

# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY**

Compliance Review Unit  
State Personnel Board  
December 11, 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 California Pollution Control Financing Authority (CPCFA) personnel practices in the areas of examinations, appointments, EEO, mandated training, compensation, leave, and policy and processes. The following table summarizes the compliance review findings.

| Area                         | Severity      | Finding  |
|------------------------------|---------------|--|
| Examinations                 | In Compliance | Permanent Withhold Actions Complied with Civil Service Laws and Board Rules  |
| Appointments                 | Serious       | Probationary Evaluations Were Not Timely   |
| Equal Employment Opportunity | Very Serious  | A Disability Advisory Committee Has Not Been Established   |
| Mandated Training            | Very Serious  | Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs  |
| Mandated Training            | Very Serious  | Sexual Harassment Prevention Training Was Not Provided for All Employees <sup>1</sup>                                      |
| Compensation                 | In Compliance | Salary Determinations Complied with Civil Service Laws, Board Rules, and 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 | Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Leave                        | In Compliance | Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines         |

<sup>1</sup> Repeat finding. The November 29, 2021, CPCFA compliance review report identified all three existing supervisors did not receive sexual harassment prevention training.

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

### **BACKGROUND**

The CPCFA administers programs which incentivize capital investment in specific economic activities reflecting state and federal policy goals. In addition, the CPCFA administers the California Capital Access Program which helps participating financial institutions extend credit to small businesses through microloans and larger loans for start-up, expansion and working capital up to \$20 million. The CPCFA was approved as part of the State Treasurer's Office (STO) in 1972 and began taking action March 7, 1973. The name CPCFA references the original conduit bond projects which addressed industrial air and water pollution.

The STO performs human resources operations for the CPCFA.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CPCFA's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup>. The primary objective of the review was to determine if the CPCFA'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 CPCFA did not conduct any examinations during the compliance review period. However, the CPCFA did conduct permanent withhold actions for statewide examinations

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<sup>2</sup> 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. The CRU reviewed the CPCFA's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CPCFA's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CPCFA 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 CPCFA did not conduct any unlawful appointment investigations or make any additional appointments during the compliance review period.

The CPCFA's appointments were also selected for review to ensure the CPCFA applied salary regulations accurately and correctly processed employees' compensation. The CRU examined the documentation that the CPCFA provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application.

During the compliance review period, the CPCFA did not issue or authorize hiring above minimum requests, red circle rate requests, arduous pay, bilingual pay, monthly pay differentials, alternate range movements, or out-of-class assignments.

The review of the CPCFA'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 CPCFA did not execute any PSC's during the compliance review period.

The CPCFA'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 CPCFA'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 CPCFA's units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the CPCFA employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CPCFA 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 CPCFA did not have any employees with non-qualifying pay period transactions.

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

An exit conference was not held with the CPCFA to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CPCFA's written response on November 30, 2023, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Permanent Withhold Actions**

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate's subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual,

Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the period under review, September 1, 2022, through August 31, 2023, the CPCFA conducted 56 permanent withhold actions. The CRU reviewed 28 of these permanent withhold actions, which are listed below:

| Exam Title                             | Exam ID | Date List Eligibility Began | Date List Eligibility Ended | Reason Candidate Placed on Withhold   |
|--|---------|-----------------------------|-----------------------------|---------------------------------------|
| Associate Governmental Program Analyst | 9PB04   | 9/14/2022                   | 9/14/2023                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 1/7/2023                    | 1/7/2024                    | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 9/20/2022                   | 9/20/2023                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 11/8/2022                   | 11/8/2023                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 1/21/2023                   | 1/21/2024                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 5/23/2023                   | 5/23/2024                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 10/21/2022                  | 10/21/2023                  | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 3/25/2023                   | 3/25/2024                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 11/18/2022                  | 11/18/2023                  | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 1/17/2023                   | 1/17/2024                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 4/28/2023                   | 4/28/2024                   | Failed to Meet Minimum Qualifications |

