



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA DEPARTMENT OF HUMAN RESOURCES**

Compliance Review Unit  
State Personnel Board  
October 9, 2024

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## **INTRODUCTION**

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

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

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

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

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

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

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

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the California Department of Human Resources (CalHR) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely <sup>1</sup>
Equal Employment Opportunity	Very Serious	Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees <sup>2</sup>
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	Hire Above Minimum Requests 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

<sup>1</sup> Repeat finding. The CalHR's December 10, 2021, compliance review report identified that the CalHR did not provide 4 probationary reports of performance for 3 of the 18 appointments reviewed by the CRU.

<sup>2</sup> Repeat finding. The CalHR's December 10, 2021, compliance review report identified that the CalHR did not provide sexual harassment prevention training to 2 of 12 new supervisors within 6 months of appointment. In addition, the CalHR did not provide sexual harassment prevention training to 5 of 59 existing supervisors every 2 years.

Area	Severity	Finding
Leave	Serious	Positive Paid Temporary Employee's Work Exceeded Time Limitations
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Neptism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees <sup>3</sup>

### **BACKGROUND**

CalHR was created on July 1, 2012, by Governor Brown's Reorganization Plan Number 1 of 2011. The reorganization plan consolidated the State of California's two personnel departments, combining the Department of Personnel Administration with certain programs of the SPB. CalHR is responsible for issues related to employee salaries and benefits, job classifications, civil rights, training, exams, recruitment, and retention. For most employees, many of these matters are determined through the collective bargaining process managed by CalHR.

The CalHR's vision is to be the premier leader and trusted partner in innovative human resources management. CalHR's mission is to provide exceptional human resources leadership and services with integrity, respect, and accountability to state departments and all current and prospective employees.

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<sup>3</sup> Repeat finding. The CalHR's December 10, 2021, compliance review report identified that the CalHR did not provide annual performance appraisals to 10 of 25 employees reviewed. The August 12, 2019, compliance review report identified that the CalHR did not provide annual performance appraisals to 64 of 80 employees reviewed.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CalHR's appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>4</sup>. The primary objective of the review was to determine if the CalHR'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 CalHR did not conduct any examinations or permanent withhold actions during the compliance review period.

A cross-section of the CalHR'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 CalHR provided, which included Notice of 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 CalHR did not conduct any unlawful appointment investigations or make any additional appointments during the compliance review period.

The CalHR's appointments were also selected for review to ensure the CalHR applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CalHR 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: hire above minimum (HAM) requests, monthly pay differentials, and alternate range movements. During the compliance review period, the CalHR did not issue or authorize red circle rate requests, arduous pay, bilingual pay, or out-of-class assignments.

The review of the CalHR'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.

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<sup>4</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

The CalHR's PSC's were also reviewed.<sup>5</sup> It was beyond the scope of the compliance review to make conclusions as to whether the CalHR's justifications for the contracts were legally sufficient. The review was limited to whether the CalHR's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

The CRU reviewed the CalHR'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 CalHR's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CalHR's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the CalHR employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CalHR positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

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

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<sup>5</sup>If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

## FINDINGS AND RECOMMENDATIONS

### Appointments

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

During the period under review, August 1, 2023, through January 31, 2024, the CalHR made 76 appointments. The CRU reviewed 23 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Budget Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Attorney IV	Certification List	Permanent	Full Time	1
Information Technology Manager I	Certification List	Permanent	Full Time	1
Information Technology Manager II	Certification List	Permanent	Full Time	1
Legal Analyst	Certification List	Permanent	Full Time	1
Legal Assistant	Certification List	Permanent	Full Time	1
Personnel Program Manager I	Certification List	Permanent	Full Time	1
Psychologist	Certification List	Limited Term	Full Time	1



Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Research Data Supervisor II	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	2
Staff Services Manager II (Managerial)	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Staff Services Manager III	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Associate Personnel Analyst	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1
Staff Services Manager II (Managerial)	Transfer	Permanent	Full Time	1

