



COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF AGING

Compliance Review Unit
State Personnel Board
August 9, 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 California Department of Aging (CDA) 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
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Those That Were Provided Were Untimely ¹
Appointments	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
Equal Employment Opportunity	Very Serious	A Disability Advisory Committee Has Not Been Established
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

¹ This is the third consecutive time this has been a finding for CDA. On October 10, 2018, the CDA’s compliance review report identified 12 missing probation reports of the 27 appointment files reviewed. The August 10, 2015, report identified 19 missing probation reports of the 29 appointment files reviewed.

Area	Severity	Finding
Compensation and Pay	In Compliance	Arduous Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Serious	Positive Paid Temporary Employees' Work Exceeded Time Limitations
Leave	Serious	Administrative Time Off Was Not Properly Documented
Leave	In Compliance	Leave Auditing and Timekeeping 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/or CalHR Policies and
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ²

BACKGROUND

Under the umbrella of the California Health and Human Services Agency, the CDA administers programs that serve older adults, adults with disabilities, family caregivers, and residents in long-term care facilities throughout the State. These programs are funded through the federal Older Americans Act, the Older Californians Act, and through the Medi-Cal program.

² This is the second consecutive time this has been a finding for CDA. The October 10, 2018, report identified that the CDA failed to provide performance appraisals for any of the 20 employees reviewed.

To promote the CDA's goal of every Californian having the opportunity to enjoy wellness, longevity and quality of life in strong healthy communities, the CDA actively collaborates with many other agencies on transportation, housing and accessibility, emergency preparedness and response, wellness and nutrition, falls and injury prevention, improving services to persons with dementia, reducing fraud and abuse and many other issues.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CDA's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes³. The primary objective of the review was to determine if the CDA'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 CRU examined the CDA's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CDA'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 CDA 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 CDA did not conduct any unlawful appointment investigations or make any additional appointments during the compliance review period.

The CDA's appointments were also selected for review to ensure the CDA applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CDA provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: arduous pay, monthly pay differentials, and out-of-class assignments.

³ 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 CDA did not issue or authorize hiring above minimum requests, red circle rate requests, bilingual pay, or alternate range movements.

The review of the CDA'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 CDA's PSC's were also reviewed.⁴ It was beyond the scope of the compliance review to make conclusions as to whether the CDA's justifications for the contracts were legally sufficient. The review was limited to whether the CDA's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The CDA'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 those in Career Executive Assignments (CEA) were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the CDA'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 CDA's units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the CDA employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CDA positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

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

⁴If 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.

An exit conference was not held with the CDA to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CDA's written response on July 26, 2021, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond, or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing, and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate's subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the period under review, April 1, 2020, through December 31, 2020, the CDA conducted one permanent withhold action. The CRU reviewed the permanent withhold action, which is listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Associate Governmental Program Analyst	9PB04	8/27/19	8/27/20	Failed to Meet Minimum Qualifications

IN COMPLIANCE	FINDING NO. 1	PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU found no deficiencies in the permanent withhold action undertaken by the department 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).)

During the period under review, March 1, 2020, through November 30, 2020, the CDA made 31 appointments. The CRU reviewed 13 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Administrator I (Specialist)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Health Facilities Evaluator Nurse	Certification List	Permanent	Full Time	1
Office Technician (General)	Certification List	LEAP	Full Time	1
Staff Services Analyst	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
(General)				
Staff Services Manager I	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Information Technology Specialist I	Transfer	Permanent	Full Time	1
Personnel Specialist	Transfer	Limited Term	Full Time	1
Staff Services Manager II (Supervisory)	Transfer	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 2 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND THOSE THAT WERE PROVIDED WERE UNTIMELY
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Summary: The CDA did not provide 2 probationary reports of performance for 11 of the 13 appointments reviewed by the CRU. In addition, the CDA did not provide two probationary reports of performance in a timely manner, as reflected in the table below. This is the third consecutive time this has been a finding for the CDA.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Associate Personnel Analyst	Certification List	1	1
Information Technology Specialist I	Transfer	1	1

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

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent

appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: The CDA states that despite good faith efforts to inform supervisors and managers regarding the requirements of completing probationary reports, including regular and consistent reminders of deadlines, not all supervisors provided timely probationary reports to their staff.

Corrective Action: Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with the probationary requirements of Government Code section 19172 and California Code of Regulations, title 2, section 599.795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: TECHNICAL	FINDING NO. 3 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
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Summary: The CDA failed to retain personnel records. Of the 13 appointments reviewed, the CDA did not retain 3 NOPAs.

Criteria: As specified in section 26 of the Board’s Regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.)

