

# **COMPLIANCE REVIEW REPORT**

## **EMPLOYMENT DEVELOPMENT DEPARTMENT**

Compliance Review Unit  
State Personnel Board  
November 9, 2023

# **TABLE OF CONTENTS**

INTRODUCTION .....	1
EXECUTIVE SUMMARY .....	2
BACKGROUND .....	3
SCOPE AND METHODOLOGY .....	4
FINDINGS AND RECOMMENDATIONS .....	6
EXAMINATIONS.....	6
APPOINTMENTS.....	9
EQUAL EMPLOYMENT OPPORTUNITY .....	15
PERSONAL SERVICES CONTRACTS .....	15
MANDATED TRAINING .....	24
COMPENSATION AND PAY .....	24
LEAVE.....	40
POLICY AND PROCESSES.....	45
DEPARTMENTAL RESPONSE.....	47
SPB REPLY .....	47

## **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 Employment Development Department (EDD) 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	Examinations Complied with Civil Service Laws and Board Rules
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 <sup>1</sup>
Appointments	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
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
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers <sup>2</sup>
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors <sup>3</sup>
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 Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

<sup>1</sup> Repeat Finding. The EDD's December 4, 2020, compliance review report identified 4 missing probationary reports for 4 out of 97 appointments reviewed.

<sup>2</sup> Repeat Finding. The EDD's December 4, 2020, compliance review report identified that the EDD did not provide ethics training to 14 of 1,105 existing filers.

<sup>3</sup> Repeat Finding. The EDD's December 4, 2020, compliance review report identified that the EDD did not provide sexual harassment prevention training to 8 of 48 new supervisors.

Area	Severity	Finding
Compensation and Pay	In Compliance	Red Circle Rate Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Pay Differentials <sup>4</sup>
Compensation and Pay	In Compliance	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations 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 <sup>5</sup>
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

### **BACKGROUND**

The EDD provides a variety of services to businesses, workers, and job seekers. The EDD administers several multi-billion-dollar benefit programs including the Unemployment Insurance, Disability Insurance, and Paid Family Leave programs that

<sup>4</sup> Repeat Finding. The EDD's December 4, 2020, compliance review report identified that the EDD had errors for 2 out of 15 pay differentials reviewed.

<sup>5</sup> Repeat Finding. The EDD's December 4, 2020, compliance review report identified that the EDD failed to provide documentation that it has implemented a monthly internal audit process to verify all timesheets were keyed accurately and timely.

offer financial stability to workers and their communities. Additionally, the EDD provides critical employment service programs to Californians, collects the state's labor market information and employment data, and serves as one of the nation's largest tax agencies through the collection of payroll taxes. In this manner, the EDD strengthens the economic vitality of Californians and their communities. The EDD's mission is to enhance California's economic growth and prosperity by collaboratively delivering valuable and innovative services to meet the evolving needs of employers, workers, and job seekers.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the EDD's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>6</sup>. The primary objective of the review was to determine if the EDD'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.

A cross-section of the EDD's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the EDD provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the EDD's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the EDD's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the EDD provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CRU also reviewed the EDD's policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations.

The EDD's appointments were also selected for review to ensure the EDD applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the EDD provided, which included employees'

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<sup>6</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

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 e.g., hire above minimum requests, red circle rate requests, arduous pay, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments.

During the compliance review period, the EDD did not issue or authorize hiring above minimum requests, or arduous pay.

The review of the EDD'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 EDD's PSC's were also reviewed.<sup>7</sup> It was beyond the scope of the compliance review to make conclusions as to whether the EDD's justifications for the contracts were legally sufficient. The review was limited to whether the EDD's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The EDD'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 CRU reviewed the EDD'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 EDD'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 EDD's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the EDD employees who used

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<sup>7</sup>If 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.

Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered.

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

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

The EDD declined to have an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the EDD's written response on October 20, 2023, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Examinations**

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)



During the period under review, March 21, 2022, through August 31, 2022, the EDD conducted 25 examinations. The CRU reviewed 10 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Chief of Customer Experience Division	CEA	Statement of Qualifications (SOQ) <sup>8</sup>	8/14/2022	23
CEA B, Chief of Product Development Division	CEA	SOQ	4/25/2022	4
CEA B, Deputy Director of Policy, Accountability, and Compliance Branch	CEA	SOQ	5/7/2022	8
Associate Tax Auditor	Departmental Promotional	Training and Experience (T&E) <sup>9</sup>	5/17/2022	30
Disability Insurance Specialist II	Departmental Promotional	T&E	6/17/2022	5
Employment Development Administrator	Departmental Promotional	T&E	7/29/2022	29
Key Data Supervisor III	Departmental Promotional	T&E	4/6/2022	4
Principle Compliance Representative	Departmental Promotional	T&E	9/7/2022	16
Staff Tax Auditor	Departmental Promotional	T&E	8/4/2022	31
Tax Administrator III	Departmental Promotional	T&E	8/5/2022	16

<b>IN COMPLIANCE</b>	<b>FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRU reviewed seven departmental promotional and three CEA examinations which the EDD administered in order to create eligible lists from which to make appointments. The EDD published and distributed examination bulletins containing the required

<sup>8</sup> In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

<sup>9</sup> The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

information for all examinations. Applications received by the EDD were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the EDD conducted during the compliance review period.