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 1 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY</b>
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**Summary:** The CalHR did not provide 3 probationary reports of performance for 1 of the 23 appointments reviewed by the CRU. This is the second consecutive time this has been a finding for the CalHR. In addition, the CalHR did not provide 4 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
Associate Budget Analyst	Certification List	1	3

Classification	Appointment Type	No. of Appointments	Total No. of Late Probation Reports
Associate Governmental Program Analyst	Certification List	1	1
Associate Personnel Analyst	Certification List	1	1
Associate Governmental Program Analyst	Transfer	1	2

**Criteria:** The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a

break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

**Severity:** Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

**Cause:** The CalHR states that the supervisors and managers experienced scheduling conflicts, which prevented timely completion of probationary reports.

**Corrective Action:** The CalHR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CalHR 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).)

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like the CalHR, 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).)

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 2    COMPLAINANTS WERE NOT NOTIFIED OF THE REASONS FOR DELAYS IN DECISIONS WITHIN THE PRESCRIBED TIME PERIOD</b>
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**Summary:**                    The CalHR provided evidence that three discrimination complaints related to a disability, medical condition, or denial of reasonable accommodation were filed during the compliance review period. One of the three complaint investigations exceeded 90 days and the CalHR failed to provide written communication to the complainant regarding the status of the complaint.

**Criteria:**                    The appointing power must issue a written decision to the complainant within 90 days of the complaint being filed. (Cal. Code Regs., tit. 2, § 64.4, subd. (a).) If the appointing power is unable to issue its decision within the prescribed time period, the appointing power must inform the complainant in writing of the reasons for the delay. (*Ibid.*)

**Severity:**                    Very Serious. Employees were not informed of the reasons for delays in decisions for discrimination complaints. Employees may

feel their concerns are not being taken seriously, which can leave the agency open to liability and low employee morale.

**Cause:** The CalHR states that the EEO Office's process did not include written notification; rather, the EEO Officer verbally notified the employee of the complaint status.

**Corrective Action:** The CalHR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CalHR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with the requirements of California Code of Regulations, title 2, section 64.4, subdivision (a).

### **Personal Services Contracts**

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state's authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC's achieve cost savings for the state. PSC's that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC's, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, August 1, 2023, through April 30, 2024, the CalHR had 14 PSC's that were in effect. The CRU reviewed 10 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Access	Records Management	\$49,000	Yes	No
A-Team Modular Furniture Installation Inc.	Moving Services	\$50,000	Yes	No
Class Act Alliance, Inc.	American Sign Language Interpretation Services	\$49,000	Yes	No
Convergent Systems	Security System Monitoring	\$15,732	Yes	No
Guidehouse, Inc.	Consulting Services	\$750,000	Yes	No
Katherine Waki, CSR	Court Reporting and Transcription Services	\$60,000	Yes	Yes
Shaw Law Group, PC	Legal Services	\$50,000	Yes	Yes
Shaw Law Group, PC	EEO Officer Training	\$350,000	Yes	No
Simon Sinek, Inc	Conference Speaker	\$15,000	Yes	No
Unleashing Leaders. Inc	Training Program Development	\$350,000	Yes	No

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 3 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS</b>
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**Summary:** The CalHR did not notify unions prior to entering into 8 of the 10 PSC's reviewed.

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

**Severity:** Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for the type of work that their members could perform.

**Cause:** The CalHR attributes this finding to human error and loss of knowledge within the Contracts Unit due to staff turnover.

**Corrective Action:** Departments are responsible for notifying all organizations that represent state employees who perform or could perform the type of work to be contracted prior to executing a PSC. The PSC's reviewed during this compliance review involved several services and functions which various rank-and-file civil service classifications perform. The CalHR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CalHR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with the requirements of California Code of Regulations section 547.60.2.

### **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 CalHR’s mandated training program that was in effect during the compliance review period, May 1, 2022, through April 30, 2024. The CalHR’s ethics training and supervisory training were found to be in compliance, while the CalHR’s sexual harassment prevention training was found to be out of compliance.