Severity: Technical. Without documentation, the CRU could not verify if the appointments were properly conducted.

Cause: The CDA states that they did not retain the NOPA documents as a result of clerical errors.

Corrective Action: Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department

to develop, implement, coordinate, and monitor the department’s EEO program. (Gov. Code, § 19795, subd. (a).)

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).)

SEVERITY: VERY SERIOUS	FINDING NO. 4 A DISABILITY ADVISORY COMMITTEE HAS NOT BEEN ESTABLISHED
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Summary: The CDA does not have an active DAC. This is the third time this has been a finding for the CDA.

Criteria: 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).)

Severity: Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a DAC may limit an agency’s ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.

Cause: The CDA established a disability advisory committee on March 18, 2021. However, the committee did not hold any meetings due to the COVID-19 pandemic and 100% telework, which delayed the department from convening the quarterly DAC Meetings and planned DAC activities and action plans.

SPB Response: The CDA did not establish a DAC until after the compliance review commenced. Furthermore, while they represent that a DAC was

established in March 2021, no meetings have been conducted. Therefore, the DAC is not active. It is noteworthy that this is the third consecutive time that the CDA has been cited for failing to have an active DAC.

Corrective Action: Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure the establishment of an active DAC, comprised of members who have disabilities or who have an interest in disability issues. This response must include a meaningful plan to ensure the continuity of a DAC. Copies of relevant documentation demonstrating that the corrective action has been implemented, including the new DAC roster, agenda, and meeting minutes, must be included with the corrective action response.

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, but are not limited to, 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 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, April 1, 2020, through December 31, 2020, the CDA had 21 PSC's that were in effect. The CRU reviewed 10 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Admail West, Inc.	Postcard mailer	5/8/20 - 6/30/20	\$598,953.67	Yes	No
Admail West, Inc.	Shipping services of donated goods	12/18/20 - 6/30/21	\$16,000.00	Yes	No
Alzheimer's of Greater Los Angeles	Alzheimer treatment Grant/subv/LA	6/1/19 - 5/31/22	\$650,000.00	Yes	No ⁵
Bonnie Burns	Medicare training services	9/1/20 - 9/30/20	\$750.00	Yes	No
Institute on Aging	Friendship phone line	4/20/20 - 9/30/21	\$900,000.00	Yes	No
Jennifer Lauren Wong dba JLW Health Consulting	Consultant - COVID response	7/1/20 - 9/30/20	\$41,250.00	Yes	No
KT Speake Janitorial, LLC	Deep cleaning services	12/10/20 - 12/31/21	\$1,500.00	Yes	Yes
Sandra Katherine Fitzpatrick	Consultant - history of aging in CA	8/31/20 - 10/9/20	\$9,999.00	Yes	No
Southside Unlimited	Paper recycling	1/1/21 - 12/31/21	\$5,940.00	Yes	No
Southside Unlimited	Paper recycling	1/1/19 - 12/31/20	\$4,148.00	Yes	No

⁵ The contract references California Welfare and Institutions Code Section 9001, which encourages partnership with local agencies, private and local social services agencies. Union notification is not required.

SEVERITY: SERIOUS	FINDING NO. 5 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACT
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Summary: The CDA did not notify unions prior to entering into 8 of the 10 PSC’s reviewed.

Criteria: The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

Severity: Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for the type of work that their members could perform.

Cause: The CDA states that they did not notify the unions of the personal service contracts due to lack of resources and increased workload related to the COVID-19 pandemic.

Corrective Action: It is the contracting department’s responsibility to identify and notify any unions whose members could potentially perform the type of work to be contracted prior to executing the PSC. Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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 CDA’s mandated training program that was in effect during the compliance review period, January 1, 2019, through December 31, 2020.

SEVERITY: VERY SERIOUS	FINDING NO. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The CDA did not provide ethics training to 2 of 99 existing filers. In addition, the CDA did not provide ethics training to 3 of 54 new filers within 6 months of their appointment.

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

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

Cause: The CDA acknowledges that the filers did not complete ethics training due to the lack of an effective tracking process.

Corrective Action: Within 90 days of this report, the CDA 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.

SEVERITY: VERY SERIOUS	FINDING No. 7 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS
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Summary: The CDA did not provide sexual harassment prevention training to two of eight new supervisors within six months of their appointment. In addition, the CDA did not provide sexual harassment prevention training to 2 of 34 existing supervisors every 2 years.

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

Severity: Very Serious. The department does not ensure that all new and existing supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

Cause: The CDA acknowledges that the employees did not complete sexual harassment prevention training due to the lack of an effective tracking system.

