



COMPLIANCE REVIEW REPORT

CALIFORNIA ARTS COUNCIL

Compliance Review Division
State Personnel Board
January 20, 2025

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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 Division (CRD) 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 CRD 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 CRD conducted a routine compliance review of the California Arts Council (CAC) 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
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts Reviewed ¹
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ²
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees ³
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Alternate Range Movement Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

¹ Repeat finding. The CAC’s August 17, 2022, compliance review report identified that the CAC did not provide three union notifications for the three PSC’s that were reviewed. Additionally, the CAC’s March 19, 2019, compliance review report identified that the CAC did not provide five union notifications for the five PSC’s that were reviewed.

² Repeat finding. The CAC’s August 17, 2022, compliance review report identified that the CAC did not provide ethics training to two of the three new filers. Additionally, the CAC’s March 19, 2019, compliance review report identified that the CAC did not provide ethics training to the one new filer reviewed.

³ Repeat finding. The CAC’s August 17, 2022, compliance review report identified that the CAC did not provide sexual harassment prevention training to two of four existing supervisors, and two of the three new non-supervisors. Additionally, the CAC’s March 19, 2019, compliance review report identified that the CAC did not provide sexual harassment prevention training to one of the three new supervisors, and one of the three existing supervisors reviewed.

Area	Severity	Finding
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Department Did Not Certify That All Leave Records Were Reviewed
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 Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ⁴

BACKGROUND

The CAC is a state agency with a mission of strengthening arts, culture, and creative expression as the tools to cultivate a better California for all. It supports local arts programming and infrastructure statewide through grants, initiatives, and services. The CAC envisions a California where all people flourish with universal access to and participation in the arts.

The CAC has contracted with the Department of General Services (DGS) to perform its human resources operations.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CAC's, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁵. The primary objective of the review was to determine if the CAC's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR

⁴ Repeat finding. The CACs, August 17, 2022, compliance review report identified that the CAC did not provide performance appraisals to all employees. Additionally, the March 19, 2019, compliance review report identified that the CAC did not provide performance appraisals to all employees.

⁵ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

Delegation Agreements, and to recommend corrective action where deficiencies were identified.

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

A cross-section of the CAC's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRD examined the documentation that the CAC provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The CAC did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CAC did not make any additional appointments during the compliance review period.

The CAC's appointments were also selected for review to ensure the CAC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRD examined the documentation that the CAC 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 CRD reviewed specific documentation for the following personnel function related to compensation and pay: one alternate range movement.

During the compliance review period, the CAC did not issue or authorize red circle rate requests, arduous pay, or bilingual pay.

The review of the CAC's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee.

The CAC's PSC's were also reviewed.⁶ It was beyond the scope of the compliance review to make conclusions as to whether the CAC's justifications for the contracts were legally

⁶If 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.

sufficient. The review was limited to whether the CAC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The CAC's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, that all supervisors, managers, and those serving in Career Executive Assignments (CEA) were provided leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRD reviewed the CAC'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 CRD selected a small cross-section of the CAC's units in order to ensure they maintained accurate and timely leave accounting records.

Further, the CRD reviewed a selection of the CAC's positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

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

On December 16, 2024, an exit conference was held with the CAC to explain and discuss the CRD's initial findings and recommendations. The CRD received and carefully reviewed the CAC's written response on December 20, 2024, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

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, August 1, 2023, through July 10, 2024, the CAC made 12 appointments. The CRD reviewed six of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	1
Information Officer II	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Graphic Designer III	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1

IN COMPLIANCE	FINDING No. 1	APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CAC measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the four list appointments reviewed, the CAC ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRD reviewed two CAC appointments made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive

officer. (Cal. Code Regs., tit. 2, § 425.) The CAC verified the eligibility of each candidate to their appointed class.

The CRD found no deficiencies in the appointments that the CAC initiated during the compliance review period. Accordingly, the CRD found that the CAC's appointments processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

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 CAC, 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. 2 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 CRD determined that the CAC's EEO program provided employees with information

and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CAC. The CAC 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.

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, August 1, 2023, through July 31, 2024, the CAC had 12 PSC's that were in effect. The CRD reviewed 10 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Cal Interpreting & Translations	Translating, Interpreting, American Sign Language	\$152,365	Yes	Yes
Capitol Tech Solutions	Maintain and Support CAC's Website	\$279,620	Yes	Yes
David Mezzerra	Parliamentarian Services for CAC Council Meetings	\$800	Yes	No
David Mezzerra	Parliamentarian Services for CAC Council Meetings	\$1,900	Yes	No
D.I.A. Productions	Parliamentarian Services for CAC Council Meetings	\$5,250	Yes	Yes
G5 Office Interiors, LLC	Office Moving Services	\$6,655	Yes	Yes
Institute For the Future	Develop Strategic Plan, Business Development, Compile Information and Prepare Final Reports	\$649,671	Yes	Yes
Laura Zucker	Consulting Services for Organizational Assessment of Roles, Responsibilities, Reporting Relationships	\$4,950	Yes	No
Smartsimple Software, LTD	SAAS Licenses for Grants Management Services	\$42,898	Yes	Yes
Wicklund IT Consulting, LLC	Improve, Maintain and Support all IT Infrastructure and Services	\$135,000	Yes	Yes

SEVERITY: SERIOUS	FINDING No. 3 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The CAC did not notify unions prior to entering 3 of the 10 PSC's reviewed. This is the third consecutive time this has been a finding for the CAC.