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 4 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES</b>
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**Summary:** The CalHR did not provide sexual harassment prevention training to 1 of 9 new supervisors within 6 months of their appointment. In addition, the CalHR did not provide sexual harassment prevention training to 20 of 65 existing supervisors every 2 years. This is the second consecutive time this has been a finding for the CalHR.

Further, the CalHR did not provide sexual harassment prevention training to 15 of 57 existing non-supervisors every 2 years.

**Criteria:** Each department must provide its supervisors two hours of sexual harassment prevention training every two years and non-supervisory employees one hour of sexual harassment prevention training every two years. New employees must be provided sexual harassment

prevention training within six months of appointment. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code § 19995.4.)

**Severity:** Very Serious. The department does not ensure that all new and existing employees are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

**Cause:** The CalHR states that turnover in the Training Officer position and use of manual record-keeping methods led to training delays.

**Corrective Action:** The CalHR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CalHR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that all employees are provided sexual harassment prevention training in accordance with Government Code section 12950.1.

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>6</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, August 1, 2023, through January 31, 2024, the CalHR made 76 appointments. The CRU reviewed 10 of those appointments to determine if the

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<sup>6</sup> "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).



CalHR applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Budget Analyst	Certification List	Permanent	Full time	\$5,684
Information Technology Manager II	Certification List	Permanent	Full time	\$11,841
Legal Analyst	Certification List	Permanent	Full time	\$5,217
Personnel Program Manager I	Certification List	Permanent	Full time	\$8,818
Research Data Supervisor II	Certification List	Permanent	Full time	\$9,538
Staff Services Manager I	Certification List	Permanent	Full time	\$7,470
Staff Services Manager II (Managerial)	Certification List	Permanent	Full time	\$8,818
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,855
Staff Services Manager I	Transfer	Permanent	Full Time	\$7,453
Staff Services Manager II (Managerial)	Transfer	Permanent	Full Time	\$9,045

<b>IN COMPLIANCE</b>	<b>FINDING NO. 5 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the salary determinations that were reviewed. The CalHR 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, August 1, 2023, through January 31, 2024, the CalHR made 35 alternate range movements within a classification. The CRU reviewed 18 of those alternate range movements to determine if the CalHR 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)
Associate Budget Analyst	A	L	Full Time	\$5,855
Attorney	A	L	Full Time	\$7,737
Attorney	B	N	Full Time	\$9,975
Attorney IV	A	L	Full Time	\$14,202
Attorney IV	A	L	Full Time	\$14,500
Information Technology Specialist I	C	N	Full Time	\$7,634
Information Technology Specialist I	C	N	Full Time	\$7,635
Information Technology Specialist I	C	N	Full Time	\$9,970
Information Technology Specialist II	A	L	Full Time	\$10,740
Information Technology Specialist II	A	L	Full Time	\$10,770
Information Technology Specialist II	A	L	Full Time	\$11,210
Legal Analyst	A	L	Full Time	\$5,374
Legal Assistant	A	L	Full Time	\$4,731
Psychologist	A	L	Full Time	\$13,356
Research Data Analyst I	C	N	Full Time	\$4,964
Staff Services Analyst	A	L	Full Time	\$4,697
Staff Services Analyst	A	L	Full Time	\$3,749
Staff Services Analyst	C	N	Full Time	\$4,868

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 6 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES</b>
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**Summary:** The CRU found 4 errors in the 18 alternate range movements reviewed:

Classification	Description of Findings	Criteria
Information Technology Specialist I (2 positions)	Incorrect anniversary date determined resulting in the employee being overcompensated.	Cal. Code Regs., tit. 2, section 599.674 (a)
Information Technology Specialist II (2 positions)	Incorrect salary determination resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, section 599.674 (a)

**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 four circumstances, the CalHR 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 CalHR attributes this finding to miscalculations due to human error.

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

### 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.<sup>7</sup> (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 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.*)

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<sup>7</sup> 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.

