



COMPLIANCE REVIEW REPORT

CALIFORNIA ENERGY COMMISSION

Compliance Review Unit
State Personnel Board
February 24, 2025

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INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRD conducted a routine compliance review of the California Energy Commission (CEC) 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	Very Serious	Department Did Not Properly Process Permanent Withholds Actions
Appointments	Very Serious	Unlawful Appointment
Appointments	Very Serious	Training and Development Assignment Was Filled Improperly
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Substantial Compliance	Unions Were Not Notified of Personal Services Contracts ¹
Mandated Training	Substantial Compliance	Ethics Training Was Not Provided for All Filers
Mandated Training	Substantial Compliance	Sexual Harassment Prevention Training Was Not Provided for All Employees ²
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs

¹ Repeat finding. The May 9, 2022, CEC compliance review report identified unions were not notified prior to entering into 1 of 2 PSC’s reviewed. The May 17, 2019, CEC compliance review report identified unions were not notified prior to entering into 1 of 19 PSC’s reviewed.

² Repeat finding. The May 9, 2022, CEC compliance review report identified 112 existing non-supervisors, and 130 existing supervisors did not receive sexual harassment prevention training every two years. Additionally, the CEC did not provide sexual harassment prevention training to 5 of 32 new supervisors within 6 months of their appointment. The May 17, 2019, CEC compliance review report identified 4 of 29 existing supervisors did not receive sexual harassment prevention training every 2 years.

Area	Severity	Finding
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or 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	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay ³
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or 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	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
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	Substantial Compliance	Performance Appraisals Were Not Provided to All Employees ⁴

³ Repeat finding. The May 9, 2022, CEC compliance review report identified 3 errors in the 3 out-of-class assignments reviewed.

⁴ Repeat finding. The May 9, 2022, CEC compliance review report identified that the CEC did not provide annual performance appraisals to 5 of 85 employees reviewed.

BACKGROUND

The CEC is the state's primary energy policy and planning agency. The CEC plays a critical role in creating the energy system of the future; one that is clean, modern, and ensures the fifth largest economy in the world continues to thrive and plays a key role in implementing and crafting policies and programs to create a low-carbon economy. In addition, the CEC is helping create the energy system of California's future through activities such as: planning and policy development, setting renewable energy growth goals, energy efficiency, energy innovation and emergency response strategy.

The CEC has five commissioners appointed by the Governor and confirmed by the Senate. Commissioners serve staggered five-year terms. The Governor also designates a chair as the primary agency lead. The CEC is comprised of seven large divisions including, Administrative Services, Siting Transmission, and Environmental Protection, Efficiency, Renewable Energy, Research & Development, Fuels & Transportation, and Energy Assessments Division.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CEC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁵. The primary objective of the review was to determine if the CEC'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 CEC's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRD examined the documentation that the CEC provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRD also reviewed the CEC's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CEC's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRD examined the documentation that the CEC provided, which included Notice of

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

Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CEC did not conduct any unlawful appointment investigations during the compliance review period.

The CEC's appointments were also selected for review to ensure the CEC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRD examined the documentation that the CEC provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRD reviewed specific documentation for the following personnel functions related to compensation and pay: bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the CEC did not issue or authorize red circle rate requests or arduous pay.

The review of the CEC'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 CEC's PSC's were also reviewed.⁶ It was beyond the scope of the compliance review to make conclusions as to whether the CEC's justifications for the contracts were legally sufficient. The review was limited to whether the CEC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

The CRD reviewed the CEC's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRD selected a small cross-section of the CEC's units in order to ensure they maintained

⁶If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

accurate and timely leave accounting records. Part of this review also examined a cross-section of the CEC'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 CRD reviewed a selection of the CEC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRD reviewed a selection of CEC positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

The CRD received and carefully reviewed the CEC's written response on January 28, 2025, 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, December 1, 2023, through August 31, 2024, the CEC conducted 87 examinations. The CRD reviewed 20 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Deputy Director for Building Decarbonization	CEA	Statement of Qualifications (SOQ) ⁷	3/23/2024	23
CEA A, Director, Compliance and Enforcement	CEA	SOQ	3/25/2024	9
Associate Energy Specialist	Open	Training and Experience (T&E) ⁸	4/1/2024	9
Associate Energy Specialist	Open	T&E	3/1/2024	5
Electric Generation System Program Specialist I	Open	T&E	5/1/2024	15
Electric Generation System Program Specialist I	Open	T&E	8/15/2024	14
Electric Generation System Program Specialist II	Open	T&E	5/15/2024	11
Electric Generation System Program Specialist II	Open	T&E	8/15/2024	5
Electric Generation System Program Specialist III	Open	T&E	5/15/2024	1
Electric Generation System Program Specialist III	Open	T&E	8/15/2024	1
Electric Generation System Specialist I	Open	T&E	4/1/2024	7
Electric Generation System Specialist I	Open	T&E	2/15/2024	8
Energy Analyst	Open	T&E	4/1/2024	33
Energy Analyst	Open	T&E	7/1/2024	16
Energy Analyst	Open	T&E	5/15/2024	15
Energy Analyst	Open	T&E	1/1/2024	12
Energy Resources Specialist (Sup)	Open	T&E	3/1/2024	1

⁷ 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.