Corrective Action: Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that supervisors are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁶ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, March 1, 2020, through December 1, 2020, the CDA made 31 appointments. The CRU reviewed seven of those appointments to determine if the CDA applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator I (Specialist)	Certification List	Permanent	Full Time	\$7,080
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	\$5,149
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,149
Health Facilities Evaluator Nurse	Certification List	Permanent	Full Time	\$6,043
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,124
Information Technology Specialist I	Transfer	Permanent	Full Time	\$5,583
Staff Services Manager II (Supervisory)	Transfer	Permanent	Full Time	\$8,352

⁶ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

IN COMPLIANCE	FINDING NO. 8 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the salary determinations that were reviewed. The CDA 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.

Arduous Pay

Effective July 1, 1994, appointing authorities were provided the discretion to provide additional compensation for employees exempt from the Fair Labor Standards Act (FLSA) who perform arduous work that exceeds the normal demands of state service employment. (Human Resources Manual Section 1702.) The work must be extraordinarily demanding, time consuming, and significantly exceed employees' normal workweek. The employee cannot be entitled to receive any other sort of compensation such as overtime. Eligible employees are FLSA-exempt employees who do not receive compensation in recognition of hours worked in excess of 40 hours per week. The duration of the arduous period must be at least two weeks or more. (*Ibid.*)

Excluded and represented employees who are FLSA-exempt and assigned to Work Week Group E are eligible to receive up to four (4) months of pay per fiscal year, or per event for emergencies, if the following conditions are met:⁷

- There is a nonnegotiable deadline or extreme urgency;
- Work exceeds normal work hours and normal productivity;
- Work is unavoidable;
- Work involves extremely heavy workload;
- Employee is eligible for no other compensation, and
- The circumstances that support this pay differential are documented.

Departments have delegated authority to approve arduous pay for excluded employees who are FLSA-exempt, but CalHR approval is required for any arduous pay issued to represented employees.

⁷ Applicable Memorandum of Understandings or Bargaining Unit Agreements detail other specific criteria.

Although departments have delegated authority to approve arduous pay,⁸ they are required to fill out CalHR Form 777, documenting the circumstances, assessment and rationale behind all arduous pay approvals. A new Form 777 should be filled out for every employee receiving the pay differential, every time an employee is approved to receive a new pay differential, and every time an employee wants to extend their arduous pay. Extensions are only granted in rare circumstances. Departments must keep the Form 777 on file and retain the form for five years after the approval date. (*Ibid.*)

During the period under review, March 1, 2020, through December 1, 2020, the CDA issued Arduous Pay to four employees. The CRU reviewed all arduous pay authorizations, listed below, to ensure compliance with applicable CalHR policies and guidelines:

Classification	Bargaining Unit	Work Week Group	Time Base	Total Compensation	Number of Months Received
Career Executive Assignment	M01	E	FT	\$2,400	2
Information Technology Manager I	M01	E	FT	\$3,600	3
Information Technology Specialist I	R01	E	FT	\$3,600	3
Information Technology Specialist I	R01	E	FT	\$3,600	3

IN COMPLIANCE	FINDING NO. 9 ARDUOUS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the arduous pay authorizations that the CDA authorized during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

⁸ Pay Letter 94-32 established Pay Differential 62 regarding arduous pay for Bargaining Units 1, 7, 9, 17, 19, and 21, and Excluded employees.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, March 1, 2020, through December 1, 2020, the CDA issued pay differential⁹ to one employee. The CRU reviewed the pay differential to ensure compliance with applicable CalHR policies and guidelines. It is listed below:

Classification	Pay Differential	Monthly Amount
Executive Assistant	52	\$378.28

IN COMPLIANCE	FINDING NO. 10	PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differential that the CDA authorized during the compliance review period. The pay differential was issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

⁹ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Out-of-Class Assignments and Pay

For excluded¹⁰ and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the time period outlined in applicable law, policy or MOU expires. (Classification and Pay Guide Section 375.)

During the period under review, March 1, 2020, through December 1, 2020, the CDA issued OOC pay to six employees. The CRU reviewed all of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Accountant Trainee	R01	Accounting Officer (Specialist)	9/1/20 - 10/31/20
Accounting Administrator I (Supervisor)	R01	Accounting Administrator II	8/17/20 - 10/31/20
Accounting Officer (Specialist)	R01	Senior Accounting Officer (Specialist)	9/8/20 - 10/31/20
Senior Accounting Officer (Specialist)	S01	Associate Accounting Analyst	3/2/20 - 6/29/20
Staff Services Manager I	S01	Staff Services Manager II	8/5/20 - 10/14/20

¹⁰ "Excluded employee" means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

Staff Services Manager I	S01	Staff Services Manager II	8/17/20 - 10/31/20
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IN COMPLIANCE	FINDING NO. 11	OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES	
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The CRU found no deficiencies in the OOC pay assignments that the CDA authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee’s time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days¹¹ worked and paid absences¹², are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to

¹¹ For example, two hours or ten hours count as one day.