Criteria: Before a state agency executes a contract or amendment to a contract for personal services conditions specified within Government Code section 19130, subdivision (b), the agency shall notify all organizations that represent state employees who perform or could perform the type of work that is called for within the contract, unless exempted under Government Code section 19132, subdivision (b)(1). (Cal. Code Regs., tit. 2, § 547.60.2.)

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 CAC states that they were unaware that PSC's with a value of less than \$5,000 needed to be reported to the union.

SPB Reply: The CAC was provided the pertinent laws relative to notifying unions of PSC's during the last two reviews. There is no dollar threshold relative to these rules.

Corrective Action: Departments are responsible for notifying all organizations that represent state employees who perform or could perform the type of work to be contracted prior to executing a PSC. The PSC's reviewed during this compliance review involved several services and functions which various rank-and-file civil service classifications perform. Within 90 days of the date of this report, the CAC 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 California Code of Regulations section 547.60.2. 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.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a) and (b), & 19995.4, subd. (b).) Additionally, the training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).)

Within 12 months of the initial appointment of an employee to a management or Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*)

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, 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 CRD reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRD reviewed the CAC's mandated training program that was in effect during the compliance review period, August 1, 2022, through July 31, 2024. The CAC's supervisory

training was found to be in compliance, while the CAC's ethics training and sexual harassment prevention training were found to be out of compliance.

SEVERITY: VERY SERIOUS	FINDING No. 4 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The CAC did not provide ethics training to any of its 13 existing filers. In addition, the CAC did not provide ethics training to 22 of its 28 new filers within 6 months of their appointment. This is the third consecutive time this has been a finding for the CAC.

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 CAC states that it experienced a high turnover in management that prevented the drafting of a training procedure, disrupted communication and guidance to staff, and resulted in a lack of tracking and oversight of the training process.

Corrective Action: Within 90 days of the date of this report, the CAC must submit to the SPB a written corrective 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. 5 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The CAC did not provide sexual harassment prevention training to four of its six new supervisors within six months of their appointment. In addition, the CAC did not provide sexual harassment prevention training to the one existing supervisor every two years. This is the third consecutive time this has been a finding for the CAC.

Furthermore, the CAC did not provide sexual harassment prevention training to 24 of the 43 existing non-supervisors every 2 years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years and non-supervisory employees one hour of sexual harassment prevention training every two years. New employees 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 employees 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 CAC states that it experienced a high turnover in management that prevented the drafting of a training procedure, disrupted communication and guidance to staff, and resulted in a lack of tracking and oversight of the training process.

Corrective Action: Within 90 days of the date of this report, the CAC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that all employees 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 rate⁷ 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, August 1, 2023, through July 10, 2024, the CAC made 12 appointments. The CRD reviewed 3 of those appointments to determine if the CAC applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5684
Staff Services Manager I	Certification List	Permanent	Full Time	\$7252
Graphic Designer III	Transfer	Permanent	Full Time	\$7417

IN COMPLIANCE	FINDING No. 6 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the salary determinations that were reviewed. The CAC 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.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move

⁷ “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).

between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, August 1, 2023, through July 10, 2024, the CAC employees made one alternate range movement within a classification. The CRD reviewed the one alternate range movement to determine if the CAC applied salary regulations accurately and correctly processed the employee’s compensation, which is listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Information Technology Specialist I	B	C	Full Time	\$9500

IN COMPLIANCE	FINDING NO. 7 ALTERNATIVE RANGE MOVEMENT COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD determined that the alternate range movement the CAC made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee’s time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used 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 the working days of a month. When counting 189 days, every day worked, including partial days⁸ worked and paid absences⁹, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The

⁸ For example, two hours or ten hours count as one day.

⁹ For example, vacation, sick leave, compensating time off, etc.

hours worked in one day are 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 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).)