During the period under review, August 1, 2023, through January 31, 2024, the CalHR authorized three HAM requests. The CRU reviewed the three authorized HAM requests to determine if the CalHR correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Attorney IV	Certification List	Former Exempt Employee	\$11,644 - \$14,954	\$14,500
Information Technology Manager I	Certification List	New to State	\$8,591 - \$11,512	\$10,000
Psychologist	Certification List	New to State	\$8,707 - \$11,788	\$11,788

<b>IN COMPLIANCE</b>	<b>FINDING NO. 7 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found that the HAM requests the CalHR made 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, August 1, 2023, through January 31, 2024, the CalHR authorized 27 pay differentials.<sup>8</sup> The CRU reviewed 16 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Attorney (2 positions)	248	5%
CEA	248	5%
Personnel Program Advisor (2 positions)	248	5%
Personnel Technician I	249	\$150
Research Data Specialist II	248	5%
Research Data Supervisor II	248	5%
Staff Personnel Program Analyst (2 positions)	248	5%
Staff Services Analyst	248	5%
Staff Services Manager I (3 positions)	248	5%
Staff Services Manager II (Supervisory)	248	5%
Staff Services Manager III	248	5%

<b>IN COMPLIANCE</b>	<b>FINDING NO. 8 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the pay differentials that the CalHR 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.

**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

<sup>8</sup> For the purposes of CRU’s review, only monthly pay differentials were selected for review at this time.

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 days<sup>9</sup> worked and paid absences<sup>10</sup>, 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 CalHR had 18 positive paid employees whose hours were tracked. The CRU reviewed nine 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
Chief Psychologist	Retired Annuitant	7/1/22-6/30/23	35.5

<sup>9</sup> For example, two hours or ten hours count as one day.

<sup>10</sup> For example, vacation, sick leave, compensating time off, etc.

Classification	Tenure	Time Frame	Hours Worked
Examination Proctor	Temporary	7/1/22-6/30/23	80.5
Information Technology Specialist II	Retired Annuitant	7/1/22-6/30/23	233.5
Personnel Program Analyst	Retired Annuitant	7/1/22-6/30/23	311.5
Senior Personnel Specialist	Retired Annuitant	7/1/22-6/30/23	442
Staff Personnel Program Analyst	Retired Annuitant	7/1/22-6/30/23	407.75
Staff Services Manager I	Retired Annuitant	7/1/22-6/30/23	958
Student Assistant	Temporary	10/1/22-9/30/23	1,606.5
Student Assistant	Temporary	6/1/23-5/31/24	1,370

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 9 POSITIVE PAID TEMPORARY EMPLOYEE'S WORK EXCEEDED TIME LIMITATIONS</b>
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**Summary:** The CalHR did not consistently monitor the actual number of days and/or hours worked to ensure that one positive paid employee did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period.

Specifically, the following employee exceeded the 1,500-hour limitation:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Student Assistant	Temporary	10/1/22-9/30/23	1,606.5 Hours	106.5 Hours

**Criteria:** If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary appointments that cannot be extended for any reason. (Cal Const., art. VII, § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) Another controlling factor limits the maximum work time for student, youth,



and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

**Severity:** Serious. The number of days or hours an individual may work in a temporary appointment is limited in the state civil service. TAU appointments are distinguished from other appointments as they can be made in the absence of an appropriate employment list.

**Cause:** The CalHR attributes this finding to human error and knowledge loss within the Transactions Unit due to a high turnover rate.

**Corrective Action:** The CalHR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CalHR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 21224, and California Code of Regulations, title 2, section 599.665, and/or applicable Bargaining Unit agreement(s).

### 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, February 1, 2023, through January 31, 2024, the CalHR authorized two ATO transactions. The CRU reviewed the two 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
Associate Personnel Analyst	1/4/24-1/10/24	7 days
Staff Services Manager II	8/1/23-8/7/23	7 days

IN COMPLIANCE	<b>FINDING NO. 10 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CalHR 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, November 1, 2023, through January 30, 2024, the CalHR reported 56 units. The CRU reviewed 14 units within two pay periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 11 DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY</b>
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**Summary:** The CalHR failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely and to certify that all leave records have been reviewed and corrected if necessary for all 14 units reviewed.

