



COMPLIANCE REVIEW REPORT

CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Compliance Review Unit
State Personnel Board
July 29, 2022

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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 Public Employees' Retirement System's (CalPERS) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed ¹
Appointments	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time ²
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers Timely
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees Timely
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

¹ Repeat finding. November 1, 2018, the CalPERS compliance review report identified 1 missing probationary evaluation of the 65 appointments reviewed. August 5, 2015, the CalPERS' compliance review report identified 18 missing probationary evaluations of the 93 appointments reviewed.

² Repeat finding. November 1, 2018, the CalPERS compliance review report identified 3 Notice of Personnel Actions (NOPA) missing of the 67 appointments reviewed.

Area	Severity	Finding
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees

BACKGROUND

As the nation's largest public pension fund, the CalPERS serves more than 2 million members in the retirement system and more than 1.5 million members and their families in the health program. The CalPERS' mission is to provide responsible and efficient

stewardship of the system to deliver promised retirement and health benefits, while promoting wellness and retirement security for members and beneficiaries.

The Board of Administration (Board) is responsible for the management and control of CalPERS, and consists of 13 members who are elected, appointed, or hold office ex officio. The Board's composition is mandated by law and can only be changed by a majority of the registered voters in the state. The Board administers the Public Employees' Medical and Hospital Care Act, and the state's contract with the federal government for Social Security.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CalPERS' examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes³. The primary objective of the review was to determine if the CalPERS' personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

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

A cross-section of the CalPERS' 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 CalPERS provided, which included NOPA forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

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

The CalPERS did not conduct any unlawful appointment investigations during the compliance review period.

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

The CalPERS' appointments were also selected for review to ensure the CalPERS applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CalPERS 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, bilingual pay, monthly pay differentials, and alternate range movements.

During the compliance review period, the CalPERS did not issue or authorize, red circle rate requests, arduous pay or out-of-class assignments.

The review of the CalPERS EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee.

The CalPERS' PSC's were also reviewed.⁴ It was beyond the scope of the compliance review to make conclusions as to whether the CalPERS' justifications for the contracts were legally sufficient. The review was limited to whether the CalPERS' practices, policies, and procedures relative to PSC's complied with procedural requirements.

The CalPERS' mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, that all supervisors and managers were provided leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

⁴If 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.

The CRU reviewed the CalPERS' 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 CalPERS' units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CalPERS' 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 CalPERS' employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CalPERS' 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 CalPERS' policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the CalPERS' policies and processes adhered to procedural requirements.

On June 16, 2022, an exit conference was held with the CalPERS to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CalPERS' written response on June 30, 2022, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall

file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, November 1, 2020, through April 30, 2021, the CalPERS conducted 19 examinations. The CRU reviewed 13 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps.
Career Executive Assignment (CEA) B, Chief Information Security Officer	CEA	Statement of Qualifications (SOQ)	4/7/2021	22
CEA B, Chief Technology Business Officer	CEA	SOQ	10/9/2020	20
CEA B, Chief Technology Officer	CEA	SOQ	4/9/2021	16
CEA C, Deputy General Counsel	CEA	SOQ	Until Filled	9
Actuarial Assistant	Open	Training and Experience (T&E) ⁵	Until Filled	1
Associate Program Auditor (Information Systems)	Open	T&E	Until Filled	1
Chief Investment Officer, CalPERS	Open	T&E	Until Filled	9
Deputy Chief Investment Officer, CalPERS	Open	T&E	Until Filled	3
Program Auditor, CalPERS	Open	T&E	Until Filled	4
Senior Actuarial Assistant, CalPERS	Open	T&E	Until Filled	4
Senior Pension Actuary	Open	T&E	Until Filled	6
Staff Program Auditor (Information Systems), CalPERS	Open	T&E	Until Filled	4
Training Officer I	Open	T&E	Until Filled	3

⁵ "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).

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed four CEA and nine open examinations which the CalPERS administered in order to create eligible lists from which to make appointments. The CalPERS published and distributed examination bulletins containing the required information for all examinations. Applications received by the CalPERS were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the CalPERS conducted during the compliance review period.