⁸ 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.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Energy Resources Specialist III (Managerial)	Open	T&E	6/1/2024	7
Energy Resources Specialist III (Managerial)	Open	T&E	6/15/2024	4
Energy Resources Specialist III (Supervisory)	Open	T&E	7/15/2024	1

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRD reviewed 20 open examinations which the CEC administered in order to create eligible lists from which to make appointments. The CEC published and distributed examination bulletins containing the required information for all examinations. Applications received by the CEC 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 CRD found no deficiencies in the examinations that the CEC 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, December 1, 2023, through August 31, 2024, the CEC conducted 36 permanent withhold actions. The CRD reviewed 22 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
Administrative Assistant II	0PBDF	1/9/2024	1/9/2025	Failed to Meet Minimum Qualifications
Administrative Assistant II	0PBDF	3/15/2024	3/15/2025	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	3/17/2024	3/17/2025	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	4/18/2024	4/18/2025	Failed to Meet Minimum Qualifications
Electric Generation Systems Specialist I	4ER29	4/16/2024	4/16/2025	Failed to Meet Minimum Qualifications
Energy Analyst	4ER32	4/10/2024	4/10/2025	Failed to Meet Minimum Qualifications
Energy Commission Specialist I	8PB33	7/1/2023	7/1/2024	Failed to Meet Minimum Qualifications
Energy Commission Specialist II	8PB34	3/23/2024	3/23/2025	Failed to Meet Minimum Qualifications
Energy Commission Specialist II (Technology Evaluation and Development)	8PB34	3/12/2024	3/12/2025	Failed to Meet Minimum Qualifications
Information Technology Associate	2PBBJ	4/11/2023	4/11/2024	Failed to Meet Minimum Qualifications
Legal Assistant	4PB29	6/10/2024	6/10/2025	Failed to Meet Minimum Qualifications

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Legal Assistant	4PB29	3/18/2024	3/18/2024	Failed to Meet Minimum Qualifications
Office Technician (Typing)	4PB2402	5/4/2024	5/4/2026	Failed to Meet Minimum Qualifications
Program and Project Supervisor, Public Utilities Commission	5UCPS	10/27/2023	4/27/2025	Failed to Meet Minimum Qualifications
Program and Project Supervisor, Public Utilities Commission	5UCPS	5/3/2024	11/6/2025	Failed to Meet Minimum Qualifications
Research Data Specialist II	8PB40	11/17/2023	11/17/2024	Failed to Meet Minimum Qualifications
Senior Accounting Officer (Specialist)	0PBAK	4/15/2024	4/25/2024	Failed to Meet Minimum Qualifications
Senior Accounting Officer (Specialist)	0PBAK	5/28/2024	5/28/2025	Failed to Meet Minimum Qualifications
Senior Legal Analyst	6PB18	1/4/2024	7/4/2025	Failed to Meet Minimum Qualifications
Senior Legal Analyst	6PB18	2/22/2023	8/22/2024	Failed to Meet Minimum Qualifications
Staff Services Manager I	2PBCY	6/10/2024	6/10/2025	Failed to Meet Minimum Qualifications
Staff Services Manager I	2PBCY	5/28/2024	5/28/2025	Failed to Meet Minimum Qualifications

SEVERITY: VERY SERIOUS	FINDING NO. 2 DEPARTMENT DID NOT PROPERLY PROCESS PERMANENT WITHHOLDS ACTIONS
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Summary: In four instances, the CEC failed to complete permanent withhold actions in the Examination and Certification Online System resulting in four candidates retaining list eligibility despite not meeting the

minimum qualification requirements. Additionally, the CEC failed to retain one temporary withhold letter.

Criteria: According to HR Manual section 1105, a person who successfully completes an examination process may not be, in fact, eligible for appointment. During the hiring process, the appointing authority must diligently verify a person's eligibility prior to appointment. During this process, the hiring authority may determine that a person does not have eligibility for appointment. Once determined, the department, agency or other appointing authority who discovers this ineligibility during a recruitment process has an obligation to withhold the person's eligibility for appointment and to diligently complete the withhold process.

Further, departments are required to maintain the following withhold documentation for a period of five years:

1. Withhold Determination Worksheet
2. Job vacancy posting
3. Candidate's application package (including the STD Form 678, and all received documents)
4. Supporting documentation for the withhold determination
5. Copies of all non-system generated correspondence

Severity: Very Serious. Failure to properly withhold candidates from the certification lists may result in unlawful appointments that waste resources and incur costs to the state. Additionally, without documentation, the CRD could not verify if the permanent withhold actions were properly conducted.

Cause: The CEC states that the failure to properly document and track the withholds occurred during a turnover in staff.

Corrective Action: The CEC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CEC must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26, and HR Manual Section 1105.

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).)

For the purposes of temporary appointments, an employment list is considered not to exist where there is an open eligible list that has three or fewer names of persons willing to accept appointment and no other employment list for the classification is available. (Cal. Code Regs., tit. 2, § 265.) In such a situation, an appointing power may make a temporary appointment in accordance with section 265.1 (*Ibid.*) A Temporary Authorization Utilization (TAU) appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII.) In addition, when a temporary appointment is made to a permanent position, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment. (Gov. Code, § 19058.)