### 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, March 1, 2022, through August 31, 2022, the EDD conducted 11 permanent withhold actions. The CRU reviewed 7 of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Employment Program Representative	8HRA101	11/15/2021	5/3/2022	Failed to Meet Minimum Qualifications

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Information Technology Associate	7PB33	10/15/2021	4/7/2022	Failed to Meet Minimum Qualifications
Information Technology Specialist I	7PB35	2/23/2022	3/18/2022	Failed to Meet Minimum Qualifications
Research Data Supervisor II	8PH43	7/31/2022	9/15/2022	Failed to Meet Minimum Qualifications
Senior Tax Compliance Representative	2HR06	5/3/2022	9/14/2022	Failed to Meet Minimum Qualifications
Tax Compliance Representative	7PB50	12/29/2021	3/20/2022	Failed to Meet Minimum Qualifications
Tax Compliance Representative	7PB50	3/22/2022	6/27/2022	Failed to Meet Minimum Qualifications

<b>IN COMPLIANCE</b>	<b>FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRU found no deficiencies in the permanent withhold actions 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, July 1, 2021, through December 31, 2021, the EDD made 1102 appointments. The CRU reviewed 95 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	3
Associate Architect	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	3
Disability Insurance Program Representative	Certification List	Permanent	Full Time	2
Employment Development Specialist I	Certification List	Permanent	Full Time	1
Employment Program Manager I	Certification List	Permanent	Full Time	4
Employment Program Representative	Certification List	Permanent	Full Time	7
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	5
Information Technology Specialist III	Certification List	Permanent	Full Time	1
Mailing Machine Supervisor I	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	2
Program Technician II	Certification List	Permanent	Full Time	1
Program Technician III	Certification List	Permanent	Full Time	1
Research Data Specialist II	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	4
Staff Services Manager I	Certification List	Permanent	Full Time	9
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Staff Services Manager III	Certification List	Permanent	Full Time	2
Staff Tax Auditor, Employment Development Department	Certification List	Permanent	Full Time	1
Tax Administrator I, EDD	Certification List	Permanent	Full Time	2
Tax Administrator II, EDD	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Tax Auditor, EDD, Range B	Certification List	Permanent	Full Time	3
Tax Compliance Representative	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Permissive Reinstatement	Permanent	Full Time	1
Disability Insurance Program Representative	Permissive Reinstatement	Permanent	Full Time	1
Employment Program Manager I	Permissive Reinstatement	Limited Term	Full Time	1
Employment Program Representative	Permissive Reinstatement	Permanent	Full Time	4
Employment Program Representative	Permissive Reinstatement	Limited Term	Intermittent	2
Employment Program Representative	Permissive Reinstatement	Limited Term	Intermittent	1
Office Technician (General)	Permissive Reinstatement	Permanent	Full Time	1
Program Technician II	Permissive Reinstatement	Permanent	Full Time	2
Staff Services Analyst (General)	Permissive Reinstatement	Permanent	Full Time	1
Tax Auditor, EDD	Permissive Reinstatement	Permanent	Full Time	1
Tax Compliance Representative	Permissive Reinstatement	Permanent	Full Time	1
Associate Tax Auditor	Training and Development	Permanent	Full Time	1
Information Technology Associate	Training and Development	Permanent	Full Time	4
Information Technology Specialist I	Training and Development	Permanent	Full Time	1
Office Technician (Typing)	Training and Development	Permanent	Intermittent	1
Research Data Supervisor I	Training and Development	Permanent	Full Time	1
Senior Tax Compliance Representative (Specialist)	Training and Development	Permanent	Full Time	1
Tax Compliance Representative	Training and Development	Permanent	Full Time	3
Associate Management Auditor	Transfer	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Employment Program Manager I	Transfer	Permanent	Full Time	1
Employment Program Representative	Transfer	Permanent	Intermittent	1
Information Technology Specialist I	Transfer	Permanent	Full Time	2
Information Technology Specialist I	Transfer	Permanent	Intermittent	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	2

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED</b>
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**Summary:** The EDD did not provide 52 probationary reports of performance for 20 of the 95 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Associate Governmental Program Analyst	Certification List	2	6
Disability Insurance Program Representative	Certification List	1	3
Employment Program Representative	Certification List	2	5
Information Technology Associate	Certification List	1	2
Information Technology Specialist I	Certification List	1	3
Information Technology Specialist III	Certification List	1	3
Mailing Machine Supervisor I	Certification List	1	1
Program Technician III	Certification List	1	3
Staff Service Manager I	Certification List	1	3
Staff Services Analyst	Certification List	2	4
Staff Services Manager I	Certification List	1	3
Staff Services Manager III	Certification List	1	3
Employment Program Representative	Transfer	2	6
Information Technology Specialist I	Transfer	1	3

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Staff Services Analyst (General)	Transfer	1	2
Tax Compliance Representative	Transfer	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 EDD states that an unprecedented workload during this review period from the COVID-19 emergency response created difficulty in ensuring probationary reports were completed.

**Corrective Action:** The EDD asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the EDD must submit to the SPB a written corrective action response which addresses

the corrections the department implemented 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.

<b>SEVERITY: TECHNICAL</b>	<b>FINDING NO. 4 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME</b>
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**Summary:** Of the 95 appointments reviewed, the EDD did not retain 6 NOPAs. This is the second time that the EDD has had this finding.

**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 5 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 EDD states that in order to provide NOPAs to employees who were working remotely during the pandemic, procedures had to be developed and implemented. During the transition period, some documents were not returned to the Human Resource Services Division timely.

**Corrective Action:** Within 90 days of the date of this report, the EDD 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).)