¹² For example, vacation, sick leave, compensating time off, etc.

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

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year. Further, exceptions, under certain circumstances, may be made to the 1500 hour limitation, as long as the appointing power follows the process outlined in the Personnel Management Policy and Procedures Manual, section 333.

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

At the time of the review, the CDA had 19 positive paid employees whose hours were tracked. The CRU reviewed 14 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
Aging Programs Analyst II	Retired Annuitant	1/7/20 - 6/30/20	416
Associate Governmental Program Analyst	Retired Annuitant	7/1/19 - 2/29/20	401.50
Associate Governmental Program Analyst	Retired Annuitant	7/1/19 - 6/30/20	950
Associate Governmental Program Analyst	Retired Annuitant	7/1/19 - 6/30/20	929.25
Associate Governmental Program Analyst	Retired Annuitant	7/1/19 - 6/30/20	657
Associate Governmental Program Analyst	Retired Annuitant	7/1/19 - 6/30/20	762
Executive Secretary I	Retired Annuitant	7/1/19 - 6/30/20	812.25
Health Program Specialist I	Retired Annuitant	7/1/19 - 6/30/20	553.50

Classification	Tenure	Time Frame	Time Worked
Nurse Evaluator II, Health Services	Retired Annuitant	7/1/19 - 6/30/20	432.50
Office Technician (Typing)	Retired Annuitant	7/1/19 - 6/30/20	711.50
Office Technician (Typing)	Retired Annuitant	7/1/19- 6/30/20	647.25
Office Technician (Typing)	Retired Annuitant	10/1/19 - 3/31/20	105.50
Staff Services Manager II (Supervisory)	Retired Annuitant	7/2/19 - 6/30/20	433.75
Student Assistant	Temporary	1/8/20 - 1/7/21	1538

SEVERITY: SERIOUS	FINDING NO. 12 POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS
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Summary: The CDA did not consistently monitor the actual number of hours worked in order to ensure that positive paid employees did not exceed the 1,500-hour limitation in any 12-consecutive month period.

Specifically, the following employee exceeded the 1,500-hour limitation:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Student Assistant	Temporary	1/8/20- 1/7/20	1538	38 Hours

Criteria: If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary appointments that cannot be extended for any reason. (Cal Const., art. VII, § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) Another controlling factor limits the maximum work time for student, youth, and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Severity: Serious. The number of days or hours an individual may work in a temporary appointment is limited in the state civil service. TAU appointments are distinguished from other appointments as they can be made in the absence of an appropriate employment list.

Cause: The CDA did not factor in holiday hours, which resulted in the error.

Corrective Action: Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 265.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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 when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also 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, October 1, 2019, through September 30, 2020, the CDA placed six employees on ATO. The CRU reviewed all of these ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Accounting Analyst	9/9/20, 9/11/20, 9/14/20, 9/21/20 - 9/22/20, 9/24/20 - 9/25/20, 9/28/20 - 9/30/20	19.25 Hours
Associate Budget Analyst	8/24/20 - 8/25/20, 8/31/20	24 Hours

Classification	Time Frame	Amount of Time on ATO
Associate Budget Analyst	9/1/20, 9/14/20 - 9/15/20, 9/21/20 - 9/22/20, 9/28/20 - 9/29/20	56 Hours
Associate Governmental Program Analyst	3/17/20 - 3/30/20	80 hours
Associate Governmental Program Analyst	7/15/20 - 7/16/20	6.5 Hours
Information Technology Associate	3/23/20 - 3/23/20	4 Hours

SEVERITY: SERIOUS	FINDING NO. 13 ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED
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Summary: The CDA did not grant ATO in conformity with the established policies and procedures. Of the six ATO authorizations reviewed by the CRU, two were found to be out of compliance for failing to document justification for ATO.

Criteria: Appointing authorities are authorized to approve ATO for up to five (5) working days. (Gov. Code, § 19991.10.) Furthermore, they “have delegated authority to approve up to 30 calendar days.” (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the CalHR. (*Ibid.*) In most cases, if approved, the extension will be for an additional 30 calendar days. (*Ibid.*) The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. (*Ibid.*)

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. (*Ibid.*) ATO may not be used and will not be granted for an indefinite period. (*Ibid.*) If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. (*Ibid.*)

Regardless of the length of ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. (*Ibid.*)

Severity: Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

Cause: The CDA states that, due to the increase in the use of ATO with the onset of the COVID-19 pandemic, there was confusion about ATO protocols which resulted in the errors.