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 CAC had one positive paid employee whose hours were tracked. The CRD reviewed the one positive paid employee to ensure compliance with applicable laws, regulations, policies and guidelines, which is listed below:

Classification	Tenure	Time Frame	Time Worked
Associate Accounting Analyst	Intermittent	Retired Annuitant	960 Hours

IN COMPLIANCE	FINDING NO. 8	POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the positive paid employees reviewed during the compliance review period. The CAC provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Leave Auditing and Timekeeping

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

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

During the period under review, February 1, 2024, through April 30, 2024, the CAC reported three total units. The CRD reviewed three units within two pay periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

SEVERITY: SERIOUS	FINDING No. 9	DEPARTMENT DID NOT CERTIFY THAT ALL LEAVE RECORDS WERE REVIEWED
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Summary: The CAC failed to certify that all leave records have been reviewed and corrected if necessary for two out of the three units reviewed.

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

Severity: Serious. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. Failure to audit leave could put the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

Cause: The CAC states that it is a client agency of the DGS which tracks and monitors their leave transactions. The DGS informed the CAC that its Transactions Unit was backlogged due to staffing shortages which caused them to fall behind in auditing leave records and proper documentation of the STD. 672 forms.

Corrective Action: Within 90 days of the date of this report, the CAC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that their monthly internal audit process is documented and that all leave input is keyed accurately and timely. (If applicable, the CAC must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected.) Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Policy and Processes

Nepotism

It is the policy of the State of California to hire, transfer, and promote all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. (Cal. Code Regs., tit. 2, § 87.) (*Ibid.*) All appointing powers shall adopt an anti-nepotism policy that includes the following components: (1) a statement that the appointing power is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system; (2) a definition of "nepotism" as an employee's use of influence or power to hire, transfer, or promote an applicant or employee because of a personal relationship; (3) a definition of "personal relationship" as persons related by blood, adoption, current or former marriage, domestic partnership or cohabitation; (4) a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the

applicant, as defined in section 83.6; (5) a statement that prohibits the direct or first-line supervision of an employee with whom the supervisor has a personal relationship, as defined in section 83.6; (6) a process for addressing issues of direct supervision when personal relationships between employees exist. (*Ibid.*)

IN COMPLIANCE	FINDING No. 10 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD verified that the policy was disseminated to all staff and emphasized the CAC’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the CAC’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 CAC did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING No. 11 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD verified that the CAC provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRD verified that when the CAC 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 CRD selected 17 permanent CAC 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. 12 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The CAC did not provide annual performance appraisals to 6 of the 17 employees reviewed after the completion of the employee's probationary period. This is the third consecutive time this has been a finding for the CAC.

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 employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The CAC states that it does not have an established full-time Human Resources Analyst position to track and oversee agency-wide performance appraisal completion which exacerbated the issue.

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

SPB REPLY

Based upon the CAC's written response, the CAC 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 CRD.



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and creative expression as the
tools to cultivate a better
California for all.

Gavin Newsom, **Governor**
Danielle Brazell, **Executive Director**

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December 20, 2024

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

SUBJECT: California Arts Council Compliance (CAC) Review Response

Dear Ms. Campbell,

This letter is in response pursuant to Government Code 18661, the State Personnel Board's (SPB) Compliance Review Unit (CRU) conducted a review of the CAC personnel practices in August 2024, in the area of examinations, appointments, Equal Employment Opportunity, Personal Services Contracts, mandated training, compensation and pay, leave, and policy and procedures. The CAC has reviewed the draft report and prepared responses to the findings.

Finding #3: Unions were Not Notified of Personal Services Contracts (PSC)

Cause: CAC was not aware PSCs with a value of less than \$5K needed to be reported to the Union.

Finding #4: Ethics Training was Not Provided for All Filers

Cause: During this audit period, the CAC experienced high turnover in management that prevented the CAC from drafting a training procedure, disrupted communication and guidance to staff, and resulted in a lack of tracking and oversight of the training progress. These factors have been the primary causes of staff not completing their training on time.

Finding #5: Sexual Harassment Prevention Training (SHPT) Was Not Provided for All Employees

Cause: During this audit period, the CAC experienced high turnover in management that prevented the CAC from drafting a training procedure, disrupted communication and guidance to staff, and resulted in a lack of tracking and oversight of the training progress. These factors have been the primary causes of staff not completing their training on time.

Finding #9: Department Did not Certify That All Leave Records Were Reviewed

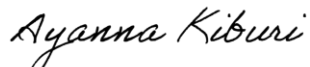
Cause: The CAC is a client agency of Department of General Services that track and monitor all Leave transactions. We have shared the findings of this report for their review and response. DGS informed the CAC that their Transactions Unit was backlogged due to staffing shortages which caused them to fall behind in auditing leave records and proper documentation of the STD 672 forms.

Finding #12: Performance Appraisals Were Not Provided to All Employees

Cause: The CAC does not have an established full-time Human Resources Analyst position to track and oversee agency-wide performance completion status that exacerbated the issue.

Should you need further information or have any questions, let me know.

Sincerely,



Ayanna Kiburi
Deputy Director