



COMPLIANCE REVIEW REPORT

OFFICE OF ADMINISTRATIVE LAW

Compliance Review Unit
State Personnel Board
July 6, 2021

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INTRODUCTION

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

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

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Office of Administrative Law (OAL)'s 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	Severity	Finding
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Mandated Training	Very Serious	Ethics Training Was Not Provided to All Filers
Compensation and Pay	Very Serious	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Department Did Not Retain Employee Time and Attendance Records
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees

BACKGROUND

Established July 1, 1980, the OAL ensures that agency regulations are clear, necessary, legally valid, and available to the public. Since its creation, OAL has been and continues to be responsible for reviewing administrative regulations proposed by over 200 state agencies for compliance with the standards set forth in California's Administrative Procedure Act (APA), for transmitting these regulations to the Secretary of State and for publishing regulations in the California Code of Regulations.

OAL assists state regulatory agencies through a formal training program, as well as through other less formal methods, to understand and comply with the APA. OAL also accepts petitions challenging alleged underground regulations: those rules issued by state agencies which meet the APA's definition of a "regulation" but were not adopted pursuant to the APA process and are not expressly exempt.

OAL also oversees the publication and distribution, in print and on the Internet, of the California Code of Regulations and the California Regulatory Notice Register.

The Department of General Services performs human resources operations for the OAL.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the OAL'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 OAL'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.

The OAL did not conduct any examinations or permanent withhold actions during the compliance review period.

The OAL did not make any appointments, unlawful appointment investigations, or additional appointments during the compliance review period.

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

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

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

The review of the OAL'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.

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

The OAL'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, managers, and CEAs were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the OAL's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely, and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRU selected a small cross-section of the OAL's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the OAL's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the OAL employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Additionally, the OAL did not track any temporary intermittent employees by actual time worked during the compliance review period.

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

On April 15, 2021, an exit conference was held with the OAL to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the OAL's written response on May 19, 2021, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

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 the OAL, 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).)

The CRU reviewed the OAL's EEO program that was in effect during the compliance review period.

IN COMPLIANCE	FINDING No. 1 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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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 OAL’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 OAL. The OAL 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.)

Additionally, new supervisors must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two hours of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code § 19995.4.)

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

VERY SERIOUS	FINDING No. 2	ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The OAL provided ethics training to one new filer within six months of appointment. However, the OAL did not provide ethics training to 1 of 13 existing filers.

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 OAL asserts this finding does not take into account that certifications are due on a biennial basis, and that utilizing an annual review process will always result in a finding in this area.

SPB Reply: The CRU reviewed the OAL's mandated training program that was in effect during a two-year review period. It is important to note that the OAL provided no documentation to CRU to substantiate that the employee completed ethics training by the required timeframe.

Corrective Action: Within 90 days of this report, the OAL must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Compensation and Pay

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, November 1, 2017, through October 18, 2018, the OAL employees made two alternate range movements within a classification. The CRU reviewed both of those alternate range movements to determine if the OAL 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	B	C	Full Time	\$6,500
Attorney	C	D	Full Time	\$7,316

VERY SERIOUS	FINDING NO. 3 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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Summary: The CRU found the following errors in the OAL's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Attorney	Incorrect salary determination. OAL failed to give a new anniversary date, resulting in the employee being overcompensated.	Cal. Code Regs., tit. 2, §§ 599.676, 599.673
Attorney	Incorrect salary determination. OAL failed to give a full step increase, resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, § 599.676

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 OAL failed to comply, in two circumstances, 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 pay amounts.

Cause: The OAL acknowledges the salary determinations for alternate range movements were incorrect due to staff error. The OAL states the staff who provide salary determinations corrected the processing oversights, and the employees' pay was rectified.

Corrective Action: The OAL has taken steps to correct errors in pay for the employees identified. Within 90 days of the date of this report, the OAL 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 OAL 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.