<b>IN COMPLIANCE</b>	<b>FINDING NO. 5</b>	<b>EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES</b>
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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 EDD'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 EDD. The EDD 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, March 1, 2022, through August 31, 2022, the EDD had 114 PSC's that were in effect. The CRU reviewed 112 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
100 Billable Days, LLC	Leadership training	\$39,240	Yes	Yes
Access Ingenuity	Dragon professional training - RA request	\$720	Yes	Yes
Access Ingenuity	Dragon professional software training	\$720	Yes	Yes
Access Ingenuity	Dragon professional training - RA request	\$720	Yes	Yes
Accurate Communication, Inc.	American sign language services	\$20,000	Yes	Yes
Acuity Technical Solutions	e-Learning training	\$39,900	Yes	Yes
Adaptive Technology Services	JAWS scripting updates, implementation and training	\$9,900	Yes	Yes
Advance Service, Inc.	Landscape services - El Centro	\$15,000	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Advanced Technical Solutions	Hardware maintenance warranty	\$1,965	Yes	Yes
Advanced Technical Solutions, Inc.	KnowBe4 security training	\$107,160	Yes	Yes
Air-O Service	Emergency HVAC services - Redding	\$20,440	Yes	Yes
Air-O Service	HVAC services - Redding	\$9,999	Yes	Yes
American Integrated Security Group	CCTV camera installation - Sacramento	\$70,329	Yes	Yes
Benjamin Electric	Electrical services - Vallejo	\$15,000	Yes	Yes
Bugman Pest Control, Inc.	Pest control services - Vallejo	\$2,592	Yes	No
California Arbor Care, Inc.	Tree removal	\$10,000	Yes	Yes
California Arbor Care, Inc.	IT consulting for PDD project	\$1,966,140	Yes	Yes
California Environmental Systems	HVAC services - Chico	\$40,000	Yes	Yes
Canon Solution America, Inc.	IT consulting to support current/future COVID-19 related acts/relief	\$908,392	Yes	No
Canon Solution America, Inc.	Equipment maintenance	\$666,286	Yes	Yes
Capital Live Scan	Live scan imaging services	\$270,000	Yes	Yes
Casalett & Company	Proprietary - quarterly maintenance for SuperWeb press	\$60,000	Yes	Yes
Casalett & Company	Equipment maintenance	\$60,000	Yes	Yes
Cen-Cal Air, Inc.	Merced HVAC maintenance	\$60,000	Yes	Yes
CFC Network, Inc.	Mail courier services - Pasadena	\$15,096	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
City of Santa Ana	EDD's share of security guard, copier, telephone and Wi-Fi costs	\$47,017	Yes	Yes
Clark Services	Power sweeping services - Fresno	\$29,160	Yes	No
Clark Services	Power sweeping services - Merced	\$9,999	Yes	Yes
Computer Masters	1 year maintenance for Dell R740 server	\$507	Yes	Yes
Convergint Technologies, LLC	Alarm monitoring and maintenance/repair	\$59,000	Yes	Yes
Courier Solutions Services	Mail delivery service - Santa Barbara	\$9,480	Yes	Yes
Courier Solutions Services	Mail delivery service - Chico	\$10,980	Yes	Yes
CPS HR Consulting	Training	\$4,999	Yes	Yes
Crown Landscape Contractors, Inc.	Monthly landscape and "as needed" repairs - Vallejo	\$19,500	Yes	Yes
Deloitte	IT training	\$2,610,000	Yes	No
Deque Systems, Inc.	Training subscription online	\$1,050	Yes	Yes
Easter Seals Superior	Landscape services - Sacramento	\$50,040	Yes	Yes
Eaton Interpreting Services Inc.	Sign language services - Northern CA	\$36,000	Yes	Yes
Electrical Services Plus	Electrical services	\$1,966,140	Yes	Yes
Electronic Innovations, Inc.	Parking lot gate maintenance - Oakland	\$9,999	Yes	Yes
Elite Power, Inc.	Electrical services - Sacramento	\$15,000	Yes	Yes
Elite Service Experts Inc.	Plumbing services - Midtown	\$9,999	Yes	Yes
ENL Building Service, Inc.	Maintenance services - various locations	\$24,500	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
EVERFI, Inc.	Online training for EDD employees	\$21,587	Yes	Yes
Ferreira Services, Inc.	HVAC maintenance and repairs - Santa Barbara	\$30,000	Yes	Yes
Ferreira Service Inc.	Plumbing services - San Jose	\$30,000	Yes	Yes
Frandsen Construction	As needed electrical services - Redding	\$9,999	Yes	Yes
Frandsen Construction Inc.	Maintenance and repair - Redding	\$25,000	Yes	Yes
Frandsen Construction, Inc.	Electrical services	\$9,999	Yes	Yes
Frandsen Construction, Inc.	Electrical services - Chico	\$9,999	Yes	Yes
Friars Heating and Air Conditioning, Inc.	HVAC maintenance and repair - El Centro (9 Units)	\$30,000	Yes	Yes
Global Knowledge	Training	\$3,090	Yes	Yes
Golden State Reprographics, LLC	Plotter maintenance and "as needed" repairs	\$9,999	Yes	Yes
GregCo Painting, Inc.	Painting services - Riverside	\$69,484	Yes	Yes
Grounds Keeper	Power sweeping services - Eureka	\$17,964	Yes	Yes
Hanna Interpreting	Translation and accessibility remediation services	\$149,999	Yes	Yes
Hanna Interpreting Services, LLC	Telephonic Interpreter Services	\$9,999	Yes	Yes
Harbor Pointe	HVAC Services - San Bernardino	\$24,999	Yes	Yes
Inspectron, Inc.	Proprietary Software/Hardware and installation	\$47,902	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Interpreters Unlimited	Sign Language Services - Southern CA	\$45,000	Yes	Yes
IS, Inc.	Various Training Courses	\$50,000	Yes	Yes
IS, Inc.	Training	\$4,999	Yes	Yes
JM Environmental, Inc.	Asbestos Abatement - Chico	\$19,000	Yes	Yes
Los Rios Community College	Training - Perishable Skills Program trainings	\$2,000	Yes	Yes
M Corp	IT consulting services RACF Support Services	\$2,753,753	Yes	Yes
M Corp	FI\$Cal Support Services	\$2,000,000	Yes	Yes
Maintenance Plus	As needed maintenance services - Chico	\$9,999	Yes	Yes
Modern Express Courier	Mail Courier Services - Oakland	\$26,400	Yes	Yes
Modern Mail Service, Inc.	Mail Courier - San Francisco	\$8,976	Yes	Yes
Mother Lode Van & Storage, Inc.	Moving/MSF	\$500,000	Yes	Yes
Mow-N-Edge	Landscape Services - Fresno	\$30,000	Yes	Yes
Nathan Z. Perkins dba Zack's Handyman & Construction	Maintenance and repair - San Francisco	\$9,999	Yes	Yes
Nelson's Locksmith	Locksmith services	\$5,000	Yes	Yes
North American Security and Investigations, Inc.	Background investigation services	\$26,500	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Northern Paramount Janitorial	Weekly power sweeping - Redding	\$32,400	Yes	Yes
Oak Technical Services	CICS support consulting services	\$1,054,944	Yes	Yes
Omega Power Group	Electrical services - San Jose	\$15,000	Yes	No
OPEX Corporation	Proprietary - Falcon vRed scanner software and hardware maintenance	\$138,877	Yes	Yes
OPEX Corporation	Equipment maintenance service	\$3,064	Yes	Yes
Pacific Storage Company dba Pacific Records Management	On-Site confidential destruct services - Northern California	\$170,000	Yes	Yes
Pitney Bowes	Proprietary - meter rental for field office mail	\$74,911	Yes	Yes
Pitney Bowes Presort Services, LLC	United States mail presort services	\$5,574	Yes	Yes
Premier Property Preservation, LLC	Janitorial services - Pasadena	\$99,792	Yes	Yes
Professional Telecommunications Services, Inc.	Security maintenance and repair services	\$25,000	Yes	Yes
Professional Telecommunications Services, Inc.	Security maintenance and repair services	\$25,000	Yes	Yes
Push Marketing dba Misfits	Marketing services for paid family leave program	\$7,969,600	Yes	Yes
Quadient	Proprietary - postage meter rental	\$31,001	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Rio Hondo Community College	Training - arrest & control tactical communication	\$1,000	Yes	Yes
RNS Communications	RNS communications	\$20,400	Yes	Yes
RW Equipment Repair	Electrical services - Modesto and Merced	\$10,948	Yes	Yes
SAS Institute, Inc.	Training	\$50,000	Yes	Yes
SD Cleanings	Janitorial services - Oceanside	\$26,766	Yes	Yes
Secure Acquisitions, LLC	Computer forensic services	\$6,000	Yes	Yes
Sentinal Fire Equipment Co.	Fire suppression	\$30,000	Yes	Yes
Shadowhawk, Inc., dba The Paper Depot	On-site confidential destruct services - Southern California	\$107,000	Yes	Yes
South Bay Regional Public Safety	Post supervisory training	\$1,506	Yes	Yes
South Bay Workforce Investment Board	Parking validations	\$1,875	Yes	Yes
Spinning Stars, Inc., dba Nelson's Locksmith	Locksmith services - Vallejo	\$9,999	Yes	Yes
Superior Building	Electrical services - Sacramento	\$50,000	Yes	Yes
Teeple Enterprises, Inc.	Electrical services	\$49,999	Yes	Yes
Thomson Reuters	Continuing professional training packages	\$4,983	Yes	Yes
Triple Canopy	Statewide security guard services	\$12,728,446	Yes	Yes



Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Tulare County Sherriff Office	Arrest and control strategic communication and use of force training	\$800	Yes	Yes
United Mechanical	HVAC maintenance and repair services	\$30,000	Yes	Yes
United States Plumbing U.S.P., Inc.	Plumbing services - Santa Rosa	\$15,000	Yes	Yes
Viking Shred, LLC	On-site confidential destruct services - Bay Area	\$104,000	Yes	Yes
Vinzant	12-month maintenance renewal	\$512	Yes	Yes
WEPA Commercial Cleaning	Carpet cleaning - Chula Vista	\$6,780	Yes	Yes
Wind Dancer Moving Company	Office moving and MSF services - Region II	\$100,000	Yes	Yes
Xerox Corporation	Xerox equipment maintenance and repair	\$1,374,075	Yes	Yes
Xerox Corporation	Printer equipment maintenance	\$1,802,395	Yes	Yes
Zacks Handyman & Construction	Maintenance services - Modesto/Merced	\$9,999	Yes	Yes

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 6 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS</b>
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**Summary:** The EDD did not notify unions prior to entering into 5 of the 112 PSC's reviewed.

**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 EDD states it failed to notify unions because of inadequate training.

**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 EDD 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 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 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 EDD's mandated training program that was in effect during the compliance review period, September 1, 2020, through August 31, 2022. The EDD's supervisory training was found to be in compliance, while the EDD's ethics training and sexual harassment prevention training were found to be out of compliance.

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 7    ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS</b>
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**Summary:** The EDD did not provide ethics training to 8 of 177 new filers within 6 months of their appointment. This is the second consecutive time that the EDD has had this finding.

**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 EDD states an unprecedented workload during this review period from the COVID-19 emergency response created difficulty in completing the required training.

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

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 8    SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS</b>
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**Summary:** The EDD did not provide sexual harassment prevention training to 2 of 222 new supervisors within 6 months of their appointment. In addition, the EDD did not provide sexual harassment prevention training to 1 of 709 existing supervisors every 2 years. This is the second consecutive time that the EDD has had this finding.

**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 EDD states an unprecedented workload during this review period from the COVID-19 emergency response created difficulty in completing the required training.

**Corrective Action:** Within 90 days of the date of this report, the EDD 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 rate<sup>10</sup> 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, July 1, 2021, through December 31, 2021, the EDD made 1,102 appointments. The CRU reviewed 30 of those appointments to determine if the EDD applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Officer Specialist	List Appointment	Permanent	Full Time	\$4,701
Employment Development Specialist I	List Appointment	Permanent	Full Time	\$5,634
Employment Program Manager I	List Appointment	Permanent	Full Time	\$5,797

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<sup>10</sup> "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).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Employment Program Representative	List Appointment	Permanent	Full Time	\$5,209
Information Technology Specialist I	List Appointment	Permanent	Full Time	\$7,214
Information Technology Specialist I	List Appointment	Permanent	Full Time	\$7,954
Program Technician III	List Appointment	Permanent	Full Time	\$3,809
Research Data Specialist II	List Appointment	Permanent	Full Time	\$6,496
Staff Services Analyst (General)	List Appointment	Permanent	Full Time	\$4,476
Staff Services Analyst (General)	List Appointment	Permanent	Full Time	\$4,476
Staff Services Manager I	List Appointment	Permanent	Full Time	\$7,076
Staff Services Manager I	List Appointment	Permanent	Full Time	\$6,403
Staff Services Manager I	List Appointment	Permanent	Full Time	\$6,749
Tax Administrator I, EDD	List Appointment	Permanent	Full Time	\$7,242
Tax Administrator I, EDD	List Appointment	Permanent	Full Time	\$7,291
Tax Administrator II, EDD	List Appointment	Permanent	Full Time	\$8,487
Tax Auditor, EDD	List Appointment	Permanent	Full Time	\$4,936
Tax Auditor, EDD	List Appointment	Permanent	Full Time	\$6,024
Tax Auditor, EDD	List Appointment	Permanent	Full Time	\$4,936
Employment Program Manager I	Transfer	Limited Term	Full Time	\$5,389
Employment Program Manager I	Transfer	Limited Term	Full Time	\$6,946
Employment Program Representative	Transfer	Permanent	Full Time	\$5,566
Employment Program Representative	Transfer	Permanent	Full Time	\$3,448
Employment Program Representative	Transfer	Permanent	Full Time	\$5,366
Information Technology Specialist I	Transfer	Permanent	Full Time	\$8,349
Information Technology Specialist II	Transfer	Permanent	Full Time	\$10,318
Program Technician II	Transfer	Permanent	Full Time	\$3,390
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$3,624
Staff Services Manager I	Transfer	Limited Term	Intermittent	\$7,954