**Criteria:** Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.) Departments are directed to create an audit process to verify all leave input is keyed accurately and timely. (Human

Resources Manual Section 2101.) Departments shall identify and record all errors found and shall certify that all leave records for the unit/pay period identified have been reviewed and all leave errors identified have been corrected. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

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

**Cause:** The CalHR attributes this finding to human error and knowledge loss within the Transactions Unit due to a high turnover rate.

**Corrective Action:** The CalHR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CalHR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that its monthly internal audit process was documented and that all leave input is 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.<sup>11</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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<sup>11</sup> Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>12</sup> shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, August 2, 2023, through April 30, 2024, the CalHR had seven employees with qualifying and non-qualifying pay period transactions. The CRU reviewed six employees’ 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	3
Non-qualifying Pay Period	Full Time	3

<b>IN COMPLIANCE</b>	<b>FINDING NO. 12 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU determined that the CalHR ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

<sup>12</sup> As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

## **Policy and Processes**

### **Nepotism**

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

<b>IN COMPLIANCE</b>	<b>FINDING NO. 13 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the policy was disseminated to all staff and emphasized the CalHR’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the CalHR’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 CalHR did not employ volunteers during the compliance review period.

IN COMPLIANCE	<b>FINDING NO. 14 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the CalHR provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRU verified that when the CalHR received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

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

The CRU selected 45 permanent CalHR employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 15 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES</b>
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**Summary:** The CalHR did not provide annual performance appraisals to 14 of 45 employees reviewed after the completion of the employee’s probationary period. This is the third consecutive time this has been a finding for the CalHR.

**Criteria:** Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

**Severity:** Serious. The department does not ensure that all employees are apprised of work performance issues and/or goals in a systematic manner.

**Cause:** The CalHR states that despite using a tracking system and sending annual reminders to all supervisors and managers to complete performance appraisals, not all supervisors and managers submitted the performance appraisals.

**Corrective Action:** The CalHR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CalHR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798.

**DEPARTMENTAL RESPONSE**

The CalHR response is attached as Attachment 1.

**SPB REPLY**

Based upon the CalHR’s written response, the CalHR 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.



**Human Resources Office**

1515 S Street, North Building, Suite 500  
Sacramento, CA 95811  
(916) 909-3758 Fax (916) 327-0568

**Governor** Gavin Newsom  
**Secretary, Government Operations Agency** Amy Tong  
**Director** Eraina Ortega

September 20, 2024

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

Re: California Department of Human Resources Response to State Personnel Board Compliance Report

Dear Ms. Ambrose,

The California Department of Human Resources (CalHR) would like to thank the State Personnel Board (SPB)'s Compliance Review Unit (CRU) for undertaking the 2024 CalHR Compliance Review Audit. CalHR received the SPB Review Report draft on Friday, September 6, 2024. The Executive Summary section of the CalHR Compliance Review Report created by SPB summarizes 15 findings. Of these, eight (8) findings (53%) were deemed very serious or serious issues of non-compliance. CalHR is committed to making positive strides to improve many of our processes and procedures and is confident the next Compliance Review Report will reflect our efforts.

Based on the compliance review conducted of CalHR's personnel practices in the areas of Examinations, Appointments, Equal Employment Opportunity (EEO), Personal Services Contracts, Mandated Training, Compensation, and Pay, Leave, and Policy and Processes, CalHR provides the following response to each of the findings:

**Finding No. 1: Probationary evaluations were not provided for all appointments reviewed, and some that were provided were untimely.**

The summary indicated that CalHR did not provide three probationary reports of performance for one employee out of 23 appointments reviewed by the CRU. CalHR did not provide four probationary reports of performance in a timely manner.

**Cause:** Despite the methods the Human Resources Office (HRO) used to inform supervisors and managers of the requirements to complete probationary reports, not all

supervisors and managers provided timely probationary reports. Supervisors and managers experienced scheduling conflicts, preventing them from providing the probationary reports timely.