| Exam Title                             | Exam ID | Date List Eligibility Began | Date List Eligibility Ended | Reason Candidate Placed on Withhold   |
|--|---------|-----------------------------|-----------------------------|---------------------------------------|
| Associate Governmental Program Analyst | 9PB04   | 12/16/2022                  | 12/16/2023                  | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 4/14/2023                   | 4/14/2024                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 1/10/2023                   | 1/10/2024                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 3/9/2023                    | 3/9/2024                    | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 5/18/2023                   | 5/18/2024                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 5/4/2023                    | 5/4/2024                    | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 5/23/2023                   | 5/23/2024                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 7/1/2023                    | 7/1/2024                    | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 11/10/2022                  | 11/10/2023                  | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 6/8/2023                    | 6/8/2024                    | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 6/7/2023                    | 6/7/2024                    | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 10/7/2022                   | 10/7/2023                   | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 1/23/2023                   | 1/23/2024                   | Failed to Meet Minimum Qualifications |
| Staff Services Analyst (General)       | 7PB34   | 9/1/2022                    | 9/1/2023                    | Failed to Meet Minimum Qualifications |

| Exam Title                       | Exam ID | Date List Eligibility Began | Date List Eligibility Ended | Reason Candidate Placed on Withhold   |
|----------------------------------|---------|-----------------------------|-----------------------------|---------------------------------------|
| Staff Services Analyst (General) | 7PB34   | 1/9/2023                    | 1/9/2024                    | Failed to Meet Minimum Qualifications |
| Staff Services Analyst (General) | 3PBAU   | 5/24/2023                   | 5/24/2024                   | Failed to Meet Minimum Qualifications |
| Staff Services Analyst (General) | 3PBAU   | 7/11/2023                   | 7/11/2024                   | Failed to Meet Minimum Qualifications |

|                      |                      |  |
|----------------------|----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 1</b> | <b>PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b> |
|----------------------|----------------------|--|

The CRU found no deficiencies in the permanent withhold actions undertaken by the department during the compliance review period.

### **Appointments**

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

During the period under review July 1, 2022, through June 30, 2023, the CPCFA made 10 appointments. The CRU reviewed five of those appointments, which are listed below:

| Classification                         | Appointment Type   | Tenure    | Time Base | No. of Appts. |
|--|--------------------|-----------|-----------|---------------|
| Office Technician (Typing)             | Certification List | Permanent | Full Time | 1             |
| Staff Services Analyst (General)       | Certification List | Permanent | Full Time | 1             |
| Staff Services Manager I               | Certification List | Permanent | Full Time | 2             |
| Associate Governmental Program Analyst | Transfer           | Permanent | Full Time | 1             |

|                              |   |
|------------------------------|---|
| <b>SEVERITY:<br/>SERIOUS</b> | <b>FINDING NO. 2 PROBATIONARY EVALUATIONS WERE NOT TIMELY</b> |
|------------------------------|---|

**Summary:** The CPCFA did not provide in a timely manner one probationary report of performance for one of the five appointments reviewed by the CRU, as reflected in the table below.

| Classification                         | Appointment Type | No. of Appointments | Total No. of Late Probation Reports |
|--|------------------|---------------------|-------------------------------------|
| Associate Governmental Program Analyst | Transfer         | 1                   | 1                                   |
| Total                                  |                  | 1                   | 1                                   |

**Criteria:** The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (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 CPCFA states that although reminders are sent to supervisors and managers to complete probation reports, one probation report was not completed in a timely manner.

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

### **Equal Employment Opportunity**

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

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

appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

|   |  |
|---|--|
| <b>SEVERITY:</b><br><b>VERY SERIOUS</b> | <b>FINDING NO. 3    A DISABILITY ADVISORY COMMITTEE HAS NOT BEEN ESTABLISHED</b> |
|---|--|

**Summary:** The CPCFA did not have an active DAC during the review period.

**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 CPCFA states that they coordinate with the STO as they have a DAC in place; however, no CPCFA employees chose to participate at this time.

**SPB Response:** The CPCFA can be a part of a joint DAC with STO, with CPCFA employee(s) being official members of the DAC, attending and participating in DAC meetings and activities.

**Corrective Action:** Within 90 days of the date of this report, the CPCFA 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 Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*)

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

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd.