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Tax Auditor, EDD	Transfer	Limited Term	Full Time	\$4,936

<b>IN COMPLIANCE</b>	<b>FINDING NO. 9 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the salary determinations that were reviewed. The EDD 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 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, July 1, 2021, through December 31, 2021, the EDD employees made 1597 alternate range movements within a classification. The CRU reviewed 20 of those alternate range movements to determine if the EDD applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Employment Program Representative	A	B	Intermittent	\$3,801
Employment Program Representative	A	B	Intermittent	\$3,801
Employment Program Representative	A	B	Intermittent	\$3,801
Employment Program Representative	A	B	Intermittent	\$3,801
Employment Program Representative	A	B	Intermittent	\$3,801
Employment Program Representative	A	B	Intermittent	\$4,319
Employment Program Representative	A	B	Intermittent	\$3,801
Employment Program Representative	B	C	Intermittent	\$4,906

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Employment Program Representative	A	B	Intermittent	\$3,801
Employment Program Representative	B	C	Intermittent	\$4,763
Employment Program Representative	B	C	Intermittent	\$4,906
Employment Program Representative	A	B	Intermittent	\$3,801
Employment Program Representative	A	B	Intermittent	\$3,801
Employment Program Representative	A	B	Intermittent	\$3,801
Employment Program Representative	A	B	Intermittent	\$3,801
Tax Auditor, Employment Development Department	A	B	Intermittent	\$4,936
Tax Auditor, Employment Development Department	A	B	Intermittent	\$4,936
Tax Auditor, Employment Development Department	A	B	Full Time	\$5,089
Tax Auditor, Employment Development Department	A	B	Full Time	\$5,235
Tax Auditor, Employment Development Department	A	B	Full Time	\$4,936

<b>IN COMPLIANCE</b>	<b>FINDING NO. 10</b>	<b>ALTERNATE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU determined that the alternate range movements the EDD made during the compliance review period satisfied civil service laws, Board rules and CalHR policies and guidelines.

### Red Circle Rates

A red circle rate is a rate of pay authorized for an individual above the maximum salary for his or her class. (Gov. Code, § 19837.) Departments may authorize a red circle rate in the following circumstances: management-initiated change<sup>11</sup>, lessening of

<sup>11</sup> Any major change in the type of classes, organizational structure, and/or staffing levels in a program.



abilities<sup>12</sup>, downward reclassification,<sup>13</sup> split-off,<sup>14</sup> allocation standard changes,<sup>15</sup> or changes in salary setting methods.<sup>16</sup> (*Ibid.*)

If a salary reduction is the result of split-off, changes in allocation standards, changes in salary setting methods, or a downward reclassification initiated by SPB or CalHR staff determination, the affected employee may receive a red circle rate regardless of the employee's state service total. The employee may retain it until the maximum salary of his or her class equals or exceeds the red circle rate. (Classification and Pay Guide Section 260.)

If an employee is moved to a position in a lower class because of management-initiated changes, he or she may receive a red circle rate provided he or she has a minimum of ten years' state service<sup>17</sup> and has performed the duties of the higher class satisfactorily<sup>18</sup>. The length of the red circle rate resulting from a management-initiated change is based on the affected employee's length of state service. The red circle rate ends when the maximum salary of the class equals or exceeds the red circle rate or at the expiration of eligibility. (*Ibid.*)

An employee whose position is blanketed into the state civil service from another public jurisdiction may receive a red circle rate regardless of the length of service in the other jurisdiction. (Cal. Code Regs., tit. 2, § 275.) The employee may retain the red circle rate until the maximum salary of the class to which the employee's position is allocated equals or exceeds the red circle rate.

Additionally, a red circle rate may be authorized for a former CEA appointee who is reinstating to a civil service classification, a CEA with no prior civil service in a promotional exam and is being appointed from a list without a break in service, or a CEA appointee

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<sup>12</sup> Refers to an employee who, after many years of satisfactory service, no longer possess the ability to perform the duties and responsibilities of his/her position.

<sup>13</sup> Downward reclassification is when, as a result of SPB action or a CalHR (or its predecessor, the Department of Personnel Administration) staff determination, an incumbent's position is moved to a lower class without the duties being changed.

<sup>14</sup> Split off is when one class is split into two or more classes, one of which is at a lower salary level than the original class.

<sup>15</sup> Allocation standards for two or more classes may change to the degree that a position originally allocated to one class may be reallocated to a class with a lower salary without a change in duties.

<sup>16</sup> Revised valuation standards applied in setting the salary for a class may result in reducing the salary of a class.

<sup>17</sup> As calculated by the State Service and Seniority Unit at CalHR. An employee with nine years' state service qualifies if the employee had been laid off or had been on a leave of absence for one or more years to reduce the effect of a layoff (CCR § 599.608).

<sup>18</sup> The latter requirement is normally satisfied by the successful completion of a probationary period, unless there is compelling evidence to suggest otherwise.

who is being reduced to a lower CEA salary rate (Classification and Pay Guide Section 440). An employee who has ten years of service, one year of which is under a career executive assignment, shall receive a red circle rate in unless the termination was voluntary or based on unsatisfactory performance. (Cal. Code of Regs., tit. 2, § 599.993.) If the termination was voluntary and performance was satisfactory, a red circle rate is permissive. (*Ibid.*) This rate is based on the CEA salary rate received at the time of the termination. Government Code section 13332.05 limits the funding of the red circle rate to no more than 90 calendar days following termination of a CEA appointment.