Permanent Withhold Actions

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

During the period under review, November 1, 2020, through April 30, 2021, the CalPERS conducted one permanent withhold action. The CRU reviewed the permanent withhold action, which is listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Associate Governmental Program Analyst	9PB04	2/18/2021	2/24/2021	Failed to Meet Minimum Qualifications

IN COMPLIANCE	FINDING NO. 2 PERMANENT WITHHOLD ACTION COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU found no deficiencies in the permanent withhold action 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, 2020, through December 31, 2020, the CalPERS made 300 appointments. The CRU reviewed 63 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Actuarial Assistant, Trainee	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	3
Associate Investment Manager, PERS	Certification List	Permanent	Full Time	3
Benefit Program Specialist (CalPERS)	Certification List	Permanent	Full Time	1
Information Technology Manager II	Certification List	Permanent	Full Time	2
Information Technology Specialist I	Certification List	Permanent	Full Time	2
Information Technology Specialist II	Certification List	Permanent	Full Time	2
Investment Director, PERS	Certification List	Permanent	Full Time	1
Investment Officer II, PERS	Certification List	Permanent	Full Time	1
Investment Officer III, PERS	Certification List	Permanent	Full Time	4
Legal Secretary	Certification List	Permanent	Full Time	1
Managing Investment Director, PERS	Certification List	Permanent	Full Time	2
Office Technician (General)	Certification List	Permanent	Full Time	2
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Program Auditor, CalPERS	Certification List	Permanent	Full Time	1
Research Data Analyst II	Certification List	Permanent	Full Time	1
Staff Management Auditor	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	9
Staff Services Manager I	Certification List	Permanent	Full Time	4
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	2
Staff Services Manager III	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	2
Associate Program Auditor, CalPERS	Transfer	Permanent	Full Time	1
Information Technology Specialist I	Transfer	Permanent	Full Time	1
Investment Officer III, PERS	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	4
Staff Services Manager I	Transfer	Permanent	Full Time	4

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Staff Services Manager II	Transfer	Permanent	Full Time	2

SEVERITY: SERIOUS	FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary: The CalPERS did not provide 13 probationary reports of performance for 7 of the 63 appointments reviewed by the CRU, as reflected in the table below. This is the third consecutive time this has been a finding for the CalPERS.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Associate Governmental Program Analyst	List Appointment	1	3
Managing Investment Director, PERS	List Appointment	2	2
Staff Services Analyst (General)	List Appointment	4	8

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 CalPERS acknowledges the missing probationary report documents and attributes the missing document pattern to several challenges: (1) CalPERS staff were working primarily from home since March 2020 and throughout the SPB CRU period, (2) telework caused a backlog in document handling; (3) one part-time Office Technician was responsible for routing, tracking, and handling all these documents and records.

Corrective Action: The CalPERS provides that it has taken steps to improve its probationary report process. Within 90 days of the date of this report, the CalPERS must submit to the SPB a written corrective action response which addresses the corrections the department has implemented to ensure conformity with Government Code section 19172. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: TECHNICAL	FINDING NO. 4 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
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Summary: The CalPERS failed to retain personnel records such as NOPA's. Of the 63 appointments reviewed, the CalPERS did not retain the following: 32 NOPA's. This is the second consecutive time this has been a finding for the CalPERS.

Criteria: As specified in section 26 of the Board's Regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily

accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.)

Severity: Technical. Without documentation, the CRU could not verify if the appointments were properly conducted.

Cause: The CalPERS acknowledges 32 missing NOPAs and attributes the missing document pattern to NOPAs being created and distributed as paper documents during primarily a telework environment. The NOPAs are being routed as received from SCO as physical documents and were being handled by the few Human Resources team members working on site. Once sent to the CalPERS employee, the paper forms then must be signed and returned to the CalPERS HRSD team. These three paper touch points were greatly challenged when over 85% of CalPERS team members were teleworking during the COVID-19 pandemic.