Corrective Action: Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19991.10 and Human Resources Manual Section 2121. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, July 1, 2020, through September 30, 2020, the CDA reported 84 units comprised of 401 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
July 2020	500	4	3	0
July 2020	530	2	2	0
July 2020	620	11	11	0
July 2020	631	8	8	0
July 2020	650	2	2	0
July 2020	651	3	3	0
July 2020	765	2	2	0
July 2020	790	23	23	0
August 2020	361-001	3	3	0
August 2020	400	9	9	0
August 2020	500	4	3	0
August 2020	730	3	3	0
August 2020	760	3	3	0
August 2020	761	2	2	0
September 2020	620	11	11	0
September 2020	631	8	8	0
September 2020	640	6	6	0
September 2020	650	2	2	0
September 2020	761	2	2	0
September 2020	762	5	5	0
September 2020	771	5	5	0
September 2020	772	2	2	0

IN COMPLIANCE	FINDING NO. 14 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CDA kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

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. 15 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 CDA’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CDA’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 CDA did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 16 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the CDA 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 CDA 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 19 permanent CDA 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
Aging Programs Analyst II	12/25/2020
Aging Programs Analyst II	11/2/2020
Associate Governmental Program Analyst	11/2/2020
Associate Governmental Program Analyst	1/28/2020
Associate Governmental Program Analyst	9/1/2020
Associate Governmental Program Analyst	7/17/2020
Associate Governmental Program Analyst	1/28/2020
Executive Secretary I	7/4/2020
Health Program Specialist I	2/3/2020
Nurse Evaluator II Health Services	3/15/2020
Office Technician (Typing)	6/3/2020
Office Technician (Typing)	9/16/2020
Office Technician (Typing)	3/25/2020
Senior Accounting Officer (Specialist)	12/11/2020
Staff Services Analyst	11/17/2020
Staff Services Manager I	12/2/2020
Staff Services Manager I	1/31/2020
Staff Services Manager II	10/1/2020
Staff Services Manager II	4/1/2020

SEVERITY: SERIOUS	FINDING NO. 17 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The CDA did not provide annual performance appraisals to any of the 19 employees reviewed after the completion of the employee's probationary period. This is the second consecutive time this has been a finding for the CDA.

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 CDA states that they did not provide performance appraisals as required due to a lack of training, tracking, notification, and failure to provide the necessary forms and employee anniversary dates to supervisors and managers.

Corrective Action: Within 90 days of the date of this report, the CDA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

DEPARTMENTAL RESPONSE

The CDA's response is attached as Attachment 1.

SPB REPLY

Based upon the CDA written response, the CDA 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.

CALIFORNIA DEPARTMENT OF AGING**Office of the Director**

1300 National Drive, Suite 200

Sacramento, CA 95834

www.aging.ca.gov

TEL 916-419-7502

FAX 916-928-2267

TTY1-800-735-2929



Attachment 1

July 26, 2021

Michelle La Grandeur
Policy and Compliance Review Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. La Grandeur:

SUBJECT: COMPLIANCE REVIEW REPORT RESPONSE

The California Department of Aging (CDA) is submitting this letter in response to the findings from the State Personnel Board's (SPB) draft Compliance Review Report dated June 29, 2021. The Department recognizes the importance of compliance reviews to ensure proper personnel practices and adherence to civil service laws, rules, and regulations.

CDA has reviewed the SPB's report and appreciates the opportunity to respond to the findings. The attachment details steps CDA will take to resolve the findings within 60 days of the release of the final report.

Thank you for the opportunity to respond to the Draft Report. If you have any questions or need additional information, please contact me at Virginia.Perry@aging.ca.gov.

Sincerely,

Virginia Perry

Virginia Perry, Chief
Human Resources Bureau

Enclosure

Cc: Elbia Jue
Thomas Cameron

Attachment
CDA Compliance Review Response
7/26/2021

FINDING NO. 2 – Probationary Evaluations Were Not Provided for all Appointments Reviewed and Those That Were Provided Were Untimely

Response: CDA did not provide two probationary reports of performance for eleven of the thirteen appointments; also CDA did not provide two probationary reports of performance in a timely manner reviewed by the SPB Compliance Review Unit (CRU) despite good faith efforts to inform supervisors and managers regarding the requirements of completing probationary reports, including regular and consistent reminders of deadlines, not all supervisors provided timely probationary reports to their staff.