As of April 1, 2005, departments have delegated authority to approve red circle rates for general civil service employees and CEA positions for up to 90 days. Current Bargaining Unit agreements also provide guidelines and rules on red circle rates that may supersede applicable laws, codes, rules and/or CalHR policies and guidelines.

During the period under review, July 1, 2021, through December 31, 2021, the EDD authorized one red circle request. The CRU reviewed the red circle request listed below, to determine if the EDD correctly verified, approved and documented the red circle authorization process:

Classification	Prior Classification	Red Circle Rate	Reason for Red Circle Rate
CEA B	Staff Services Manager III	\$9,842.00	Termination of CEA

<b>IN COMPLIANCE</b>	<b>FINDING NO. 11</b>	<b>RED CIRCLE RATE AUTHORIZATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found that the red circle rate request the EDD authorized during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

### Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position,

not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, July 1, 2021, through December 31, 2021, the EDD issued bilingual pay to 1,331 employees. The CRU reviewed 50 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Collective Bargaining Identifier	Time Base	No. of Appts.
Accounting Technician	R04	Full Time	1
Disability Insurance Program Manager I	S01	Full Time	5
Disability Insurance Program Representative	R01	Full Time	1
Employment Program Manager I	S01	Full Time	5
Employment Program Representative	R01	Full Time	13
Employment Program Representative	R01	Intermittent	3
Investigator	R07	Full Time	6
Office Assistant (Typing)	R04	Full Time	1
Office Technician (Typing)	R04	Full Time	1
Program Technician I	R04	Full Time	1
Program Technician I	R04	Intermittent	1
Program Technician II	R04	Full Time	9
Program Technician III	R04	Full Time	1
Supervising Program Technician II	S04	Full Time	2

<b>IN COMPLIANCE</b>	<b>FINDING NO. 12 BILINGUAL PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found that the bilingual pay authorized to employees during the compliance review period satisfied civil service laws, Board rules and CalHR policies and guidelines.

### 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, July 1, 2021, through December 31, 2021, the EDD authorized 555 pay differentials.<sup>19</sup> The CRU reviewed 50 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Information Technology Specialist I	Bay Area Recruitment and Retention Pay	\$460.20 per month
Information Technology Specialist I	Bay Area Recruitment and Retention Pay	\$470.40 per month
Investigator	Education Differential	\$125.00 per month
Investigator	Education Differential	\$125.00 per month
Investigator	Education Differential	\$125.00 per month
Investigator	Education Differential	\$125.00 per month
Investigator	Education Differential	\$125.00 per month
Investigator	Education Differential	\$125.00 per month
Investigator	Education Differential	\$125.00 per month
Supervising Criminal Investigator I, Employment Development Department	Education Differential	\$125.00 per month
Supervising Criminal Investigator I, Employment Development Department	Education Differential	\$125.00 per month

<sup>19</sup> For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Accounting Technician	Employment Development Department Call Center	\$150.00 per month
Program Technician I	Employment Development Department Call Center	\$150.00 per month
Program Technician I	Employment Development Department Call Center	\$150.00 per month
Program Technician I	Employment Development Department Call Center	\$150.00 per month
Program Technician II	Employment Development Department Call Center	\$150.00 per month
Program Technician II	Employment Development Department Call Center	\$150.00 per month
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Program Technician II	Employment Development Department Call Center	\$150.00 per month
Program Technician II	Employment Development Department Call Center	\$150.00 per month
Program Technician II	Employment Development Department Call Center	\$150.00 per month
Program Technician II	Employment Development Department Call Center	\$150.00 per month
Disability Insurance Program Representative	Geographic Recruitment and Retention Pay	\$250.00 per month

Classification	Pay Differential	Monthly Amount
Disability Insurance Program Representative	Geographic Recruitment and Retention Pay	\$250.00 per month
Employment Program Manager I	Geographic Recruitment and Retention Pay	\$250.00 per month
Employment Program Representative	Geographic Recruitment and Retention Pay	\$250.00 per month
Employment Program Representative	Geographic Recruitment and Retention Pay	\$250.00 per month
Employment Program Representative	Geographic Recruitment and Retention Pay	\$250.00 per month
Office Technician (General)	Geographic Recruitment and Retention Pay	\$250.00 per month
Office Technician (General)	Geographic Recruitment and Retention Pay	\$250.00 per month
Program Technician II	Geographic Recruitment and Retention Pay	\$250.00 per month
Tax Administrator I, Employment Development Department	Geographic Recruitment and Retention Pay	\$250.00 per month
Tax Compliance Representative	Geographic Recruitment and Retention Pay	\$250.00 per month
Investigator	Longevity Pay	\$181.74 per month
Investigator	Longevity Pay	\$181.74 per month
Investigator	Longevity Pay	\$181.74 per month
Investigator	Longevity Pay	\$363.48 per month
Supervising Criminal Investigator II, Employment Development Department	Longevity Pay	\$988.20 per month
Investigator	Special Investigator Recruitment and Retention	\$200.00 per month
Sheetfed Offset Press Operator III	Sheetfed Offset Press Operator II Differential	\$250.00 per month

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 13    INCORRECT AUTHORIZATION OF PAY DIFFERENTIALS</b>
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**Summary:**                      The CRU found 1 error in the 50 pay differentials reviewed. This is the second consecutive time that the EDD has had this finding.

Classification	Area	Description of Finding	Criteria
Sheetfed Offset Press Operator III	Differential Pay	The employee's classification is not eligible to receive the \$250.00 differential pay. Employee was overcompensated.	Pay Differential 201

**Criteria:** A pay differential may be appropriate 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. 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. (CalHR Classification and Pay Manual Section 230.)

**Severity:** Very Serious. The EDD failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

**Cause:** The EDD states the employee received a class-specific pay differential prior to appointment at EDD. The EDD did not audit the employee's pay differentials after their appointment was keyed and as a result, the inappropriate differential remained on the employee's record.