During the period under review, October 1, 2023, through March 31, 2024, the CEC made 197 appointments. The CRD reviewed 39 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Administrative Assistant II	Certification List	Limited Term	Full Time	1
Associate Budget Analyst	Certification List	Permanent	Full Time	1
Associate Energy Specialist (Technology Evaluation and Development)	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Attorney	Certification List	Permanent	Full Time	1
Attorney V	Certification List	Permanent	Full Time	1
Electric Generation System Program Specialist I	Certification List	Permanent	Full Time	1
Electric Generation System Program Specialist II	Certification List	Permanent	Full Time	1
Electric Generation System Specialist I	Certification List	Permanent	Full Time	3
Energy Analyst	Certification List	Permanent	Full Time	2
Energy Commission Specialist I (Technology Evaluation and Development)	Certification List	Permanent	Full Time	2
Energy Commission Specialist II (Technology Evaluation and Development)	Certification List	Permanent	Full Time	1
Energy Resources Specialist III (Supervisory)	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Mechanical Engineer	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Limited Term	Full Time	1
Program and Project Supervisor, Public Utilities Commission	Certification List	Permanent	Full Time	2
Program Manager, Public Utilities Commission	Certification List	Permanent	Full Time	2
Staff Management Auditor	Certification List	Permanent	Full Time	1
Staff Services Analyst	Certification List	Limited Term	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager III	Certification List	Permanent	Full Time	1
Utilities Engineer	Certification List	Permanent	Full Time	1
Associate Mechanical Engineer	TAU	Temporary	Full Time	1
Associate Governmental Program Analyst	Training & Development	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Electric Generation System Specialist I	Transfer	Permanent	Full Time	1
Energy Commission Specialist I (Technology Evaluation and Development)	Transfer	Permanent	Full Time	1
Energy Resource Specialist III (Managerial)	Transfer	Permanent	Full Time	1
Mechanical Engineer	Transfer	Permanent	Full Time	1

SEVERITY: VERY SERIOUS	FINDING No. 3 UNLAWFUL APPOINTMENT
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Summary: The CRD found one unlawful appointment during the course of its regular review. The CEC made one appointment utilizing the certification list for the Administrative Assistant II. The hired candidate did not meet minimum qualifications at the time of exam or time of appointment for the classification.

The appointment will stand as more than one year has elapsed and there is no evidence of other than good faith by the employee or the department.

Criteria: Pursuant to Government Code section 18931, subdivision (a), the Board shall establish minimum qualifications for determining the fitness and qualifications of employees for each class of position. In accordance with California Code of Regulations, title 2, section 249.4, appointing powers shall verify that the candidate satisfies the minimum qualifications of the classification before the candidate is appointed.

Severity: Very Serious. An unlawful appointment provides the employee with an unfair and unearned appointment advantage over other employees whose appointments have been processed in compliance with the requirements of civil service law. Unlawful appointments which are not corrected also create appointment inconsistencies that jeopardize the equitable administration of the civil service merit system.

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If “bad faith” is determined on the part of the appointing power, civil or criminal action may be initiated. Disciplinary action may also be pursued against any officer or employee in a position of authority who directs any officer or employee to take action in violation of the appointment laws. If bad faith is determined on the part of the employee, the employee may be required to reimburse all compensation resulting from the unlawful appointment and may also be subject to disciplinary action. In this case, the appointment will stand as more than one year has elapsed and the candidate accepted the job offer in good faith.

Cause: The CEC states that their original minimum qualification review determined that the minimum qualifications were met based on salary. Upon further review, the level of duties are not similar and should not have been considered as qualifying experience.

Corrective Action: The CEC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CEC must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that the department has improved its hiring practices.

SEVERITY: VERY SERIOUS	FINDING No. 4 TRAINING AND DEVELOPMENT ASSIGNMENT WAS FILLED IMPROPERLY
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Summary: The CRD found one improperly filled Training and Development (T&D) assignment during the course of its regular review. The CEC made one appointment utilizing a T&D assignment to the Energy Commission Specialist I (Technology Evaluation and Development) classification. However, the hired candidate should have been performing the T&D assignment in the Associate Energy Specialist (Technology Evaluation and Development) classification, as it was nearest in salary to the employee’s current Associate Governmental Program Analyst classification and provided a reasonable opportunity for the employee to achieve the purpose of the T&D assignment.

Criteria: In accordance with California Code of Regulations, title 2, section 439.2 subdivision (a) and HR Manual section 3401, training and development assignments may be made to any of the following classifications:

- The same class as the employee's current class, but in a different position.
- A different class than the employee's "current" class with substantially the same salary range as the employee's "current" class.
- A different class than the employee's "current" class with a higher salary range, as long as: The higher salaried class is the class in the employee's desired occupational area that will provide the appropriate training experience; and, there is not another class closer in salary to the employee's "current" class that would provide the appropriate training.

Severity: Very Serious. The higher class may offer the desired experience; however, it is not appropriate given there is a class nearer in salary that provides the appropriate training experience.

Cause: The CEC states that the advertisement did not indicate they would consider an Associate Energy Specialist (Technology Evaluation and Development); therefore, the candidate was not placed on a T&D for this position. Upon further review, the CEC agrees that the candidate should have been appointed to the Associate Energy Specialist (Technology Evaluation and Development) pursuant to the T&D rules.

Corrective Action: The CEC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CEC must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with California Code of Regulations, title 2, section 439.2 and HR Manual section 3401.

