



COMPLIANCE REVIEW REPORT

CALIFORNIA COMMISSION ON AGING

Compliance Review Unit
State Personnel Board
February 3, 2022

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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 Commission on Aging (CCoA) personnel practices in the areas of EEO, PSC’s, mandated training, 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 for All Filers
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Very Serious	Department Does Not Maintain a Current Written Nepotism Policy
Policy	In Compliance	Workers’ Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees

BACKGROUND

The mission of CCoA is to serve as the principal advocacy body for older Californians and a catalyst for change that supports and celebrates Californians as they age. In this capacity, the CCoA advises the Governor, Legislature, state, federal, and local agencies on issues affecting older Californians so they can age with dignity and respect in the setting of their choice. The CCoA holds meetings and public hearings around the state, and gathers information to develop recommendations, initiatives, and projects focused on older Californians and their caregivers. The CCoA actively participates and advises the

California Department of Aging (CDA) in the development and preparation of the State Plan on Aging, and is also heavily engaged in the development of Master Plan for Aging.

The CCoA is comprised of up to 25 members: 19 appointed by the Governor, 3 appointed by the Speaker of the Assembly, and 3 appointed by the Senate Rules Committee. Three full-time state civil service staff support the CCoA, including the Executive Director, an Associate Governmental Program Analyst, and a Staff Services Analyst.

The CDA performs human resources operations for the CCoA.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CCoA'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 CCoA'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 CCoA did not conduct any examinations, permanent withhold actions, unlawful appointment investigations and did not make any appointments, including additional appointments, during the compliance review period. Furthermore, during the review period, the CCoA did not issue or authorize any hiring above minimum requests, red circle rate requests, arduous pay, bilingual pay, monthly pay differentials, alternate range movements or out-of-class assignments.

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

The CCoA's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all

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

employees were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the CCoA'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 CCoA'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 CCoA'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.

During the compliance review period, the CCoA did not have any employees with non-qualifying pay period transactions, also did not authorize Administrative Time Off.

Additionally, the CCoA did not track any temporary intermittent employees by actual time worked during the compliance review period.

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

The CCoA declined to have an exit conference. The CRU received and carefully reviewed the CCoA's written response on January 18, 2022, 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 CCoA, 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).)

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 CCoA'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. As CCoA is a state agency with less than 500 employees, the CDA's Personnel Officer functions as CCoA's EEO Officer. The CCoA 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 employees 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 and non-supervisors one hour of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subs. (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 CCoA’s mandated training program that was in effect during the compliance review period, September 1, 2019, through February 28, 2021. The CCoA’s sexual harassment prevention training was found to be in compliance, while the CCoA’s ethics training was found to be out of compliance.

SEVERITY: VERY SERIOUS	FINDING NO. 2 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The CCoA did not provide ethics training to 3 of 12 existing filers. In addition, the CCoA did not provide ethics training to 1 of 7 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 CCoA states the reason of this finding is the lack of an effective tracking system.

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

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, March 1, 2021, through May 31, 2021, the CCoA reported one unit comprised of three 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
March 2021	1	3	3	0
April 2021	1	3	3	0
May 2021	1	3	3	0

IN COMPLIANCE	FINDING NO. 3 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 CCoA 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.)*

SEVERITY: VERY SERIOUS	FINDING NO. 4 DEPARTMENT DOES NOT MAINTAIN A CURRENT WRITTEN NEPOTISM POLICY
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Summary: The CCoA does not maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees.

Criteria: It is the policy of the State of California to recruit, hire and assign all employees on the basis of fitness and merit in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204). All department 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.*)

Severity: Very Serious. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. Departments must take proactive steps to ensure that the recruitment, hiring, and assigning of all employees is done on the basis of merit and fitness in accordance with civil service statutes. Maintaining a current written nepotism policy, and its dissemination to all staff, is the cornerstone for achieving these outcomes.

Cause: The CCoA states the reason for this finding is a lack of training/awareness.

Corrective Action: Within 90 days of the date of this report, the CCoA must submit to the SPB a written corrective action response which includes an updated nepotism policy which contains requirements outlined in Human Resources Manual section 1204, and documentation demonstrating that it has been distributed to all staff.

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

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

IN COMPLIANCE	FINDING NO. 5 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, on behalf of the CCoA, provides notice to the CCoA employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. The CCoA did not receive any workers' compensation claims during the review period

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 three permanent CCoA employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 6 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The CCoA did not provide annual performance appraisals to either of the two 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 CCoA states the reasons for this finding are a lack of training, tracking, and notification; as well as the failure to provide the necessary forms and employee anniversary dates to supervisors.

Corrective Action: Within 90 days of the date of this report, the CCoA 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 CCoA's response is attached as Attachment 1.

SPB REPLY

Based upon the CCoA written response, the CCoA 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 Commission on Aging

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GAVIN NEWSOM, Governor

Executive Director
Karol Swartzlander

January 7, 2022

Alton Ford
Compliance Review Manager
Policy and Compliance Review Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Mr. Ford:

SUBJECT: COMPLIANCE REVIEW REPORT RESPONSE

The California Commission on Aging (CCoA) submits this letter in response to the findings from the State Personnel Board's (SPB) draft Compliance Review Report dated December 22, 2021. CCoA recognizes the importance of compliance reviews to ensure proper personnel practices and adherence to civil service laws, rules and regulations.

CCoA has reviewed the draft report and is providing a cause for each finding as requested in the attachment.

Thank you for the opportunity to respond to the findings. Please contact me at karol.swartzlander@cco.ca.gov if you have questions or need additional information.

Sincerely,



Karol Swartzlander
Executive Director

Attachment

Cc: Virginia Perry, Chief , Human Resources Bureau, California Department of Aging

Attachment
CCoA Compliance Review Response
Updated 1/18/22

Finding No. 2: Ethics Training was not provided for all filers

Response: CCoA did not ensure one new filer completed the ethics training within six months of appointment and three existing filers completed their bi-annual (every 2 years) training due to the lack of an effective tracking system.

Employees and Commissioners, who are identified as Form 700 filers, are notified of the mandated Ethics Training upon hire/appointment. CCoA staff review the annual (April) Form 700 filing requirement yearly with Commissioners and staff beginning in January and sends monthly reminders.

Finding No. 4: Department does not maintain a current written nepotism policy

Response: The CCoA did not maintain a current written nepotism policy due to a lack of training/awareness.

Finding No. 6: Performance Appraisals were not provided to all employees

Response: CCoA did not provide performance appraisals to two employees 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.