CDA's Human Resources Bureau (HRB) created and implemented a Probationary Report Tracking Log, which is updated monthly, and sent to the Executive Team, for their respective areas of responsibility, showing when probationary reports are due and status. Additionally, monthly Workforce Meetings are held with managers to discuss probation report due dates and assist managers with completion, if needed. Failure to provide documentation results in referral to the appropriate Deputy Director (DD), or assigned Executive Team member, for action. HRB will continue to provide respective managers with reminders and report due dates for new probationary employees, while also continuing to share this information with assigned Executive Team members. Further, the department will continue to remind managers and supervisors of status, requirements and offer assistance to Executives, managers and supervisors regarding the timely completion of probationary reports.

FINDING NO. 3 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Response: CDA did not maintain Notice of Personnel Action (NOPA) documentation for three appointments reviewed due to clerical error.

CDA-HBR's Personnel Specialist retains a copy of the NOPA(s) in a "pending file" for which is checked daily to ensure all required documentation (NOPAs, duty statements, hire documents, etc.) are returned to HRB for placement in the employee's Official Personnel File (OPF) and/or recruitment file. Failure to provide documentation timely results in referral to the appropriate supervisor for action. Additionally, the Personnel Specialist will audit the "pending file" on a regular basis to ensure that no outstanding NOPAs or other documentation is retained indefinitely.

FINDING NO. 4 – A Disability Advisory Committee Has Not Been Established

Response: CDA established a Disability Advisory Committee on March 18, 2021. However, no meetings were held in the 2020-2021 year due to the COVID-19 Pandemic, which refocused priorities on COVID response activities, and a wholesale shift from in-

person work to 100% telework. These two factors delayed the department from convening the Quarterly DAC Meetings and delayed planned DAC activities and action plans. The DAC will be reconvening in the first quarter of fiscal year 2021-22 to re-established protocols, bylaws, and to set the quarterly DAC meeting schedule. The DAC will also be partnering with CDA's Equity Workgroup to help both bodies.

FINDING NO. 5 – Unions were not notified of Personal Services Contracts

Response: CDA did not notify the unions of personal services contracts for eight of the ten contracts reviewed due to a lack of resources and a dramatic increase in workload associated with the COVID-19 pandemic.

Until July 1, 2021, CDA only had a single contract analyst, with no back-up or support, to manage over all CDA contract execution, including Personal Services Contracts and subvention contracts with local aging service providers. Another contributing factor that led to unions not being notified of personal service contracts was due to the COVID-19 pandemic; five of the ten contracts listed were executed as emergency contracts for COVID response activities and support and due to the extremely urgent nature of these agreements and services provided, they were executed in an expedited manner. Effective immediately, a copy of all executed personal services contracts are provided to the HRB Labor Relations Officer for appropriate notification to unions prior to the execution of these agreements.

FINDING NO. 6 – Ethics Training Was Not Provided for All Filers

Response: CDA did not ensure two of fifty four new filers and two of ninety-nine existing filers took the required Ethics training within the required timeframe due to a lack of effective tracking. In addition, CDA did not ensure one employee took the required training at all due to a lack of effective tracking.

Employees, who are identified as Form 700 filers, are automatically signed up for mandated Ethics Training upon hire and at appropriate intervals from thereon. The CDA Training Officer tracks all mandated training and sends reminders to employees and their supervisors/managers when training is going to be due. Effective July 1, 2021, the Training Officer was moved from the Business Management Bureau to the HRB and will report monthly to the HRB Chief on training compliance. During HRB's monthly Workforce Meetings, held with managers and supervisors, HR staff will also discuss mandated training and upcoming due dates. Further, managers and supervisors will be notified via email and will be responsible to ensure subordinate employees complete any/all mandated training in a timely manner. Failure to complete the training results in referral, from HR staff, to the appropriate Deputy Director (DD) for action. HRB will continue to provide reminders to the employees and their respective manager. Lastly, the HRB team is establishing an Executive Team status report on all mandated training compliance to ensure that all executives can also ensure compliance and timeliness with training requirements.

FINDING NO. 7 – Sexual harassment Prevention Training Was Not Provided for All Supervisors

Response: CDA did not ensure two of eight newly hired supervisors reviewed completed Sexual Harassment Prevention training timely. In addition, two of thirty-four existing employees did not complete their bi-annual (every 2 years) training at all due to a lack of an effective tracking system.