**Corrective Action:** Within 90 days of the date of this report, the EDD must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 201 and ensure that employees are compensated correctly and that transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## Out-of-Class Assignments and Pay

For excluded<sup>20</sup> 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, July 1, 2021, through December 31, 2021, the EDD issued OOC pay to 17 employees. The CRU reviewed 14 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Collective Bargaining Identifier	Out-of-Class Classification	Time Frame
Associate Personnel Analyst	R01	Staff Services Manager I	7/12/2021 - 8/13/2021
Associate Personnel Analyst	R01	Staff Services Manager I	11/8/2021 - 12/31/2021
CEA B	M01	CEA C	10/1/2021 - 12/30/2021
Employment Development Administrator	M01	CEA	9/1/2021 - 12/19/2021

<sup>20</sup> "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.



Classification	Collective Bargaining Identifier	Out-of-Class Classification	Time Frame
Information Technology Manager II	M01	CEA B	5/10/2021 - 5/09/2022
Information Technology Specialist I	R01	Information Technology Supervisor II	10/11/2021 - 2/07/2022
Information Technology Supervisor II	S01	Information Technology Manager I	10/01/2021 - 4/01/2022
Information Technology Supervisor II	S01	IT Manager I	7/01/2021 - 10/28/2021
Personnel Specialist	R01	Senior Personal Specialist	4/12/2021 - 8/09/2021
Personnel Supervisor II	S01	Staff Services Manager I	4/01/2021 - 3/31/2022
Senior Management Auditor	S01	Staff Services Manager III	7/30/2021 - 12/30/2021
Staff Services Manager I	S01	Staff Services Manager II	7/12/2021 - 8/13/2021
Tax Administrator I, Employment Development Department	S01	Tax Administrator II	6/01/2021 - 7/30/2021
Tax Administrator III, Employment Development Department	M01	CEA B	09/29/2021 - 1/31/2022

<b>IN COMPLIANCE</b>	<b>FINDING NO. 14</b>	<b>OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the OOC pay assignments that the EDD 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

### 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, June 1, 2021, through May 31, 2022, the EDD authorized 130 ATO transactions. The CRU reviewed 40 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Accountant I (Specialist)	12/21/2021	2 hours
Accounting Officer (Specialist)	10/20/2021	1 hour
Accounting Officer (Specialist)	11/04/2021, 11/12/2021	4 hours
Associate Governmental Program Analyst	09/07/2021	1 hour
Associate Governmental Program Analyst	03/22/2022	.5 hour
Associate Governmental Program Analyst	02/08/2022- 02/09/2022	6 hours
Associate Governmental Program Analyst	05/9/2022 - 05/12/2022	36 hours
Custodian II	10/28/2021	2 hours
Disability Insurance Program Representative	06/21/2021	1.5 hours
Disability Insurance Program Representative	07/09/2021	6 hours
Employment Development Specialist I	4/22/22, 9/26/22	4 hours
Employment Program Manager I	02/02/2022	2 hours
Employment Program Manager I	11/02/2021	1.5 hours
Employment Program Manager I	07/14/2021	2 hours
Employment Program Manager I	07/20/2021	2 hours
Employment Program Representative	01/11/2022	2 hours

Classification	Time Frame	Amount of Time on ATO
Employment Program Representative	07/14/21, 07/21/22	4 hours
Employment Program Representative	08/16/2021	1.75 hours
Employment Program Representative	8/19/2021	.75 hour
Employment Program Representative	12/09/2021	2 hours
Employment Program Representative	03/24/2022	2 hours
Employment Program Representative	06/22/2021	2 hours
Employment Program Representative	07/28/2021	1 hour
Employment Program Representative	07/22/2021	8 hours
Employment Program Representative	07/09/2021	2 hours
Employment Program Representative	06/25/2021	2 hours
Employment Program Representative	06/17/2021	1.5 hours
Employment Program Representative	06/04/2021-06/25/2021	4 hours
Employment Program Representative	06/25/2021	1.5 hours
Employment Program Representative	04/18/2022	.5 hour
Employment Program Representative	04/14/2022	.75 hour
Employment Program Representative	12/24/2021	2 hours
Employment Program Representative	04/21/2022	1 hour
Employment Program Representative	04/21/2022	1.25 hours
Office Assistant (Typing)	10/15/2021	2 hours
Office Technician (General)	10/01/2021-10/31/2021	176 hours
Personnel Specialist	08/19/2021-08/20/2021	10 hours
Seasonal Clerk	07/29/2021-07/30/2021	14 hours
Senior Accounting Officer (Specialist)	05/23/2021	1 hour
Senior Tax Compliance Representative (Specialist)	09/13/2021	2 hours

<b>IN COMPLIANCE</b>	<b>FINDING NO. 15 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The EDD provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

## 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, 2022, through May 31, 2022, the EDD reported 139 units comprised of 9,464 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	No. of Employees	No. of Timesheets Reviewed	No. of Missing Timesheets
March 2022	042	54	54	0
March 2022	353	132	132	0
March 2022	620	136	136	0
April 2022	042	53	53	0
April 2022	353	97	97	0
April 2022	620	137	137	0
May 2022	042	54	54	0
May 2022	353	103	103	0
May 2022	620	138	138	0

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 16 DEPARTMENT DID NOT CERTIFY THAT ALL LEAVE RECORDS WERE REVIEWED</b>
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**Summary:** The EDD failed to certify timely that all leave records have been reviewed and corrected if necessary for four out of the nine units/pay

periods reviewed. This is the second consecutive time that the EDD has had this finding.

**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 EDD states it maintained documentation for any time periods and offices where errors were identified during audit, but did not have a process to record when zero errors were found. The EDD awaits the full implementation of an enterprise-wide system that would meet this requirement.

**Corrective Action:** The EDD asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the EDD must submit to the SPB a written corrective action response which addresses the corrections the department implemented to ensure that their monthly internal audit process is documented and that all leave input is keyed accurately and timely. (If applicable, the EDD 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.