(a.) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the 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 CPCFA's mandated training program that was in effect during the compliance review period, September 1, 2021, through August 31, 2023. The CPCFA's ethics training was found to be in compliance, while the CPCFA's supervisory training and sexual harassment prevention training were found to be out of compliance.

|                                   |   |
|-----------------------------------|---|
| <b>SEVERITY:<br/>VERY SERIOUS</b> | <b>FINDING NO. 4    SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL<br/>SUPERVISORS, MANAGERS, AND CEAS</b> |
|-----------------------------------|---|

**Summary:** The CPCFA did not provide CEA training to 1 new CEA within 12 months of appointment.

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

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

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

**Cause:** The CPCFA acknowledges their inability to locate the training records.

**Corrective Action:** Within 90 days of the date of this report, the CPCFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors, managers, and CEAs are provided leadership and development training within twelve months of appointment, and that thereafter, they receive a minimum of 20 hours of leadership training

biennially, as required by Government Code section 19995.4. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

|                                   |  |
|-----------------------------------|--|
| <b>SEVERITY:<br/>VERY SERIOUS</b> | <b>FINDING NO. 5    SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES</b> |
|-----------------------------------|--|

**Summary:** The CPCFA provided sexual harassment prevention training to its' one new supervisor within six months of their appointment. However, the CPCFA did not provide sexual harassment prevention training to two of five existing supervisors every two years. This is the second consecutive time this has been a finding for the CPCFA.

In addition, the CPCFA did not provide sexual harassment prevention training to 8 of 20 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 CPCFA acknowledges its inability to locate records showing that 2 of 5 existing supervisors, and 8 of 20 existing non-supervisors completed required sexual harassment prevention training within the required time frame.

**Corrective Action:** Within 90 days of the date of this report, the CPCFA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that all

employees are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **Compensation**

### **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>3</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, July 1, 2022, through June 30, 2023, the CPCFA made 10 appointments. The CRU reviewed two of those appointments to determine if the CPCFA applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

| Classification             | Appointment Type   | Tenure    | Time Base | Salary (Monthly Rate) |
|----------------------------|--------------------|-----------|-----------|-----------------------|
| Office Technician (Typing) | Certification List | Permanent | Full Time | \$3,369               |
| Staff Services Manager I   | Certification List | Permanent | Full Time | \$7,252               |

|                      |                      |   |
|----------------------|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 6</b> | <b>SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|----------------------|---|

The CRU found no deficiencies in the salary determinations that were reviewed. The CPCFA appropriately calculated and keyed the salaries for each appointment and

<sup>3</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).

correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy 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 days<sup>4</sup> worked and paid absences<sup>5</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),

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<sup>4</sup> For example, two hours or ten hours count as one day.

<sup>5</sup> For example, vacation, sick leave, compensating time off, etc.

regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

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

| Classification                         | Tenure            | Time Frame     | Time Worked |
|--|-------------------|----------------|-------------|
| Associate Governmental Program Analyst | Retired Annuitant | 7/1/22-6/30/23 | 265 Hours   |
| Office Technician (Typing)             | Retired Annuitant | 7/1/22-6/30/23 | 728 Hours   |

|                      |                      |   |
|----------------------|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 7</b> | <b>POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|----------------------|---|

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CPCFA provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

#### Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also be granted when employees need time off for reasons such as blood or organ donation, extreme weather preventing safe travel to work, states of emergency, voting, and when employees need time off to attend special events. (*Ibid.*)

During the period under review, June 1, 2023, through May 31, 2023, the CPCFA authorized 24 ATO transactions. The CRU reviewed 19 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