SEVERITY: SERIOUS	FINDING No. 5 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY
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Summary: The CEC did not provide 6 probationary reports of performance for 6 of the 39 appointments reviewed by the CRD. In addition, the CEC did not provide 2 probationary reports of performance in a timely manner, as reflected in the table below.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Electric Generation System Specialist I	Certification List	2	2
Energy Analyst	Certification List	1	1
Energy Commission Specialist I (Technology Evaluation and Development)	Certification List	1	1
Energy Commission Specialist II (Technology Evaluation and Development)	Certification List	1	1
Information Technology Specialist II	Certification List	1	1

Classification	Appointment Type	No. of Appointments	Total No. of Late Probation Reports
Accounting Officer (Specialist)	Certification List	1	1
Electric Generation System Specialist I	Certification List	1	1

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 CEC states that despite providing CEC management with reminders, not all supervisors provided timely probationary reports.

Corrective Action: The CEC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CEC must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with the probationary requirements of Government Code section 19172 and California Code of Regulations, title 2, section 599.795.

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).)

IN COMPLIANCE	FINDING No. 6 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRD determined that the CEC'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 CEC. The CEC 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, December 1, 2023, through August 31, 2024, the CEC had 24 PSC's that were in effect. The CRD reviewed 14 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
ADM Associates Inc.	Commercial Forecast Model Update	\$350,000	Yes	Yes
Alliance for Sustainable Energy, LLC.	Technical Support for the Clean Transportation Program	\$1,075,000	Yes	Yes
Aspen Environmental Group	Non-Lithium Long Duration Energy Storage Technical Support	\$4,500,000	Yes	Yes
Building Decarbonization Coalition	California Heat Pump Public-Private Partnership	\$9,000,000	Yes	Yes
Electric Power Research Institute, Inc.	SB 100 Technical Support	\$1,386,705	Yes	Yes
G5 Office Interiors LLC	Office Moving Services	\$30,000	Yes	Yes
ICF Consulting, L.L.C.	Transportation Fuels Assessment	\$1,199,963	Yes	Yes
IS, Inc.	Software Training	\$50,000	Yes	No
Olivine	Demand Side Grid Support Program Administrator	\$22,250,000	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Physicians, Scientists and Engineers for Sustainable and Healthy Energy, Inc.	Social Costs and Non-Energy Benefits	\$500,000	Yes	Yes
Shaw Law Group, PC	EEO Investigation	\$85,000	Yes	Yes
Stillwater Associates, LLC	Transportation Fuels Assessment	\$1,850,000	Yes	Yes
Telos Energy, Inc.	SB 846 Modeling Support	\$850,000	Yes	Yes
Wolfsdorf Rosenthal LLP	H-1B Petition Consultation	\$49,000	Yes	Yes

SUBSTANTIAL COMPLIANCE	FINDING NO. 7 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The CEC did not notify unions prior to entering into 1 of the 14 PSC's reviewed. This is the third consecutive time this has been a finding for the CEC.

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: Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to address full compliance in the future; therefore, no corrective action is required.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she

holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

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

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

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

The Board may conduct reviews of any appointing power's personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRD reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRD reviewed the CEC’s mandated training program that was in effect during the compliance review period, September 1, 2022, through August 31, 2024.

SUBSTANTIAL COMPLIANCE	FINDING No. 8 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The CEC did not provide ethics training to 3 of 608 existing filers. In addition, the CEC did not provide ethics training to 8 of 116 new filers within 6 months of their appointment.

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

Severity: Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to address full compliance in the future; therefore, no corrective action is required.

SUBSTANTIAL COMPLIANCE	FINDING No. 9 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The CEC did not provide sexual harassment prevention training to 2 of 20 new supervisors within 6 months of their appointment. In addition, the CEC did not provide sexual harassment prevention training to 5 of 162 existing supervisors every 2 years. This is the third consecutive time this has been a finding for the CEC.

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

Severity: Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to address full compliance in the future; therefore, no corrective action is required.

SEVERITY: VERY SERIOUS	FINDING NO. 10 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS
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Summary: The CEC did not provide manager training to 1 of 7 new managers within 12 months of appointment and did not provide CEA training to 4 of 14 new CEAs within 12 months of appointment.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. (Gov. Code, § 19995.4, subd. (b).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. (Gov. Code, § 19995.4, subd. (d).)

Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. (Gov. Code, § 19995.4, subd. (e).)

Severity: Very Serious. The department does not ensure its leaders are properly trained. Without proper training, leaders may not properly carry out their leadership roles, including managing employees.

Cause: The CEC states that the data in their training database was not keyed accurately or timely resulting in inaccurate reports. In addition, CEC employees who were enrolled in the leadership training lacked appreciation that the training is mandatory; therefore, failed to prioritize attending and completing the academy by the due date.

Corrective Action: The CEC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CEC must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that new supervisors, managers, and CEAs are provided leadership and development training within 12 months of appointment as required by Government Code section 19995.4.

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 rate⁹ 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, October 1, 2023, through March 31, 2024, the CEC made 197 appointments. The CRD reviewed 18 of those appointments to determine if the CEC 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)	Certification List	Permanent	Full Time	\$4,964
Associate Energy Specialist (Technology Evaluation and Development)	Certification List	Permanent	Full Time	\$5,929
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,684
Attorney	Certification List	Permanent	Full Time	\$7,737
Electric Generation System Program Specialist I	Certification List	Permanent	Full Time	\$10,263
Electric Generation System Specialist I	Certification List	Permanent	Full Time	\$9,167
Electric Generation System Specialist I	Certification List	Permanent	Full Time	\$8,550
Energy Analyst	Certification List	Permanent	Full Time	\$4,929