Corrective Action: The CalPERS provides that it has taken steps to improve the process of retaining NOPA records. Within 90 days of the date of this report, the CalPERS must submit to the SPB a written corrective action response which addresses the corrections the department has implemented to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

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

to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

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

IN COMPLIANCE	FINDING NO. 5 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CalPERS' EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CalPERS. The CalPERS also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

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

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

During the period under review, November 1, 2020, through April 30, 2021, the CalPERS had 26 PSC's that were in effect. The CRU reviewed the 26 PSC's, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Just. Identified?	Union Notified?
Administration Election Services	Board Election Contractor	1/21 - 12/25	\$5,000,000.00	Yes	Yes
Anthem Blue Cross HMO	HMO Health Benefit Plan Amendment	1/19 - 12/23	\$93,895,099.51	Yes	Yes
Anthem Blue Cross PPO	HMO Health Benefit Plan Amendment	1/20 - 12/24	\$587,134,772.37	Yes	Yes
Bethmara Kessler	Training of Auditors on Data Analytics	4/21 - 6/23	\$8,000.00	Yes	Yes
Blue Shield	HMO Health Benefit Plan Amendment	1/19 - 12/23	\$295,056,967.29	Yes	Yes
CalEast DBA GI Partners	CenterPoint Investment Monitoring	1/21 - 12/25	\$95,000,000.00	Yes	Yes
Claims Eval, Inc.	Independent Medical Reviews	2/21 - 1/26	\$265,000.00	Yes	Yes
Cooperative Personnel Services	Assist with CalPERS Training	11/19 - 6/25	\$150,000.00	Yes	Yes
Global Governance Advisors, LLC	Compensation Advisor	12/20 - 11/25	\$604,000.00	Yes	Yes
Health Net	HMO Health Benefit Plan Amendment	1/19 - 12/23	\$84,773,894.36	Yes	Yes
James LeBrecht	Diversity Speaker	1/21 - 1/21	\$250.00	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Just. Identified?	Union Notified?
Judith Heumann	Diversity Speaker	2/21 - 2/21	\$2,500.00	Yes	Yes
Kaiser Permanente	HMO Health Benefit Plan Amendment	1/19 - 12/23	\$1,798,545,644.73	Yes	Yes
Managed Medical Review Organization, Inc.	Independent Medical Reviews	2/21 - 1/26	\$265,000.00	Yes	Yes
Maximus Federal Services, Inc.	Independent Medical Reviews	2/21 - 1/26	\$265,000.00	Yes	Yes
Mulkey Consulting, LLC	Health Care Training Academy	4/21 - 6/23	\$475,000.00	Yes	Yes
National Medical Reviews, Inc.	Independent Medical Reviews	2/21 - 1/26	\$265,000.00	Yes	Yes
Nicole Newnham	Diversity Speaker	2/21 - 2/21	\$250.00	Yes	Yes
Norman Marks, CPA, CRMA	Professional CPA Services	1/21 - 6/21	\$22,500.00	Yes	Yes
OptumRX	Pharmacy Benefit Manager	1/17 - 12/22	\$121,201,192.00	Yes	Yes
Richard H. Tarr, IT Application Controls	Continuing Education Credits	2/21 - 2/21	\$9,000.00	Yes	Yes
Sharp Health Plan	HMO Health Benefit Plan Amendment	1/19 - 12/23	\$40,279,333.09	Yes	Yes
United Healthcare	HMO Health Benefit Plan Amendment	1/19 - 12/23	\$240,516,185.56	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Just. Identified?	Union Notified?
Vasquez, Benisek & Lindgren LLP	Legal Services on Intellectual Property, Copyrights	1/21 - 12/25	\$900,000.00	Yes	Yes
Western Health Advantage	HMO Health Benefit Plan Amendment	1/19 - 12/23	\$25,828,020.61	Yes	Yes
Yellowbook - CPE, LLC	Training for Audits, Risk, Internal Control	1/21 - 1/21	\$12,000.00	Yes	Yes

IN COMPLIANCE	FINDING NO. 6 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC’s reviewed was \$3,390,474,609.52. It was beyond the scope of the review to make conclusions as to whether CalPERS justifications for the contract were legally sufficient. For all PSC’s reviewed, the CalPERS provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, CalPERS complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CalPERS PSC’s complied with civil service laws and board rules.

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.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biennial basis. (*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 CalPERS’ mandated training program that was in effect during the compliance review period, May 1, 2019, through April 30, 2021.