Leave

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. (*ibid.*) If an employee's attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*ibid.*) Accurate and timely attendance reporting is required of all departments and is subject to audit. (*ibid.*)

During the period under review, February 1, 2018, through April 30, 2018, the OAL reported 1 unit comprised of 20 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
February 2018	010	20	20	0
March 2018	010	20	20	0
April 2018	010	20	20	0

SERIOUS	FINDING No. 4 DEPARTMENT DID NOT RETAIN EMPLOYEE TIME AND ATTENDANCE RECORDS
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Summary: The OAL did not retain a complete attendance record from the March 2018 pay period. Specifically, documentation for a jury duty summons was not provided for review.

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.) Such records shall be kept in the form and manner prescribed by the Department of Finance in connection with its powers to devise, install and supervise a modern and complete accounting system for state agencies.” (*Ibid.*)

When summoned for jury duty, state employees must appear on the date specified and, in most instances, will continue to receive “regular” compensation. (Human Resources Manual Section 2117)

Severity: Serious. The OAL failed to verify the dates of the jury duty appearance. The oversight could have affected employee leave accruals and compensation.

Cause: The OAL states that the employee who attended jury duty did not provide jury duty substantiation as requested.

Corrective Action: Within 90 days of the date of this report, the OAL must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure all timesheets are accounted for and processed in conformity with California Code of Regulations, title 2, section 599.665. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

State Service

The state recognizes two different types of absences while an employee is on pay status; paid or unpaid. The unpaid absences can affect whether a pay period is considered to be a qualifying or non-qualifying pay period for state service and leave accruals.

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous

service.² (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs. tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees³ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

Permanent intermittent employees also earn leave credits on the pay period following the accumulated accrual of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period, are not counted or accumulated towards leave credits.

During the period under review, November 1, 2017, through October 18, 2018, the OAL had one employee with non-qualifying pay period transactions. The CRU reviewed the transaction to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	1

² Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

³ As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

IN COMPLIANCE	FINDING No. 5 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU determined that the OAL ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. *(Ibid.)* Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. *(Ibid.)* Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. *(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.)*

IN COMPLIANCE	FINDING No. 6 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the policy was disseminated to all staff and emphasized the OAL’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the OAL’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, subd. (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 OAL did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING No. 7 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU verified that the OAL 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 OAL 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, 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 18 permanent OAL 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
Assistant Chief Counsel	12/31/2017
Associate Governmental Program Analyst	1/31/2018
Attorney	8/3/2018
Attorney	4/17/2018
Attorney	3/23/2018
Attorney III	1/22/2018
Attorney III	5/6/2018
Attorney III	5/26/2018
Attorney III	5/31/2018
Attorney III	6/2/2018
Attorney III	8/31/2018
Attorney III	9/30/2018
Legal Analyst	5/21/2018
Legal Analyst	7/8/2018
Office Technician (Typing)	3/25/2018
Office Technician (Typing)	5/31/2018
Staff Services Analyst (General)	4/14/2018
Staff Services Manager II (Supervisory)	5/31/2018

SERIOUS	FINDING NO. 8 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The OAL did not provide performance appraisals to the 18 employees reviewed after the completion of the employees' probationary period.

Criteria: "Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule." (Gov. Code § 19992.2 subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit.2, § 599.798.)

Severity: Serious. The department does not ensure that all of its employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The OAL states that it did not provide formal performance appraisals to employees; however, informal reviews were provided. Since the compliance review, the OAL states it has initiated formal performance appraisals of all employees and will retain the appropriate documentation for the mandated time frame in the future.

Corrective Action: The OAL has taken preliminary steps to provide performance appraisals to its employees. Within 90 days of the date of this report, the OAL must submit to the SPB a written corrective action response which addresses the corrections the department implemented 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 OAL's response is attached as Attachment 1.

SPB REPLY

Based upon the OAL's written response, the OAL 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.



May 19, 2021

ATTACHMENT 1

Diana Campbell, Compliance Manager
Compliance Review Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. Campbell,

This is in response to the May 14th draft report indicating the cause of each deficient finding.