⁹ “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)
Energy Commission Specialist I (Technology Evaluation and Development)	Certification List	Permanent	Full Time	\$7,470
Information Technology Specialist I	Certification List	Permanent	Full Time	\$7,413
Mechanical Engineer	Certification List	Permanent	Full Time	\$6,175
Program and Project Supervisor, Public Utilities Commission	Certification List	Permanent	Full Time	\$14,291
Program Manager, Public Utilities Commission	Certification List	Permanent	Full Time	\$14,291
Staff Management Auditor	Certification List	Permanent	Full Time	\$7,730
Staff Services Manager III	Certification List	Permanent	Full Time	\$9,680
Utilities Engineer	Certification List	Permanent	Full Time	\$8,468
Energy Commission Specialist I (Technology Evaluation and Development)	Transfer	Permanent	Full Time	\$8,978
Energy Resource Specialist III (Managerial)	Transfer	Permanent	Full Time	\$12,011

IN COMPLIANCE	FINDING NO. 11 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the salary determinations that were reviewed. The CEC 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, October 1, 2023, through March 31, 2024, the CEC employees made eight alternate range movements within a classification. The CRD reviewed seven of those alternate range movements to determine if the CEC 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)
Air Pollution Specialist	B	C	Full Time	\$8,867
Air Resources Engineer	B	C	Full Time	\$8,717
Air Resources Engineer	B	C	Full Time	\$8,717
Mechanical Engineer	C	D	Full Time	\$9,345
Mechanical Engineer	B	C	Full Time	\$8,468
Utilities Engineer	B	C	Full Time	\$8,468
Utilities Engineer	C	D	Full Time	\$11,125

SEVERITY: VERY SERIOUS	FINDING NO. 12 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
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Summary: The CRD found one error in the seven alternate range movements reviewed:

Classification	Description of Finding	Criteria
Utilities Engineer	The employee was placed into Range C of the Utilities Engineer classification without meeting the alternate range criteria resulting in the employee being overcompensated.	ARC # 398

Criteria: Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range

as though each range were a separate classification. (Classification and Pay Guide Section 220.)

Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. In one circumstance, the CEC failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules not in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The CEC states that the range criteria was misinterpreted to include state experience as relevant to the pattern. Upon re-review of the alternate range criteria, it was apparent that the candidate did not meet the criteria.

Corrective Action: The CEC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CEC must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that employees are compensated correctly. The CEC must establish an audit system to correct current compensation transactions as well as future transactions.

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, October 1, 2023, through March 31, 2024, the CEC issued bilingual pay to one employee. The CRD reviewed the bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines. It is listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Information Officer I (Specialist)	R01	Full Time	1

IN COMPLIANCE	FINDING No. 13 BILINGUAL PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD found that the bilingual pay authorized to the employee 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, October 1, 2023, through March 31, 2024, the CEC authorized 47 pay differentials.¹⁰ The CRD reviewed 25 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount	No. of Appts.
Associate Electrical Engineer	261	\$300	2
Electric Generation System Program Specialist I	261	\$300	2
Electric Generation System Program Specialist II	261	\$300	1
Electric Generation System Program Specialist III	261	\$300	1
Electric Transmission System Program Specialist I	261	\$300	1
Electric Transmission System Program Specialist II	261	\$300	1
Electrical Engineer	261	\$300	2
Senior Electrical Engineer	261	\$300	1
Program Manager, Public Utilities Commission	433	2%	2
Senior Engineer Water Resources	433	2%	1
Electric Generation System Program Specialist II	433	3%	1
Electric Generation System Specialist I	433	3%	1
Program and Project Supervisor, Public Utilities Commission	433	3%	1
Senior Mechanical Engineer	433	4%	1
Air Pollution Specialist	433	5.5%	1
Electric Generation System Program Specialist I	433	5.5%	1
Electric Generation System Program Specialist II	433	5.5%	1
Electric Generation System Program Specialist III	433	5.5%	1
Mechanical Engineer	433	5.5%	1
Senior Mechanical Engineer	433	5.5%	1
Executive Assistant	52	1.5 salary steps	1

IN COMPLIANCE	FINDING NO. 14 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the pay differentials that the CEC authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

¹⁰ For the purposes of CRD's review, only monthly pay differentials were selected for review at this time.

Out-of-Class Assignments and Pay

For excluded¹¹ 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, October 1, 2023, through March 31, 2024, the CEC issued OOC pay to 13 employees. The CRD reviewed 10 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame ¹²
Associate Energy Specialist (Technology Evaluation and Development)	R10	Energy Commission Specialist I (Technology Evaluation and Development)	3/18/24-3/31/24 Total: 3/18/24 - 7/15/24
Associate Personnel Analyst	R01	Staff Services Manager I	11/28/23-12/31/23
Attorney IV	R02	Attorney, Assistant Chief Counsel	11/26/23-2/1/24

¹¹ “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.

¹² “Total” dates denote total time period in an OOC assignment, of which part of the time is outside of the review period. It is included for informational purposes.

