

COMPLIANCE REVIEW REPORT

FAIR POLITICAL PRACTICES COMMISSION

Compliance Review Unit
State Personnel Board
July 7, 2023

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INTRODUCTION

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

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

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

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

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

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

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well

as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Fair Political Practices Commission (FPPC) personnel practices in the areas of appointments, EEO, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Appointments	Serious	Probationary Evaluations Were Not Timely ¹
Appointments	Technical	Department Did Not Provide Benefit Information in Accordance with Civil Service Law
Equal Employment Opportunity	Very Serious	A Disability Advisory Committee Has Not Been Established
Mandated Training	In Compliance	Mandated Training Complied with Statutory Requirements
Compensation and Pay	Very Serious	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment ²
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Positive Paid Employees' Tracked Hours 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

¹ Repeat Finding. The March 11th, 2020, Compliance Review Report identified that the FPPC did not provide timely 8 probationary reports for 4 of the 14 appointments reviewed.

² Repeat Finding. The March 11th, 2020, the FPPC Compliance Review Report identified 2 incorrect salary determinations of the 13 reviewed.

Area	Severity	Finding
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

BACKGROUND

The FPPC is a five-member independent, nonpartisan commission that has the primary responsibility for the impartial and effective administration and enforcement of the Political Reform Act. The Act regulates campaign finance, conflicts of interest, lobbying, and governmental ethics. The FPPC's objectives are to ensure that public officials act in a fair and unbiased manner in the governmental decision-making process, promote transparency in government, and foster public trust in the political system.

The FPPC has approximately 90 employees and four divisions: Legal, Enforcement, Audit and Assistance, and Administration and Technology.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the FPPC's appointments, EEO program, mandated training, compensation and pay, leave, and policy and processes³. The primary objective of the review was to determine if the FPPC's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified. The FPPC did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the FPPC's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the FPPC provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The FPPC did not conduct any unlawful appointment investigations

³ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

during the compliance review period. Additionally, the FPPC did not make any additional appointments during the compliance review period.

The FPPC's appointments were also selected for review to ensure the FPPC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the FPPC provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay e.g., hire above minimum (HAM) requests, and alternate range movements.

The review of the FPPC's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC). The FPPC did not execute any PSC's during the compliance review period.

The FPPC'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 Career Executive Assignments (CEA) were provided leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the FPPC's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRU selected a small cross-section of the FPPC's units in order to ensure they maintained accurate and timely leave accounting records. Further, the CRU reviewed a selection of FPPC positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

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

On June 12, 2023, an exit conference was held with the FPPC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the FPPC's written response on June 26, 2023, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

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, 2021, through September 30, 2022, the FPPC made 29 appointments. The CRU reviewed 13 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
CEA	Certification List	Permanent	Full Time	1
Information Technology Supervisor II	Certification List	Permanent	Full Time	1
Management Services Technician (MST)	Certification List	Permanent	Full Time	1
Political Reform Consultant I (PRC I)	Certification List	Permanent	Full Time	1
Research Data Analyst II	Certification List	Permanent	Full Time	1
Senior Commission Counsel (SCC) (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Analyst (SSA)	Certification List	Permanent	Full Time	2
Staff Services Manager I	Certification List	Permanent	Full Time	1
Special Investigator	Reinstatement	Permanent	Full Time	1
PRC I	Transfer	Permanent	Full Time	1
SSA	Transfer	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 1 PROBATIONARY EVALUATIONS WERE NOT TIMELY
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Summary: The FPPC did not provide in a timely manner 3 probationary reports of performance for 1 of the 13 appointments reviewed by the CRU, as reflected in the table below. This is the second consecutive time this has been a finding for the FPPC.

Classification	Appointment Type	Number of Appointment	Total Number of Late Probation Reports
PRC I	Certification List	1	3

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. (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 FPPC states that a supervisor's absence due to medical leave led to the probationary evaluations being completed late.

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

SEVERITY: TECHNICAL	FINDING NO. 2 DEPARTMENT DID NOT PROVIDE BENEFIT INFORMATION IN ACCORDANCE WITH CIVIL SERVICE LAW
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Summary: The FPPC did not provide an explanation of benefits prior to acceptance of appointment in eight out of the 13 appointments reviewed by the CRU.

