a position under another appointing power may be made, if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer." (Cal. Code Reg., tit. 2, § 425.)

CSAC verified the transfer eligibility of each candidate and conducted hiring interviews before making the appointments. CSAC thus complied with civil service laws and Board rules in making those appointments.

Equal Employment Opportunity

The SPB reviewed CSAC's EEO policies, procedures, and programs that were in effect during the compliance review period. In addition, the SPB interviewed appropriate CSAC staff.

FINDING NO. 4 – CSAC's EEO Officer Does Not Directly Report to the Executive Director

The Equal Employment Opportunity Officer must report directly to, and be under the supervision of, the director of the department. (Gov. Code, § 19795, subdivision (a).) CSAC's EEO Officer reports directly to the Division Chief, Administration and External Affairs. No separate, direct reporting relationship with the Executive Director has been created for her EEO responsibilities.

CSAC must therefore establish a direct reporting relationship between the Executive Director and the EEO Officer with regard to the position's EEO responsibilities. CSAC must implement this organizational change within 60 days of the Board's Resolution adopting these findings and recommendations and submit to the SPB a written report of compliance that includes any relevant documentation.

FINDING NO. 5 – CSAC Does Not Operate an Independent Disability Advisory Committee (DAC)

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 the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

CSAC shares a DAC with the Military Department; however, the SPB found that CSAC did not invite its employees to serve on the DAC. In addition, the DAC does not advise CSAC's director on issues of interest to employees with disabilities.

It is recommended that CSAC invite all its employees to serve on the DAC and ensure that the DAC advises the CSAC's director on issues of interest to employees with disabilities. No later than 60 days after the Board's Resolution adopting these findings and recommendations, CSAC must submit to the SPB a written report of compliance that includes copies of all relevant documentation.

Personal Services Contracts

During the compliance review period, CSAC had five personal services contracts (PSC)s that were in effect. It was beyond the scope of the review to make conclusions as to whether CSAC's justifications for the contracts under Government Code section 19130 were legally sufficient. The review was limited to whether CSAC followed the procedural requirements for PSCs. The reviewed contracts are listed below:

Vendor	Services	Contract Dates	Total Amount
California Reporting, LLC	Transcripts and recordings of meetings	August 15, 2012 – May 31, 2015	$42,150.00
Radian Solutions LLC	Applications programming	October 30, 2012 – October 31, 2013	$215,250.00
Stanfield Systems, Inc.	Applications programming	October 30, 2012 – October 31, 2013	$188,275.00
Walter R.	Evaluate the 2010-2011	June 29, 2011 –	$34,002.48

Vendor	Services	Contract Dates	Total Amount
McDonald & Associates	Cash for College Program	November 15, 2012	
Walter R. McDonald & Associates	Evaluate the 2011-2012 Cash for College Program	June 29, 2012 – November 15, 2013	$34,963.22

FINDING NO. 6 – CSAC's Personal Services Contracts Complied with the Procedural Requirements of Civil Service Law

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 (b), however, codifies exceptions to the civil service mandate where, for instance, the PSC is for a new state function, services that are not available within state service, and services that are of an urgent, temporary, or occasional nature. When a state agency requests approval from the Department of General Services for a subdivision (b) contract, the agency must include with its contract transmittal a written justification that includes *specific and detailed factual information* that demonstrates how the contract meets one or more conditions specified in Government Code section 19131, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.)

CSAC sought DGS's approval for all the reviewed contracts. The written justification for the contracts presented sufficient facts and details to demonstrate why CSAC viewed the contracts as meeting the conditions specified in Government Code section 19130, subdivision (b). Accordingly, the SPB finds that in executing these PSCs, CSAC followed the procedural requirements of civil service laws and Board rules.

DEPARTMENTAL RESPONSE

CSAC was provided a copy of the draft Findings and Recommendations Report. CSAC submitted a written response, which is attached as Attachment No. 1.

SPB REPLY

The written response indicates that CSAC intends to comply with the Board's recommendations. Attached to the response are draft copies of documentation pertaining to three of the four findings that require corrective action.