| Classification                         | Time Frame  | Amount of Time on ATO |
|--|---|-----------------------|
| Associate Governmental Program Analyst | 1/04/2023,<br>1/09/2023,<br>1/10/2023                   | 18.25 Hours           |
| Associate Governmental Program Analyst | 12/27/2022  | 4 Hours               |
| Associate Governmental Program Analyst | 10/05/2022-<br>10/08/2022                               | 21 Hours              |
| Associate Governmental Program Analyst | 11/21/2022-<br>11/23/2022,<br>11/28/2022,<br>11/29/2022 | 40 Hours              |
| Associate Governmental Program Analyst | 7/08/2022-<br>7/15/2022                                 | 48 Hours              |
| Associate Governmental Program Analyst | 12/29/2022  | 4 Hours               |
| Associate Governmental Program Analyst | 12/27/2022  | 4 Hours               |
| Associate Governmental Program Analyst | 1/9/2023  | 5 Hours               |
| Executive Assistant                    | 7/12/2022,<br>7/13/2022,<br>7/20/2022                   | 24 Hours              |
| Executive Assistant                    | 12/12/2022-<br>12/16/2022                               | 40 Hours              |
| Executive Assistant                    | 3/17/2023   | 4 Hours               |
| Office Technician (Typing)             | 1/4/2023  | 4 Hours               |
| Office Technician (Typing)             | 7/08/2022-<br>7/15/2022                                 | 48 Hours              |
| Office Technician (Typing)             | 1/9/2023  | 8 Hours               |
| Office Technician (Typing)             | 2/3/2023  | 4 Hours               |
| Staff Services Analyst                 | 6/27/2022   | 4 Hours               |
| Staff Services Manager I               | 12/27/2022  | 4 Hours               |
| Staff Services Manager I               | 4/13/2023   | 4 Hours               |
| Staff Services Manager I               | 1/3/2023  | 4 Hours               |

|                      |   |
|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 8 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---|

The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CPCFA provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

### Leave Auditing and Timekeeping

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

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

During the period under review, March 2, 2023, through May 31, 2023, the CPCFA reported 3 units comprised of 79 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

| Timesheet Leave Period | Unit Reviewed | No. of Employees | No. of Timesheets Reviewed | No. of Missing Timesheets |
|------------------------|---------------|------------------|----------------------------|---------------------------|
| May 2023               | 002           | 28               | 28                         | 0                         |

|                      |                      |   |
|----------------------|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 9</b> | <b>LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|----------------------|---|

The CRU reviewed employee leave records to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CPCFA 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.*)

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

|                      |                       |  |
|----------------------|-----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 11</b> | <b>WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|-----------------------|--|

The CRU verified that the CPCFA 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 CPCFA 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 five permanent CPCFA 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. 12 <b>PERFORMANCE APPRAISAL POLICY AND PROCESSES<br/>COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES,<br/>AND CALHR POLICIES AND GUIDELINES</b> |
|---------------|---|

The CRU found no deficiencies in the five performance appraisals selected for review. Accordingly, the CPCFA performance appraisal policy and processes satisfied civil service laws, Board rules, policies and guidelines.

### **DEPARTMENTAL RESPONSE**

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

### **SPB REPLY**

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



## CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

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### MEMBERS

FIONA MA, CPA, CHAIR  
State Treasurer

MALIA M. COHEN  
State Controller

JOE STEPHENSHAW  
Director of Finance

### EXECUTIVE DIRECTOR

Shela Tobias-Daniel

November 30, 2023

Suzanne M. Ambrose, Executive Director  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814

Dear Ms. Ambrose,

### Response to Compliance Review Report

The State Treasurer's Office (STO) provides personnel services for the California Pollution Control Financing Authority (CPCFA). On behalf of CPCFA, the STO submits this letter in response to the State Personnel Board's (SPB) compliance review of the CPCFA personnel practices for the period July 1, 2022, through June 30, 2023. CPCFA and the STO appreciate SPB's review and the opportunity to respond to its findings. Please reference the enclosed Attachment A for detailed responses.

Thank you for the opportunity to respond to your draft report. If you have any questions, or require additional information, please do not hesitate to contact me at (916) 653-3463, or by email at [charles.jewell@treasurer.ca.gov](mailto:charles.jewell@treasurer.ca.gov).

Sincerely,

Charles Jewell  
Personnel Officer

Enclosure

Cc: Rebecca Grajski, Administration Division Director, STO  
Shela Tobias-Daniel, Executive Secretary, CPCFA

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**FINDING No. 1 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 2 – Probationary Evaluations Were Not Timely**

**Cause:** All supervisors receive a 60-day advance reminder to complete a probationary report for each employee that is required to receive one. Each of the listed employees received a probationary report. However, one of them was signed 1 month late. The probationary report was due on March 2, 2023, and was signed on April 5, 2023.