Criteria: An appointing power, before offering employment to an applicant, shall provide the applicant, in writing, with an explanation of benefits that accompany state service. These documents shall include a summary of the applicable civil service position with salary ranges and steps within them, as well as information on benefits afforded by membership in the Public Employees' Retirement System and

benefits and protections provided to public employees by the State Civil Service Act. (Gov. Code, § 19057.2.)

Severity: Technical. An applicant is entitled to have all the information regarding benefits relating to their potential employment prior to deciding whether to accept or decline the appointment.

Cause: The FPPC states they erroneously interpreted Government Code section 19057.2; it was unaware that an explanation of benefits was required for existing employees receiving a promotion-in-place.

Corrective Action: Within 90 days of the date of this report, the FPPC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with the explanation of benefits requirements of Government Code section 19057.2. Copies of relevant documentation (including a template letter) demonstrating that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).) Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like FPPC, the EEO Officer may be the Personnel Officer.

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd.

(b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

SEVERITY: VERY SERIOUS	FINDING NO. 3 A DISABILITY ADVISORY COMMITTEE HAS NOT BEEN ESTABLISHED
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Summary: The FPPC does not have an active DAC.

Criteria: Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

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

Cause: The FPPC states that due to employees teleworking full-time since March 2020, they have been unable to maintain an active DAC.

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

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as “filers”) because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

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

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

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

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to

training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the FPPC's mandated training program that was in effect during the compliance review period, January 1, 2021, through December 30, 2022.

IN COMPLIANCE	FINDING NO. 4	MANDATED TRAINING COMPLIED WITH STATUTORY REQUIREMENTS
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The FPPC provided ethics training to its 16 new filers within 6 months of appointment and, for 17 existing filers, "at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter." The FPPC also provided supervisory training to its three new supervisors within 12 months of appointment. In addition, the FPPC provided sexual harassment prevention training its 3 new supervisors within 6 months of appointment, and sexual harassment prevention training to its 13 existing supervisors every 2 years. Thus, the FPPC complied with mandated training requirements within statutory timelines.

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 rate⁴ 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, 2021, through September 30, 2022, the FPPC made 13 appointments. The CRU reviewed five of those appointments to determine if the FPPC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

⁴ "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)
MST	Certification List	Permanent	Full Time	\$4,204
PRC I	Certification List	Permanent	Full Time	\$5,383
SCC (Specialist)	Certification List	Permanent	Full Time	\$9,976
PRC I	Transfer	Permanent	Full Time	\$5,383
SSA	Transfer	Permanent	Full Time	\$4,188

SEVERITY: VERY SERIOUS	FINDING NO. 5 INCORRECT APPLICATION OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT
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Summary: The CRU found the following error in the FPPC's determination of employee compensation:

Classification	Description of Finding	Criteria
MST	Employee should not have received a 5% increase when appointed to their new classification, resulting in an overpayment. This is the second consecutive time this has been a finding for the FPPC.	Cal. Code Regs., tit. 2, § 599.674, subd. (a)

Criteria: 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 FPPC failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The FPPC states the cause of this finding was the result of human error.

Corrective Action: Within 90 days of the date of this report, the FPPC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The FPPC must establish an audit

system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, 2021, through September 30, 2022, the FPPC employees made three alternate range movements within a classification. The CRU reviewed all those alternate range movements to determine if the FPPC 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)
FPPC Counsel	C	D	Full Time	\$9,234
FPPC Counsel Enforcement	C	D	Full Time	\$8,794
Staff Services Management Auditor	B	C	Full Time	\$4,936

IN COMPLIANCE	FINDING NO. 6 ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU determined that the alternate range movements the FPPC made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability, or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling without further legislative action.⁵ (Gov. Code, § 19836, subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a

⁵ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

Appointing authorities may request/approve HAMs for former exempt employees appointed to a civil service class. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be competitive with the employee's salary in the exempt appointment. (*Ibid.*) For example, an employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. (*Ibid.*)

During the period under review, October 1, 2021, through September 30, 2022, the FPPC authorized one HAM request. The CRU reviewed the authorized HAM request to determine if the FPPC correctly applied Government Code section 19836 and appropriately verified, approved, and documented the candidate's extraordinary qualifications, which is listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
SCC (Specialist)	Certification List	Permanent	\$9,976-\$12,798	\$10,973

IN COMPLIANCE	FINDING NO. 7	HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM request the FPPC made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Leave

Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days⁶ worked and paid absences⁷, 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 1,500 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 FPPC had two positive paid employees whose hours were tracked. The CRU reviewed all those positive paid appointments to ensure compliance with applicable laws, regulations, policies, and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
PRC II	Retired Annuitant	Intermittent	621 Hours
Program Specialist II	Retired Annuitant	Intermittent	958 Hours

⁶ For example, two hours or ten hours count as one day.