Finding No. 1—CSAC Did Not Separate the Equal Employment Opportunity (EEO) Questionnaire from All Applications:

CSAC's written response indicates that its Personnel Office will ensure that all EEO Questionnaires are separated from future applications upon receipt. Within 60 days of the Board's Resolution adopting this finding and recommendation, CSAC should submit to the Board a written corrective action plan that addresses the corrections CSAC will implement to ensure that in the future the EEO questionnaire is separated from all applications. Copies of any relevant documentation should be included with the plan.

Finding No. 2—CSAC Accepted Late Applications for a CEA Examination:

CSAC's written response indicates that it will draft and implement a procedure for all incoming applications to ensure timely filing. Within 60 days of the Board's Resolution adopting this finding and recommendation, CSAC should submit to the Board a copy of the aforementioned procedure.

Finding No. 4—CSAC's EEO Officer Does Not Directly Report to the Executive Director:

CSAC's written response includes a proposed executive organization chart and a proposed duty statement for CSAC's personnel officer, who also serves as EEO officer. These documents comply with the recommended corrective action. Accordingly, within 60 days of the Board's Resolution adopting this finding and recommendation, CSAC should submit to the Board copies of the finalized and adopted executive organization chart and personnel/EEO officer duty statement.

Finding No. 5—CSAC Does Not Operate an Independent Disability Advisory Committee (DAC):

CSAC's written response includes a draft copy of an email that will invite all employees to serve on the DAC. The response also states that CSAC will start providing DAC meeting minutes to the Director to advise her on issues of interest to employees with disabilities. Within 60 days of the Board's Resolution adopting this finding and recommendation, CSAC should submit to the Board a copy of the email that is sent to employees inviting them to serve on the DAC. CSAC should also ensure that the DAC meeting minutes are sufficiently detailed and thorough so as to adequately advise the Director on issues of concern to employees with disabilities.

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

CALIFORNIA STUDENT AID COMMISSION

Personnel Services

October 24, 2013

State Personnel Board
Compliance Review Committee
801 Capitol Mall, MS-66
Sacramento, CA 95814

Dear Ms. Olson:

This is the department's response with regards to your finding and recommendations for the Compliance Review period, May 1, 2011 through October 31, 2012.

1. **FINDING No. 1-CSAC Did Not Separate the Equal Employment Opportunity (EEO) Questionnaire from All Applications.**

   DEPARTMENT'S RESPONSE: The California Student Aid Commission (CSAC) Personnel Office will ensure that all Equal Employment Opportunity (EEO) Questionnaires will be separated from all applications upon receipt.

2. **FINDING No. 2-CSAC Accepted Late Applications for a CEA Examination.**

   DEPARTMENT'S RESPONSE: CSAC will draft and implement a procedure for all incoming applications to ensure timely filing.

3. **FINDING No. 3-CSAC Properly Complied with Civil Service Laws and Board Rules for Appointments Reviewed by the SPB during the Compliance Review Period.**

   DEPARTMENT'S RESPONSE: None Required.

4. **FINDING No. 4-CSAC's EEO Officer Does Not Directly Report to the Executive Director.**

   DEPARTMENT'S RESPONSE: CSAC will update the Duty Statement and Org Chart to reflect that the EEO Officer reports directly to the Executive Director.

MAILING ADDRESS: P.O. BOX 3210, Rancho Cordova, CA 95741-3210
STREET ADDRESS: 11040 White Rock, Rancho Cordova, CA 95670
TEL 916/464-8910 FAX 916/464-8287 WEB SITE www.csac.ca.gov

5. **FINDING No. 5- CSAC Does Not Operate an Independent Disability Advisory Committee (DAC)**

   DEPARTMENT'S RESPONSE: CSAC will distribute via email, to the entire agency, inviting them to serve on the DAC Committee. Additionally, CSAC will start providing DAC meeting minutes to the Director to advise her on issues of interest to employees with disabilities.

6. **FINDING No. 6-CSAC's Personal Services Contracts Complied with the Procedural Requirements of Civil Service Law**

   DEPARTMENT'S RESPONSE: None required.

If you have any further questions, please feel free to contact me at (916) 845-8046.

Sincerely,

Kathy Khan
Personnel Officer
Personnel Services

cc: Janet McDuffie, Administration and External Affairs Division Chief