Finding No. 2 does not take into account that certifications are due on a bi-annual basis. Utilizing an annual compliance review will always show some filers not having submitted their certification for certain years. Out of all OAL filers only one compliance certification was missing.

Finding No. 3 is technically correct that OAL did not provide the anniversary date or notification for an MSA. However, OAL contracts with the Department of General Services (DGS) for Personnel Services (who is the custodian of OAL's personnel records) and it is DGS' responsibility to notify OAL of such personnel actions. In each instance, DGS discovered and corrected the processing oversights and the employees' pay were rectified.

Finding No. 4 is correct, the E-99 employee attended jury duty in Alameda County and did not provide jury duty substantiation although requested.

Finding No. 8 is correct. Although OAL did perform informal reviews, OAL did not perform formal Performance Appraisals. OAL has initiated formal Performance Appraisal reviews of all employees and will be retaining the appropriate documentation for the mandated time frame in the future.

Sincerely,

Belinda C. Lindstrom

Belinda Lindstrom
Staff Services Manager II

The Corrective Action Response (CAR) is an opportunity for departments to demonstrate necessary steps have been implemented to correct the non-compliant Findings (deficiency) found as a result of the Compliance Review.

For each non-compliant Finding, refer to the Corrective Action section of that Finding in the review report. Copies of relevant documentation demonstrating that the Corrective Action has been or is in the process of being corrected must be included with the CAR. Examples include, but are not limited to, a training log for supervisory training, leave reduction policy and/or any new procedures that have been implemented.

CORRECTIVE ACTION RESPONSE

DEPARTMENT: Office of Administrative Law	BRANCH/DIVISION/PROGRAM: Executive Office
CONTACT PERSON (NAME AND TITLE): Belinda Lindstrom, Staff Services Manager II	CORRECTIVE ACTION RESPONSE DATE: September 3, 2021

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)
Finding as stated in the report, by number	Description of 1) completed or planned corrective action(s) and 2) of supporting documentation (if applicable)	Actual or Estimated Completion Date
Mandated Training – Finding No. 2	Training log with employee names and due dates is posted in Executive Office where employees can view anytime. Emails are sent to employees and Executive Management four to six weeks prior, notifying employee of their due date. As an added reminder, due dates are set up on the Outlook Calendar, automatic notifications will be sent to employees informing them of their due date.	Ongoing – Next Training due dates: September 2021 September 2022 April 2023 July 2023 Notifications to employees: SSM II will follow up with documenting compliance within 4-6 weeks prior to Training due date.
Compensation and Pay – Finding No. 3	<p>OAL contracts with DGS for Human Resource Services (DGS-HR). The salary was adjusted as soon as it was determined there was a processing error and the employees' pay was corrected. OAL will continue to work closely with DGS-HR to ensure employees' anniversary and MSA's are keyed timely.</p> <p>A reminder process has been established in the Outlook Calendar to inform the Executive Management of employee anniversary dates for MSA's and Range Changes. Outlook will send an automatic notification to the Executive Management Team advising them of upcoming employee anniversary dates.</p>	May 2016 April 2017

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)
Leave – Finding No. 4	OAL has notified employees via email the importance of submitting jury duty substantiation. OAL’s process is for employees to notify the Executive Management of their Jury Duty Summons. If selected, employee must maintain proof and submit jury duty attendance slip with their Absence Report, STD 634.	August 17, 2021
Policy – Finding No. 8	OAL acknowledges the importance of providing annual performance appraisals to all employees. OAL’s Director has completed the Performance Appraisal Summary, STD 638 on each employee in July 2021. Original Performance Appraisal Summary STD 638 were sent to DGS-HR Specialist to be retained in the Official Personnel File. Director keeps a scanned copy of each appraisal, a copy was given to employee, a copy is also retained in the employees personnel file in-house.	Performance Appraisals for each employee were completed July 2021 – The Director (or a delegate) will continue to perform annual reviews in July of each year for each employee.