**CalHR Response:** Currently, HRO sends memos to all supervisors and managers informing them of the probationary report due dates when they hire a probationary employee. CalHR sets an expectation that immediately upon receipt of the memo, supervisors will document the probationary dates by any means necessary to ensure that they are aware of due dates and submit probationary reports in a timely manner. In addition, HRO made several announcements throughout the year to remind supervisors and managers during monthly management meetings of the importance of completing and submitting probationary reports timely. HRO was using an Excel-based tracking system. HRO is moving toward a real-time updated dashboard as a new mechanism to track and ensure timely compliance with probationary reports.

**Finding No. 2: Complainants were not notified of the reasons for delays in decisions within the prescribed time period.**

The summary indicated that CalHR provided evidence that three discrimination complaints related to a disability, medical condition, or denial of reasonable accommodation were filed during the compliance review period. One of the three complaint investigations exceeded 90 days, and the CalHR failed to provide written communication to the complainant regarding the status of the complaint.

**Cause:** Employees were verbally notified of the complaint status by the EEO Officer. The EEO Office has modified its process to include written notification when a decision exceeds the 90-day time limit in compliance with the California Code of Regulations, title 2, section 64.4, subdivision (a).

**CalHR Response:** When an investigation continues beyond 90 days, the CalHR EEO Office will ensure prompt action in future cases in accordance with the California Code of Regulations, title 2, section 64.4, subdivision (a), by sending a “Delay in Investigation” letter to the complainant.

**Finding No. 3: Unions were not notified of Personal Services Contracts.**

The summary indicated that CalHR did not notify unions prior to entering 8 of the 10 Personal Services Contracts (PSC) reviewed.

**Cause:** CalHR attributes this finding to human error and loss of knowledge within the Contracts Unit due to staff turnover. Although Union notifications were being sent out, the analysts were unaware of the timing requirement for sending out the notifications before contract execution. Union notifications were not sent due to new analysts unfamiliar with the process.

**CalHR Response:** A new checklist (See attached “Electronic File” tab) has been developed, including the Union Notification requirement and other required documentation. In the future, the Contracts Supervisor will review the checklist and check for union notifications in the contract files before approving contracts for execution.

**Finding No. 4: Sexual Harassment Prevention Training was not provided for all employees**

The summary indicated that CalHR did not provide sexual harassment prevention training to 1 of 9 new supervisors within six months of their appointment. In addition, CalHR did not provide sexual harassment prevention training to 20 of 65 existing supervisors every two years. This is the second consecutive time this has been a finding for CalHR. Further, CalHR did not provide sexual harassment prevention training to 15 of 57 existing non-supervisors every two years.

**Cause:** The current practice depends on employees notifying the Training Officer of course completion or submitting transcripts from previous departments. This practice has contributed to delays in timely Sexual Harassment Prevention training delivery. Furthermore, a combination of turnover in the Training Officer position and manual record-keeping methods has led to delays in achieving compliance for training.

**CalHR Response:** Efforts are underway to achieve full compliance with Sexual Harassment Prevention training requirements. All CalHR employees are now mandated to complete SHP Training through the CalLearns portal to facilitate improved tracking and reporting. Additionally, functionality for automated reminders is being explored to enhance timely compliance. Furthermore, CalHR is in the process of updating its record-keeping systems to minimize human error and ensure a smoother transition process during training officer turnovers.

**Finding No. 5: Salary determinations complied with civil service laws, board rules, and CalHR policies and guidelines.**

No response is needed since the CalHR was found to be in compliance.

**Finding No. 6: Alternate Range Movements did not comply with Civil Service Laws, Rules, and CalHR Policies and Guidelines**

The summary indicated that CRU found four errors in the 18 alternate range movements reviewed. Two were incorrect anniversary dates, and two were incorrect salary determinations.

**Cause:** CalHR attributes this finding to a miscalculation due to human error.

**CalHR Response:** The two incorrect salary determinations have been corrected. CalHR takes matters impacting pay very seriously and will ensure additional review

steps of the work are completed to minimize/eliminate discrepancies and errors. Further, through these reviews, if there are repeated trends or concerns, training opportunities for individuals/teams will be provided to ensure staff are current with all pay rules and regulations.

**Finding No. 7: Hire Above Minimum requests complied with civil service laws, board rules, and CalHR policies and guidelines**

No response is needed since the CalHR was found to be in compliance.