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame ¹²
Attorney, Assistant Chief Counsel	M02	Chief Counsel, CEA	11/17/23-3/31/24
Electric Generation System Specialist II	S09	Energy Resource Specialist III (Managerial)	10/1/23-3/31/24 Total: 4/1/23-3/31/24
Energy Analyst	R10	Associate Energy Specialist (Technology Evaluation and Development)	10/1/23-11/14/23 Total: 7/17/23-11/14/23
Energy Commission Specialist II (Technology Evaluation and Development)	R10	Electric Generation System Specialist III	3/11/24-3/31/24 Total: 3/11/24-7/8/24
Energy Commission Specialist II (Technology Evaluation and Development)	R10	Energy Resources Specialist III (Supervisory)	10/1/23-12/29/23 Total: 8/29/23-12/29/23
Energy Commission Specialist II (Technology Evaluation and Development)	R10	Energy Resources Specialist III (Supervisory)	1/24/2-3/5/24
Energy Commission Specialist III (Technology Evaluation and Development)	R10	Energy Resources Specialist III (Supervisory)	2/20/24-3/31/24 Total: 2/20/24-6/18/24

SEVERITY: VERY SERIOUS	FINDING No. 15 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
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Summary: The CRD found 4 errors in the 10 OOC pay assignments reviewed. This is the second consecutive time this has been a finding for the CEC.

Classification	Out-of-Class Classification	Description of Findings	Criteria
Attorney, Assistant Chief Counsel	Chief Counsel, CEA	Managerial employee received OOC pay before the 91st day. In addition, incorrect OOC rate was calculated resulting in the employee being overcompensated.	Pay Differential 101

Classification	Out-of-Class Classification	Description of Findings	Criteria
Energy Analyst	Associate Energy Specialist (Technology Evaluation and Development)	OOC exceeded 120-day limitation. In addition, incorrect OOC rate calculated resulting in the employee being undercompensated.	Pay Differential 94
Energy Commission Specialist II (Technology Evaluation and Development)	Energy Resources Specialist III (Supervisory)	OOC exceeded 120-day limitation.	Pay Differential 94
Energy Commission Specialist II (Technology Evaluation and Development)	Energy Resources Specialist III (Supervisory)	Incorrect OOC rate calculated resulting in the employee being undercompensated.	Pay Differential 94

Criteria:

An employee may be temporarily required to perform out-of-class work by his/her department for up to one hundred twenty (120) calendar days in any twelve (12) consecutive calendar months when it determines that such an assignment is of unusual urgency, nature, volume, location, duration, or other special characteristics; and, cannot feasibly be met through use of other civil service or administrative alternatives. Departments may not use out-of-class assignments to avoid giving civil service examinations or to avoid using existing eligibility lists created as the result of a civil service examination.

Employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in writing and the employee is given a copy of the assignment; and the duties performed by the employee are not described in a training and development assignment or by the specification for the class to which the excluded employee is appointed and, are fully consistent with the types of jobs described in the specification for the higher classification; and the employee does not perform such duties for more than 120 days in a fiscal year. (Cal. Code Regs., tit. 2, § 599.810, subd. (b)(1)(3)(4).)

For excluded employees, there shall be no compensation for assignments that last for 15 consecutive working days or less. (Cal. Code Regs., tit. 2, § 599.810, subd. (c).) An excluded employee performing in a higher class for more than 15 consecutive working days shall receive the rate of pay the excluded employee would receive if appointed to the higher class for the entire duration of the assignment, not to exceed one year. (Cal. Code Regs., tit. 2, § 599.810, subd. (d).) An excluded employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the appointing power files a written statement with the CalHR certifying that the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. (Cal. Code Regs., tit. 2, § 599.810, subd. (e).)

Severity: Very Serious. The CEC 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 CEC states that the OOC errors were made by inexperienced staff.

Corrective Action: The CEC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CEC must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 101 and 94.

Leave

Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days¹³ worked and paid absences¹⁴, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

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

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

At the time of the review, the CEC had 43 positive paid employees whose hours were tracked. The CRD reviewed 24 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Hours Worked
Accounting Administrator II	Retired Annuitant	7/1/23-6/30/24	762.25
Administrative Assistant I	Retired Annuitant	7/1/23-6/30/24	707
Air Resources Engineer	Retired Annuitant	7/1/23-6/30/24	957.5
Associate Governmental Program Analyst	Retired Annuitant	7/1/23-6/30/24	833.75

¹³ For example, two hours or ten hours count as one day.

¹⁴ For example, vacation, sick leave, compensating time off, etc.

Classification	Tenure	Time Frame	Hours Worked
Associate Governmental Program Analyst	Retired Annuitant	7/1/23-6/30/24	866
Associate Governmental Program Analyst	Retired Annuitant	7/1/23-6/30/24	223
Associate Personnel Analyst	Retired Annuitant	7/1/23-6/30/24	635.75
Associate Personnel Analyst	Retired Annuitant	7/1/23-6/30/24	681
Attorney IV	Retired Annuitant	7/1/23-6/30/24	955
Electric Generation System Program Specialist III	Retired Annuitant	7/1/23-6/30/24	960
Electric Generation System Program Specialist III	Retired Annuitant	7/1/23-6/30/24	959
Electric Generation System Program Specialist I	Retired Annuitant	7/1/23-6/30/24	416
Energy Commission Specialist II (Technology Evaluation and Development)	Retired Annuitant	7/1/23-6/30/24	960
Energy Commission Specialist III (Forecasting)	Retired Annuitant	7/1/23-6/30/24	839
Energy Resources Specialist III (Managerial)	Retired Annuitant	7/1/23-6/30/24	950
Energy Resources Specialist III (Managerial)	Retired Annuitant	7/1/23-6/30/24	710
Energy Resources Specialist III (Managerial)	Retired Annuitant	7/1/23-6/30/24	30
Information Technology Associate	Retired Annuitant	7/1/23-6/30/24	937
Library Technician Assistant I	Retired Annuitant	7/1/23-6/30/24	945.25
Planner II Energy Facility Siting	Retired Annuitant	7/1/23-6/30/24	923.5
Senior Mechanical Engineer	Retired Annuitant	7/1/23-6/30/24	771
Staff Services Manager I	Retired Annuitant	7/1/23-6/30/24	660
Youth Aid	Temporary	7/11/24-9/30/24	11.5
Youth Aid	Temporary	7/11/24-9/30/24	7