SEVERITY: VERY SERIOUS	FINDING NO. 7 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: While the CalPERS provided existing filers with ethics training as required, it did not provide ethics training to 13 of 134 new filers within 6 months of their appointment.

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

Severity: Very Serious. The department does not ensure that its filers are aware of prohibitions related to their official position and influence.

Cause: The CalPERS states that 13 of 134 new filers failed to complete their training within 6 months of their appointment. Further, the CalPERS asserts that all of its filers are offered free online ethics training through the Office of the Attorney General’s website.

Corrective Action: The CalPERS provides that it has established additional system enhancements and processes for ethics training. Within 90 days of this report, the CalPERS must submit to the SPB a written corrective action response which addresses the corrections the department has implemented to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: VERY SERIOUS	FINDING NO. 8 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: While the CalPERS provided sexual harassment prevention training as mandated by statute to supervisors, the CalPERS did not provide sexual harassment prevention training to 2 of 106 new non-supervisors within 6 months of their appointment, and 1 of 518 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 CalPERS acknowledges that 2 out of 106 new employees failed to complete their training within 6 months of their appointment and 1 out of 518 existing employees failed to complete their training by the due date. The CalPERS states that all of its employees are offered free online sexual harassment prevention training. One new employee completed the training within 10 days of the due date. The other new employee has subsequently taken the training and is current in their obligation. The existing employee that failed to take the training by the due date appears to have been on a leave of absence for a substantial period during the training cycle and has since remediated the issue.

Corrective Action: The CalPERS provides that it has taken additional steps in its sexual harassment prevention training process to send weekly mandatory training reports to all senior leaders. Within 90 days of the date of this report, the CalPERS must submit to the SPB a written corrective action response which addresses 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. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments

calculate and determine an employee's salary rate⁶ 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, 2020, through December 31, 2020, the CalPERS made 300 appointments. The CRU reviewed 19 of those appointments to determine if the CalPERS applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Investment Manager, PERS	List Appointment	Permanent	Full Time	\$11,965.83
Associate Investment Manager, PERS	List Appointment	Permanent	Full Time	\$12,564.08
Benefit Program Specialist (CalPERS)	List Appointment	Permanent	Full Time	\$2,867
Information Technology Manager II	List Appointment	Permanent	Full Time	\$11,279
Information Technology Specialist II	List Appointment	Permanent	Full Time	\$7,365
Investment Director, PERS	List Appointment	Permanent	Full Time	\$23,392.25
Investment Officer II, PERS	List Appointment	Permanent	Full Time	\$6,876
Investment Officer III, PERS	List Appointment	Permanent	Full Time	\$9,122
Investment Officer III, PERS	List Appointment	Permanent	Full Time	\$9,122
Investment Officer III, PERS	List Appointment	Permanent	Full Time	\$9,122
Managing Investment Director, PERS	List Appointment	Permanent	Full Time	\$29,166.66

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

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Office Technician (General)	List Appointment	Permanent	Full Time	\$3,144
Program Auditor, CalPERS	List Appointment	Permanent	Full Time	\$4,721
Staff Management Auditor	List Appointment	Permanent	Full Time	\$8,197
Staff Services Analyst (General)	List Appointment	Permanent	Full Time	\$4,281
Staff Services Analyst (General)	List Appointment	Permanent	Full Time	\$4,281
Staff Services Analyst (General)	List Appointment	Permanent	Full Time	\$4,281
Staff Services Manager I	List Appointment	Permanent	Full Time	\$6,124
Staff Services Manager I	List Appointment	Permanent	Full Time	\$6,124

IN COMPLIANCE	FINDING NO. 9 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the salary determinations that were reviewed. The CalPERS appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, July 1, 2020, through December 31, 2020, the CalPERS employees made 13 alternate range movements within a classification. The CRU

reviewed 9 of those alternate range movements to determine if the CalPERS 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)
Information Technology Associate	C	D	Full Time	\$6,591
Information Technology Specialist I	B	C	Full Time	\$6,715
Personnel Specialist	B	C	Full Time	\$4,094
Staff Services Analyst (General)	B	C	Full Time	\$4,692
Staff Services Analyst (General)	B	C	Full Time	\$4,692
Staff Services Analyst (General)	B	C	Full Time	\$4,692
Staff Services Analyst (General)	B	C	Full Time	\$4,281
Staff Services Analyst (General)	B	C	Full Time	\$4,281
Staff Services Analyst (General)	B	C	Full Time	\$4,418

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

Hiring Above Minimum Requests

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

Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a

candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section are in 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.⁷ (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.*)

During the period under review, July 1, 2020, through December 31, 2020, the CalPERS authorized five HAM requests. The CRU reviewed the 5 authorized HAM requests to determine if the CalPERS correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

⁷ 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.