All CDA employees are automatically signed up for the Sexual Harassment Prevention (SHP) training course upon hire and at appropriate intervals from thereon. The CDA Training Officer tracks all mandated training(s) and sends reminders to employees and their supervisors/managers when training is going to be due. Effective July 1, 2021, the Training Officer was moved from the Business Management Bureau to the HRB and will report monthly to the HRB Chief on training compliance. During HRBs monthly Workforce Meeting, held with managers and supervisors, HR staff will also discuss mandated training and upcoming due dates. Further, managers and supervisors will be notified via email and will be responsible to ensure subordinate employees complete any/all mandated training. Failure to complete the training results in referral, from HR staff, to the appropriate Deputy Director (DD) for action. HRB will continue to provide reminders to the employees and their respective manager. Lastly, the HRB team is establishing an Executive Team status report on all mandated training compliance to ensure that all executives can also ensure compliance and timeliness with training requirements.

FINDING NO. 12 – Positive Paid Temporary Employees' Work Exceeded Time Limitations

Response: CDA did not ensure one temporary employee worked within the time limits for a Student Assistant due to staff turnover. The Student Assistant's holiday hours were not credited, resulting in the error.

An "Hours Worked" report for temporary employees will be run from the SCO system each month after time is input into the Leave Accounting System (LAS). The Personnel Specialist will provide an initial notification to the manager and employee of work time limit and will provide a monthly time worked report to the managers for all assigned temporary employees including Student Assistants, Retired Annuitants, etc.

FINDING NO.13 – Administrative Time Off Was Not Properly Documented

Response: CDA did not properly document Administrative Time Off (ATO) for two of the six records reviewed. Due to the increase in use of ATO associated with the onset of the COVID-19 pandemic, there was confusion about processes and protocol which resulted in the error of not having a written justification for the ATO.

CDA, in accordance with state policy, requires supervisors request and receive advanced approval prior to using ATO. HRB is responsible to provide ATO approval/determination letters any time it is requested. A copy of each ATO letter and corresponding CDA 232 will be provided to transactions staff for keying into the LAS.

FINDING NO. 17 – Performance Appraisals Were Not Provided to All Employees

Response: CDA did not provide performance appraisals to any of the nineteen employee records reviewed at least once in each twelve calendar months after the completion of the employee's probationary period due to a lack of training, tracking, notification, and failure to provide the necessary forms and employee anniversary dates to supervisors and managers.

CDA's new Performance Appraisal Policy and Procedure is in the final stages of review. As outlined in the new process, the HRB will provide each supervisor and manager with a list of their respective employees, including anniversary dates, and other pertinent information to ensure that they are able to complete the performance appraisal within the timeframe required. During HRB's monthly Workforce Meetings, held with managers and supervisors, HR staff will discuss performance appraisal status, due dates, tracking and will offer/provide assistance to managers and supervisors as needed. Failure to provide HRB with completed, timely, performance appraisals will result in referral, by HR staff, to the appropriate Deputy Director (DD) for action. Further, HRB is developing and will implement a tracking system to monitor the completion of performance appraisals in compliance with GC 19992.2 and CCR 599.798. Lastly, HRB will be developing and securing resources, training, and support for managers and supervisors on performance appraisals and will be share it with all managers, supervisors and executives.

CALIFORNIA DEPARTMENT OF AGING**Division of Administrative Services**

2880 Gateway Oaks Drive, Suite 200

Sacramento, CA 95833

www.aging.ca.gov

TEL 916-419-7500

FAX 916-928-2267

TTY1-800-735-2929



November 8, 2021

Michelle La Grandeur
Policy and Compliance Review Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. La Grandeur:

SUBJECT: COMPLIANCE REVIEW REPORT RESPONSE

The California Department of Aging (CDA) is submitting this letter in response to the findings from the State Personnel Board's (SPB) Compliance Review Report dated August 9, 2021. The Department recognizes the importance of compliance reviews to ensure proper personnel practices and adherence to civil service laws, rules and regulations.

CDA would like to provide a current status regarding the corrective action plan submitted on July 26, 2021. The attachment details steps CDA has taken to resolve the findings within 90 days of the release of the final report and our corrective action plan.

If you have any questions or need additional information, please contact me at Virginia.Perry@aging.ca.gov or (916) 751-0019.

Sincerely,

Virginia Perry

Virginia Perry, Chief
Human Resources Bureau

Cc: Elbia Jue,
Thomas Cameron

CDA has implemented various process improvements to assist with ensuring compliance with the corrective action plan that was submitted on July 26, 2021. A brief explanation is below and supporting documentation is attached to this response.

Finding No. 2: Probationary Evaluations Were Not Provided for All Appointments Reviewed and Those That Were Provided Were Untimely.