IN COMPLIANCE	FINDING NO. 16 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the positive paid employees reviewed during the compliance review period. The CEC provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

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, 2023, through May 31, 2024, the CEC authorized six ATO transactions. The CRD reviewed four 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 Trainee	3/26/24 - 4/2/24	40 Hours
Associate Management Auditor	07/24/23 - 08/31/23	42 Hours
Energy Analyst	8/22/23	5 Hours
Staff Services Analyst	10/24/23 - 10/30/23	40 Hours

IN COMPLIANCE	FINDING NO. 17 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the ATO transactions reviewed during the compliance review period. The CEC provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Accounting

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, 2024, through May 30, 2024, the CEC reported 56 units. The CRD reviewed 14 units within 2 pay periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

IN COMPLIANCE	FINDING No. 18 LEAVE ACCOUNTING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD reviewed leave records from two different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRD found no deficiencies. The CEC utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

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.¹⁵ (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.)

¹⁵ 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.

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 employees¹⁶ 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, October 1, 2023, through June 30, 2024, the CEC had six employees with qualifying and non-qualifying pay period transactions. The CRD reviewed five transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	No. Reviewed
Qualifying Pay Period	Full Time	2
Non-Qualifying Pay Period	Full Time	3

IN COMPLIANCE	FINDING NO. 19 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD determined that the CEC ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRD 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

¹⁶ 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.

regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. (Cal. Code Regs., tit. 2, § 87.) (*Ibid.*) All appointing powers shall adopt an anti-nepotism policy that includes the following components: (1) a statement that the appointing power is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system; (2) a definition of “nepotism” as an employee’s use of influence or power to hire, transfer, or promote an applicant or employee because of a personal relationship; (3) a definition of “personal relationship” as persons related by blood, adoption, current or former marriage, domestic partnership or cohabitation; (4) a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the applicant, as defined in section 83.6; (5) a statement that prohibits the direct or first-line supervision of an employee with whom the supervisor has a personal relationship, as defined in section 83.6; (6) a process for addressing issues of direct supervision when personal relationships between employees exist. (*Ibid.*)

IN COMPLIANCE	FINDING No. 20 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD verified that the policy was disseminated to all staff and emphasized the CEC’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the CEC’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 CEC did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 21 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD verified that the CEC provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRD verified that when the CEC received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must "prepare performance reports." Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee's probationary period.

The CRD selected 78 permanent CEC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SUBSTANTIAL COMPLIANCE	FINDING NO. 22 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The CEC did not provide annual performance appraisals to 3 of 78 employees reviewed after the completion of the employee's probationary period. This is the second consecutive time this has been a finding for the CEC.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the

employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

Severity: Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to address full compliance in the future; therefore, no corrective action is required.

DEPARTMENTAL RESPONSE

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

SPB REPLY

Based upon the CEC's written response, the CEC will comply with the corrective actions specified in these report findings. Within 90 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified must be submitted to the CRD.



February 7, 2025

Suzanne Ambrose
Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, California 95814

RE: California Energy Commission – Response to Compliance Review

Dear Ms. Ambrose,

The California Energy Commission (CEC) has reviewed the State Personnel Board (SPB) draft Compliance Review Report received on December 23, 2024. CEC appreciates the opportunity to provide a response to the findings. CEC is committed to following best employment practices and to working with SPB to continually improve.

Based on the compliance review conducted of CEC's personnel practices in the areas of examinations, appointments, Equal Employment Opportunity (EEO), Personnel Services Contracts (PSC), mandated training, compensation and pay, leave, and policy and processes. CEC provides the following causes and responses to each of the findings that require corrective action:

1. FINDING NO. 2 – Department Did Not Properly Process Permanent Withholds Actions

Cause: The CEC agrees with the findings. Although CEC correctly identified four candidates did not meet the minimum qualifications (MQ) for the position they applied for, the CEC did not properly follow the withhold process by placing permanent withholds on the candidates list eligibility, as outlined in the CalHR Withhold Manual. In addition, the CEC failed to retain a copy of one of the withheld candidate's notification letters, as required. The withhold process infractions, and the failure to properly document and track the withholds for timely process occurred during a turnover in staff in the Selections Unit.

Response: The CEC has recently transitioned the minimum qualification (MQ) process from the Selections Unit to the Classification and Pay (C&P) Unit. This process includes processing permanent withholds. The C&P analysts will be provided internal training regarding the withhold process and are in the process of attending the CalHR MQ training course to be completed in March 2025. Additionally, the CEC has secured a retired annuitant to provide supplemental guidance and training to the C&P analyst.

2. FINDING NO. 3 – Unlawful Appointment

Cause: The CEC agrees with the finding. The candidate's application was originally MQ'd as meeting under pattern II, using their Executive Assistant I experience. The Executive Secretary II salary is the same as the Executive Assistant classification; however, the level of duties are not similar and should not be considered as qualifying experience to meet MQ's. Upon further review, the candidate did not meet MQ's for the Administrative Assistant II classification.