**Finding No. 8: Pay Differential authorizations complied with civil service laws, board rules, and CalHR policies and guidelines.**

No response is needed since the CalHR was found to be in compliance.

**Finding No. 9: Positive paid temporary employee's work exceeded time limitations.**

The summary indicated that CalHR did not consistently monitor the number of days and hours worked to ensure that one positive paid employee did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period. In addition, the employee exceeded the 1,500-hour limitation.

**Cause:** CalHR attributes this finding to human error and loss of knowledge within the Transactions Unit, which is tied to the high turnover of the Personnel Specialist classification series.

**CalHR Response:** CalHR has experienced a high turnover rate in the Personnel Specialist classification series, which led to miscommunications and errors in transferring knowledge to new staff about the processes related to monitoring hours. Due to staffing instabilities, the HRO has faced a challenge regarding proper training and knowledge transfer. CalHR will ensure that staff are trained, including providing refresher classes and reminders to complete the process on a timely basis and use the tools available to assist them with this task.

The HRO has implemented protocols to ensure the hours are appropriately monitored by the employee's supervisor and HRO, programs are notified regularly, and responsibilities are continued to be re-assessed, ensuring the positive pay employees stay within their allotted cap. Additionally, CalHR is exploring the potential to revise internal procedures, including policy, to assist with monitoring the hour limitation.

**Finding No. 10: Administrative Time Off authorizations complied with civil service laws, board rules, and/or CalHR policies and guidelines.**

No response is needed since the CalHR was found to be in compliance.

**Finding No. 11: The Department has not implemented a monthly internal audit process to verify all leave input is keyed accurately and timely.**

The summary indicated that CalHR failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely and to certify that all leave records have been reviewed and corrected, if necessary, for all 14 units viewed.

**Cause:** CalHR attributes this finding to human error and loss of knowledge within the Transactions Unit, which is tied to the high turnover of the Personnel Specialist classification series.

**CalHR Response:** CalHR has experienced a high turnover rate in the Personnel Specialist classification series, which led to miscommunications and errors in transferring knowledge to new staff about the processes related to the monthly internal auditing process. Due to staffing instabilities, the HRO has faced a challenge regarding proper training and knowledge transfer. CalHR aims to document and publish the monthly audit process for staff to reference. CalHR will ensure that staff are trained, including providing refresher classes and reminders to complete the process on a timely basis and use the tools available to assist them with this task.

**Finding No. 12: Service and leave transactions complied with civil service laws, board rules, and/or CalHR policies and guidelines**

No response is needed since the CalHR was found to be in compliance.

**Finding No. 13: Nepotism policy complied with civil service laws, board rules, and/or CalHR policies and guidelines.**

No response is needed since the CalHR was found to be in compliance.

**Finding No. 14: Workers' compensation process complied with civil service laws, board rules, and/or CalHR Policies and guidelines**

No response is needed since the CalHR was found to be in compliance.

**Finding No. 15: Performance appraisals were not provided to all employees.**

The summary indicated that the CalHR failed to provide annual performance appraisals to 14 of the 45 employees reviewed after the completion of the employee's probationary period.

**Cause:** Despite the annual notice sent to all supervisors and managers and the reminders to submit performance appraisals, some supervisors and managers did not submit performance appraisals as required to the HRO.

**CalHR Response:** CalHR's leadership team emphasized the importance of completing performance appraisals in management meetings (weekly Executive meetings and monthly supervisor/manager meetings). HRO was using an Excel-based tracking system, and it is moving toward a real-time updated dashboard as a new mechanism to track and ensure timely compliance with performance appraisals.

**Conclusion**

CalHR would like to thank the SPB Compliance Review team and appreciate the opportunity to respond to the findings. CalHR will continue to educate and train our staff to ensure compliance with the State's civil service system.

If you have any questions or need additional information, please email me at [Jennifer.gothier@calhr.ca.gov](mailto:Jennifer.gothier@calhr.ca.gov) or call (916) 909-3846.

Sincerely,



Jennifer J. Gothier  
Chief People Officer  
California Department of Human Resources