The Human Resources Bureau (HRB) provides managers with a memo instructing them of their administrative duties upon receipt of a Notice of Personnel Action (NOPA). The administrative memo notifies managers of the need to review, sign and return the duty statement, workplace expectations, the probation dates and merit salary adjustment date. The manager is reminded during the monthly workforce meetings of upcoming probation dates and HRB has drafted a template to send out to managers, in addition to the workforce meetings, notifying them of upcoming probation dates for the current and future month.

Finding No. 3: Appointment Documentation Was Not Kept for the Appropriate Amount of Time:

Upon receipt of the NOPA, the personnel specialist updates the probation log, completes the memo notifying managers of their administrative duties and mails the NOPA to the employee's home for review, signature and return. HRB has drafted a procedure for NOPA distribution and staff are returning their signed NOPAs timely.

Finding No. 4: Disability Advisory Committee Has Not Been Established:

The Disability Advisory Committee met in September and October of 2021.

Finding No. 5: Unions Were Not Notified of Personal Services Contracts:

The Business Management Bureau(BMB) has drafted a process and email template to send to the unions.

Findings No. 6 & 7: Ethics and Sexual Harassment Prevention Training was not provided to all staff:

HRB is working with the Information Technology Bureau to secure a contract with a web-based system Granicus to track the Conflict of Interest and Ethics Training for all staff.

The California Health and Human Services Agency (CHHS) contracts with Skillsoft for the Sexual Harassment Prevention Training. HRB inputs the names and emails of staff who are required to take the training 60 days prior to the training due date. Skillsoft is sends incremental reminders every two weeks to the employee prior to the due date. If

the training hasn't been taken and is due within 30 days, Skillsoft sends incremental reminders every week to the employee. HRB sends reminders to the employee and manager following the escalation process and gives an earlier due date than is required, at least 10 days prior to the due date.

The Training Officer has developed an escalation procedure starting at hire and continuing with 30 day incremental reminders. The manager is reminded of training requirements during the monthly workforce meetings to ensure compliance.

Finding No. 12: Positive Paid Temporary Employees' Work Exceeded Time Limitations:

The MIRS analyst provides a monthly report to the HRB manager of the student assistant hours.

Finding No. 13: Administrative Time Off Was Not Properly Documented:

CDA created and implemented an administrative time off request form to ensure receipt of the required documents and the proper approval.

Finding No. 17: Performance Appraisals Were Not Provided to All Employees:

CDA is currently providing training to all supervisors and managers on Performance Management, probation reports and performance appraisals to ensure the managers are aware of the process and ensure they are completing them thoroughly and properly. CDA is also working on finalizing a performance appraisal procedure to ensure compliance with the various rules, laws and best practices surrounding performance appraisals. Upon completion of the training in December of 2021, the performance appraisal process will begin in 2022.

Attachments:

- Finding 2: Probation Reports:
 - F.2 – 1 Administrative duties for new hire
 - F.2 – 2 Exec October Probation Log
 - F.2 – 3 Probation log 11.2021(listing an outstanding probation report)
 - F.2 – 4 FLTCO Workforce Agenda Notes 10.27.21
 - F.2 – 5 Email communication between HRB and a manager about the outstanding probation listed on the log
 - F.2 – 6 Template to managers
 - F.2 – 7 Workforce Agenda.Template
- Finding 3: Notice of Personnel Action:
 - F.3 – 1 NOPA Process Draft
- Finding 4: Disability Advisory Committee Has Not Been Established

CDA Corrective Action Plan Response

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- F.4 – 1 DAC Members
- F.4 – 2 DAC Minutes Sep 2021
- F.4 – 3 DAC Minutes Oct 2021
- Finding 5: Unions were not notified of Personal Services Contracts
 - F.5 – 1 Proc-GC 19132 Union Notification
 - F.5 – 2 EmailTEMPLATE -GC 19132
 - F.5 – 3 emailToALLBUs-sent9-30-21
- Finding 6 & 7: Ethics and Sexual Harassment Prevention Training was not provided to all staff
 - F.6.7 – 1 Mandatory Training Escalation process
 - F.6.7 – 2 Mandatory Ethics training due
 - F.6.7-3 ACTION REQUIRED Workplace Prevention Harassment Training Due by 11/1/21
- Finding 12: Positive Paid Employees Work Exceeded Time Limitations:
 - F.12 – 1 Bozzo October monthly report
- Finding 13: Administrative Time Off was not Properly Documented:
 - F.13 – 1 Personnel Bulletin Time off to Vote
 - F.13 – 2 CDA 9050, Administrative Time Off Request
- Finding 17: Performance Appraisals Were Not Provided to All Employees
 - F.17 – 1 AM 21-07 Mandatory Performance Appraisal Training Email
 - F.17 – 2 AM 21-07 PerApp Sup Amended