Response: The CEC has recently transitioned the MQ process from the Selections Unit to the C&P Unit. The C&P analysts have been provided internal MQ training and are in the process of attending the CalHR MQ training course to be completed in March 2025. Additionally, the CEC has secured a retired annuitant to provide supplemental guidance and training to the C&P analysts.

3. FINDING NO. 4 – Training and Development Assignment Was Filled Improperly

Cause: The CEC agrees with the finding. The analyst did not apply California Code of Regulations 439.2 accurately. The position was advertised as an Energy Commission Specialist I and noted that individuals who are eligible for a Training and Development (T&D) assignment may also be considered for this position. The hiring unit did not indicate they would consider an Associate Energy Specialist (AES) I. Upon further review, CEC acknowledges the candidate should have been appointed to the AES I per CalHR's HR Manual section 3401 and California Code of Regulations 439.2.

Response: To ensure awareness and compliance with applicable civil service laws, rules, and CalHR policies and guidelines, the C&P manager will provide training to new staff, to ensure accurate processing/determinations of Training and Development assignments. In addition, training and one-on-one consultation will be provided to new and existing staff, as needed.

4. FINDING NO. 5 – Probationary Evaluations Were Not Provided For All Appointments Reviewed and Some That Were Provided Were Untimely

Cause: The CEC agrees with the findings that six probationary reports from the 39 appointments reviewed were not provided to employees, and two probationary reports were not provided to employees in a timely manner. The CEC recognizes the importance of completing and retaining probationary evaluations for all new appointments. The Payroll and Benefits (P&B) Unit informs management regarding the requirements for completing the probationary reports. This includes regular and consistent reminders of the due dates. Despite providing CEC management with the reminders, not all supervisors provided timely reports.

Response: The CEC is in the process of automating the distribution of the Probationary Reports using DocuSign. This will allow P&B to send electronic reminders to managers.

The Employee Relations Unit has developed and implemented comprehensive performance management and progressive discipline training for all CEC managers and supervisors. This training includes specific instruction on how and when to complete probation reports, required submission to HR, and the importance of maintaining a signed copy in a supervisory drop file and OPF.

The CEC continues to educate managers and supervisors on the importance of managing an employee's probationary period to ensure timely submission of reports.

5. FINDING NO. 10 – Supervisory Training Was Not Provided For All Supervisors, Managers, and CEAs

Cause: The CEC agrees with the findings. The CEC has found that data being keyed into the training database is not accurately reflected on training compliance reports. In addition, the information keyed into the Work Tracking System (WTS) by the division liaisons is not being entered timely, nor accurately. This has caused the training database to have out of date information, resulting in inaccurate reports. Leadership employees who are enrolled in the leadership training lack appreciation that the training is mandated and therefore fail to prioritize attending and completing the academy by the due date.

Response: The CEC will continue to work with IT to fix bugs for correct training reports. The Training Office will recommend to the Executive Office that leaders hold their non-compliant subordinates accountable through performance reports and performance evaluations. The Training Office will provide division liaisons periodic reminders of ensuring information in the WTS is accurate and updated timely. The Training Office will update the language in the notifications and reminders to leadership emphasizing the mandate and requirements of the academies and will continue to copy their management for awareness. The Training Office will implement a monthly review process to determine compliance with all mandatory training and follow up with the appropriate employees and management teams. The Training Office will continue to research additional tools and resources to ensure accurate monitoring and reporting of all mandatory training.

6. FINDING NO. 12 – Alternate Range Movements Did Not Comply With Civil Service Laws, Rules, and CalHR Policies and Guidelines

Cause: The CEC agrees with the finding. The candidate's application was originally reviewed as meeting the alternate range criteria for range C of the Utilities Engineer classification based on a combination of education and experience. At the time of placement into range C, the candidate possessed one year experience in State service as a Utilities Engineer, range B and possessed a PhD in Engineering. Range C, pattern II was misread and interpreted to include State experience as relevant to

the pattern. Upon re-review of the alternate range criteria, it was apparent that the candidate did not meet the criteria to be placed in range C due to State experience being applied and considered.

Response: The CEC has contacted the employee to make them aware of this error and the overpayment which is in the process of being collected. The CEC has recently transitioned alternate range determinations from the Selections Unit to the C&P Unit. The C&P analyst have received internal training and are in the process of attending the CalHR MQ training course to be completed in March 2025. Additionally, the CEC has secured a retired annuitant to review determinations and provide supplemental guidance and training to the C&P analyst.

7. FINDING NO. 15 – Incorrect Authorization of Out-Of-Class Pay

Cause: The CEC agrees with the findings. The errors were made by inexperienced P&B staff. The CEC has taken the necessary steps to set up accounts receivable for the overpayments and issued additional pay due to the employee for those underpaid.

Response: To ensure awareness and compliance with applicable civil service laws, rules, and CalHR policies and guidelines, the P&B manager will provide new staff with training to ensure accurate processing of out-of-class pay. In addition, training and one-on-one consultation will be provided to new and existing staff, as needed.

The CEC appreciates the opportunity to correct its process deficiencies and will continue to work with SPB to ensure compliance with all policies and procedures. If you have any questions or need additional information, please contact Veronica Werner, Personnel Officer, at (916) 579-3189 or via email at veronica.werner@energy.ca.gov.

Sincerely,



Drew Bohan
Executive Director