## State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.<sup>21</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>22</sup> shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, January 1, 2022, through June 30, 2022, the EDD had 165 employees with qualifying and non-qualifying pay period transactions. The CRU

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<sup>21</sup> Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

<sup>22</sup> As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

reviewed 50 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time Base	No. Reviewed
Non-Qualifying	Full Time	50

<b>IN COMPLIANCE</b>	<b>FINDING NO. 17</b>	<b>SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU determined that the EDD ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

## **Policy and Processes**

### **Nepotism**

It is the policy of the State of California to 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.*)

<b>IN COMPLIANCE</b>	<b>FINDING NO. 18</b>	<b>NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the policy was disseminated to all staff and emphasized the EDD's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the EDD'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 EDD did not employ volunteers during the compliance review period.

<b>IN COMPLIANCE</b>	<b>FINDING NO. 19</b>	<b>WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the EDD 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 EDD 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 48 permanent EDD employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

<b>IN COMPLIANCE</b>	<b>FINDING NO. 20</b>	<b>PERFORMANCE APPRAISAL POLICY AND PROCESSES COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the performance appraisals selected for review. Accordingly, the EDD performance appraisal policy and processes satisfied civil service laws, Board rules, policies and guidelines.

### **DEPARTMENTAL RESPONSE**

The EDD's departmental response is attached as Attachment 1.

### **SPB REPLY**

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



M E M O R A N D U M

**To:** Diana Campbell, Compliance Manager  
State Personnel Board  
**Date:** October 20, 2023  
**File No.:** 54:HR:al

**From:** Holly Ramsey  
Employment Development Department

**Subject:** RESPONSE TO STATE PERSONNEL BOARD COMPLIANCE REVIEW REPORT

This memorandum serves as a response to the findings of the 2023 Compliance Review Report for the Employment Development Department (EDD). The Department takes compliance issues very seriously and has taken steps to ensure both current and future compliance with the State Personnel Board (SPB) audit findings.

**Finding No. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed**

The EDD did not provide 52 probationary reports of performance for 20 of the 95 appointments reviewed by the Compliance Review Unit (CRU).

**Cause:** The EDD recognizes the importance of completing probationary reports for new appointments. Managers and supervisors are reminded of this requirement annually via email. Internal compliance has been facilitated by sending reminders to program managers of pending reports. However, the EDD recognizes these measures have not generated the desired results and will begin evaluating processes to ensure future compliance. The EDD will send monthly status reports to EDD executives to ensure managers that are consistently failing to provide timely performance evaluations are counseled. EDD had an unprecedented workload during this review period from the COVID-19 emergency response which created difficulty in ensuring these documents were completed.

**Finding No. 4 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time**

Of the 95 appointments reviewed, the EDD did not retain 6 Notice of Personnel Action (NOPA) documents.

**Cause:** The EDD recognizes the importance of obtaining and retaining signed NOPAs for appointments and other updates to the Employment History. NOPAs were physically delivered to departments by the SCO in a paper format through April 3, 2023. In compliance with pandemic requirements, the EDD had deployed many of its employees to telework and in order to provide these documents to employees who

were working remotely, procedures had to be developed and implemented. During the transition period, some documents were not returned to the Human Resource Services Division timely. EDD had an unprecedented workload during this review period from the COVID-19 emergency response which created difficulty in ensuring these documents were received.

**Finding No. 6 – Unions Were Not Notified of Personal Services Contracts**

The EDD did not notify unions prior to entering into 5 of the 112 Personal Services Contracts (PSCs) reviewed.

**Cause:** The EDD failed to notify unions because of inadequate training.

**Finding No. 7 – Ethics Training Was Not Provided for All Filers**

The EDD did not provide ethics training to 8 of 177 new filers within 6 months of their appointment.

**Cause:** The EDD provides Ethics training to all identified users through the enterprise Learning Management System (LMS). Ethics training is available to these employees at the time of hire. The LMS automatically notifies and reminds employees of the mandated training at seven different time periods. In addition, the EDD University Group provides reports through Training Coordinators and elevated to Deputy Directors for employees that are past due on training for follow up. EDD had an unprecedented workload during this review period from the COVID-19 emergency response which created difficulty in completing the required training.

**Finding No. 8 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

The EDD did not provide sexual harassment prevention training to 2 of 222 new supervisors within 6 months of their appointment. In addition, the EDD did not provide sexual harassment prevention training to 1 of 709 existing supervisors every 2 years.

**Cause:** The EDD provides Sexual Harassment Prevention Training to all supervisors through the enterprise Learning Management System (LMS). Sexual Harassment Prevention Training is available to these employees at the time of hire. The LMS automatically notifies and reminds employees of the mandated training at seven different time periods. In addition, the EDD University Group provides reports through Training Coordinators and elevated to Deputy Directors for employees that are past

due on training for follow up. EDD had an unprecedented workload during this review period from the COVID-19 emergency response which created difficulty in completing the required training.

**Finding No. 13 – Incorrect Authorization of Pay Differentials**

The CRU found 1 error in the 50 pay differentials reviewed.

**Cause:** Employee was receiving a class-specific pay differential prior to appointment at EDD. Based on the design of the SCO systems, assigned pay differentials continue automatically unless specifically removed. In this case, the EDD did not audit the employee's pay differentials after their appointment was keyed and as a result, the inappropriate differential remained on the employee's record. EDD had an unprecedented workload during this review period from the COVID-19 emergency response which created difficulty in ensuring these steps were taken.

**Finding No. 16 – Department Did Not Certify That All Leave Records Were Reviewed**

The EDD failed to certify timely that all leave records have been reviewed and corrected if necessary for four out of the nine units/pay periods reviewed.

**Cause:** The EDD recognizes the importance of ensuring the accuracy of all leave input keyed. In the response to the 2020 SPB audit, the Department provided a short-term goal to validate employee leave requests against the SCO Leave Accounting System prior to submission. This goal was met, as the ETR receives a direct download from SCO each month providing employee leave balances. Leave requests are validated against these totals prior to submission. As we await the full implementation of an enterprise-wide system that would meet this requirement, the EDD has implemented a process to validate the items keyed monthly and to make corrections timely if discrepancies are identified. The EDD maintained documentation for any time periods and offices where errors were identified during audit but did not have a process to record when zero errors were found.

If you have any questions or need additional information, please contact Alicia Leisenring at (916) 653-8456 or [Alicia.Leisenring@edd.ca.gov](mailto:Alicia.Leisenring@edd.ca.gov).



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