**Department's Response:** The State Treasurer's Office (STO), in coordination with CPCFA, will continue to reiterate the importance of completing all probationary evaluations in a timely manner. During the audit period selected, STO staff sent follow-up reminders to supervisors and managers, which included notifications to senior and executive staff when programs are non-compliant. STO, in coordination with CPCFA, has since implemented an automated reminder system for probationary reports that send reminders to managers that need to complete probationary reports for their staff. The reminders are now automatically sent 30 days and 7 days before the due date, and a final reminder is sent 7 days after the due date. If the probationary report is not received, a notification will be sent to Executive staff when programs are non-compliant.

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**FINDING No. 3 – A Disability Advisory Committee Has Not Been Established**

**Cause:** The STO, in coordination with CPCFA, has a Disability Advisory Committee (DAC) in place.

**Department's Response:** This DAC is open to persons with disabilities or anyone with an interest in disability services. The Committee is open on a volunteer basis to any employees within the STO and its Boards, Commissions, and Authorities, which includes CPCFA.

STO and the Boards, Commissions, and Authorities under its purview (including CPCFA), operate one Departmentwide DAC (rather than 14 individual DACs, which would be ineffective and impractical). The previous DAC Chairperson retired in October 2022, and the position remained vacant for more than five months. Once a new DAC Chairperson was hired, a Departmentwide memo was sent to all employees (including CPCFA) inviting them to participate in the DAC, resulting in six new members. No CPCFA employees chose to participate at this time; however, the Departmentwide DAC provides technical advice, monitors accessibility issues, and otherwise addresses the unique concerns and perceptions of persons with disabilities for all employees regardless of whether they participate in the DAC. The most recent Departmentwide DAC meeting was held on November 6, 2023, and future DAC meetings are scheduled in December, 2023, as well as January, April, July, and October, 2024.

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**FINDING No. 4 – Supervisory Training Was Not Provided for All Supervisors, Managers, and CEA's**

**Cause:** The STO, in coordination with CPCFA, did not find record of one new CEA completing CEA training within twelve months of appointment.

**Department's Response:** CPCFA, in coordination with the STO, requires that all supervisors, managers, and CEAs attend the Supervisory Training in accordance with Government Code § 19995.4. The training office is implementing new tracking and notification procedures to better enforce Supervisory Training compliance.

The Training Officer maintains a spreadsheet titled "Mandatory Training Tracker," which notes the date of Supervisory Training completion for all CEA, managerial, and supervisory employees. When a new Supervisor, Manager, or CEA is appointed, the Training Officer is notified via email. The Training Officer adds the employee to the Mandatory Training Tracker spreadsheet. Employees who have not yet completed Leadership Training are notified via email by the Training Officer of the requirement and registration process at CalHR/CalLearns. Employees email certificates of completion to the Training Officer (or the Training Officer obtains the certificates via affiliate access in CalLearns), who notates their completion in an Access database and on the Mandatory Training Tracker spreadsheet and stores the certificates in a digital format.

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**FINDING No. 5 – Sexual Harassment Prevention Training was Not Provided for All Employees**

**Cause:** CPCFA did not find record that eight existing non-supervisors completed sexual harassment prevention training every two years. CPCFA also did not find record of providing sexual harassment prevention training to two of five existing supervisors every two years.

**Department's Response:** CPCFA, in coordination with the STO, requires that all supervisors and managers attend the sexual harassment training in accordance with Government Code § 12950.1. The training office is implementing new tracking and notification procedures to better enforce Sexual Harassment Training compliance.

The Training Officer maintains a spreadsheet titled "Mandatory Training Tracker," which notes the last date of SHP training completion for all employees (new and existing). Employees who have not yet completed SHP (new employees) or are due again within three months (existing employees) are notified via email by the Training Officer. Employees email certificates of completion to the Training Officer, who notates their completion in an Access database and on the Mandatory Training Tracker spreadsheet and stores the certificates in a digital format. Employees are notified at least monthly when SHP training is due.

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**FINDING No. 6 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 7 – Positive Paid Employee's Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 8 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 9 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 10 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 11 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies And Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 12 – Performance Appraisals Were Not Provided to All Employees**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.