⁷ For example, vacation, sick leave, compensating time off, etc.

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

Leave Auditing and Timekeeping

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

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

During the period under review, July 1, 2022, through September 30, 2022, the FPPC reported four units comprised of 88 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
July 2022	001	23	23	0
August 2022	300	5	5	0
September 2022	300	6	6	0

IN COMPLIANCE	FINDING NO. 9	LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The FPPC kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

Policy and Processes

Nepotism

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

IN COMPLIANCE	FINDING NO. 10	NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the policy was disseminated to all staff and emphasized the FPPC's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the FPPC'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.

Performance Appraisals

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

The CRU selected 20 permanent FPPC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies, and guidelines.

IN COMPLIANCE	FINDING NO. 11	PERFORMANCE APPRAISAL POLICY AND PROCESSES COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the performance appraisals selected for review. Accordingly, the FPPC performance appraisal policy and processes satisfied civil service laws, Board rules, policies, and guidelines.

DEPARTMENTAL RESPONSE

The FPPC’s response is attached as Attachment 1.

SPB REPLY

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



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

TO: Ms. Suzanne M. Ambrose
Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

From: Loressa Hon
Chief of Administration
Fair Political Practices Commission
Sacramento, CA 95811

Date: June 26, 2023

RE: RESPONSE TO AUDIT FINDINGS

This letter is in response to the draft State Personnel Board (SPB), Compliance Review Report (CRR) submitted to the Fair Political Practices Commission (FPPC). The FPPC provides the following responses to the findings as presented by the SPB.

FINDING NO. 1 – PROBATIONARY EVALUATIONS WERE NOT TIMELY

Cause: According to FPPC procedures, supervisors and managers receive notifications regarding the deadlines for submitting probationary reports, and in most cases, these reports are completed promptly. However, in the specific case mentioned in the CRR, the direct supervisor's absence due to medical leave led to the probation reports being completed late.

Response: The FPPC will continue to emphasize the importance of completing probationary reports in a timely manner. Additionally, the FPPC will update the procedure to address situations where a supervisor is absent and provide guidance on how to handle such cases.

FINDING NO. 2 – DEPARTMENT DID NOT PROVIDE BENEFIT INFORMATION IN ACCORDANCE WITH CIVIL SERVICE LAW

Cause: The FPPC erroneously interpreted Gov. Code, § 19057.2, assuming that it solely applied to new state employees. As the eight employees mentioned in the CRR were already existing employees who had received promotions, no explanation of benefits was provided to them.

Response: The FPPC has gained a comprehensive understanding that, irrespective of promotion or new hire, an explanation of the benefit should be

provided in applicable situations. Consequently, the FPPC has updated its internal procedures to reflect this understanding.

FINDING NO. 3 – A DISABILITY ADVISORY COMMITTEE HAS NOT BEEN ESTABLISHED

Cause: The FPPC's current DAC members include an HR specialist, Chief of Admin, and EEO officer. This committee actively monitors and promptly addresses any emerging issues related to disabilities during regular HR meetings. However, no specific DAC meeting has been conducted.

Response: As a small agency, the FPPC places high importance on promptly and efficiently addressing the needs of our employees with disabilities. Furthermore, due to most of our employees working remotely, the occurrence of related issues has significantly decreased. Consequently, the DAC meetings were not actively conducted, and the matters were resolved within HR meetings. In the future, the FPPC plans to establish a dedicated committee comprising employees who are individuals with disabilities or those with a specific interest in disability issues, expanding beyond HR staff.

FINDING NO. 5 – INCORRECT APPLICATION OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT

Cause: The incorrect salary determination for the Management Services Technician was the result of human error, resulting in an increase that was 0.2% above the allowable amount.

Response: The FPPC has promptly rectified the issue. Moving forward, the FPPC will enhance the oversight of salary determination and implementation to ensure improved processes.

The FPPC appreciate the opportunity to provide a response to the compliance report. If you have any questions, please contact Loressa Hon, Chief of Administration at (916) 322-7578.