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Associate Investment Manager, PERS	Certification List	Permanent	\$9,125-\$15,208	\$13,333
Investment Director, PERS	Certification List	Permanent	\$20,062-\$33,437	\$33,000
Legal Secretary	Certification List	Permanent	\$3,733-\$4,675	\$4,675
Managing Investment Director, PERS	Certification List	Permanent	\$25,750-\$42,916	\$35,833
Information Technology Specialist I	Transfer	Permanent	\$6,715-\$8,999	\$8,999

IN COMPLIANCE	FINDING NO. 11 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM requests the CalPERS made during the compliance review period satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

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

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, July 1, 2020, through December 31, 2020, the CalPERS issued bilingual pay to seven employees. The CRU reviewed seven of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Collective Bargaining Identifier	Time Base	No. of Appts.
Associate Governmental Program Analyst	R01	Full Time	4
Office Technician (General)	R04	Full Time	1
Retirement Program Specialist II (Technical)	R01	Full Time	1
Staff Services Analyst (General)	R01	Full Time	1

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

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, July 1, 2020, through December 31, 2020, the CalPERS issued pay differentials⁸ to 2358 employees. The CRU reviewed 60 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Number of Appointments	Pay Differential	Monthly Amount
Benefit Program Specialist (CalPERS)	4	220	\$150.00
Investigator	1	245	\$345.96
Investigator	1	245	\$172.98
Investigator	1	245	\$518.94
Investigator	7	244	\$125.00
Investment Officer II, PERS	1	360	\$376.25
Investment Officer II, PERS	3	360	\$427.15
Investment Officer II, PERS	2	360	\$414.85
Investment Officer II, PERS	2	360	\$405.00
Investment Officer III, PERS	5	360	\$478.90
Investment Officer III, PERS	3	360	\$456.10
Investment Officer III, PERS	2	360	\$528.05
Investment Officer III, PERS	5	360	\$502.90
Investment Officer III, PERS	1	360	\$543.90
Materials and Stores Specialist	1	378	\$381.57
Materials and Stores Specialist	1	378	\$391.81
Materials and Stores Specialist	1	378	\$364.31
Pharmaceutical Consultant II, Department of Health Services (Specialist) ⁹	5	269	\$2000.00
Research Scientist II (Social/Behavioral Sciences)	2	434	\$165.18
Research Scientist III (Epidemiology/Biostatistics)	3	434	\$272.52
Research Scientist Manager (Epidemiology/Biostatistics)	3	434	\$384.90
Research Scientist Supervisor (Epidemiology/Biostatistics)	2	434	\$304.47
Senior Life Actuary		318	\$1420.02
Supervising Special Investigator I	2	244	\$125.00

IN COMPLIANCE	FINDING NO. 13	PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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⁸ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

⁹ Pursuant to Pay Differential 269, the CalPERS has been delegated permission to use this Department of Health Services classification.

The CRU found no deficiencies in the pay differentials that the CalPERS 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 time is used in order 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 of the working days of a month. When counting 189 days, every day worked, including partial days¹⁰ worked and paid absences¹¹, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is 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

¹⁰ For example, two hours or ten hours count as one day.

¹¹ For example, vacation, sick leave, compensating time off, etc.

may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year.

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 CalPERS had 25 positive paid employees whose hours were tracked. The CRU reviewed 17 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 Administrative Analyst, Accounting Systems	Retired Annuitant	7/18/19 - 7/17/20	1049.5 Hours ¹²
Associate Administrative Analyst, Accounting Systems	Retired Annuitant	1/31/20 - 1/30/21	769 Hours
Research Data Specialist II	Retired Annuitant	7/1/19 – 6/30/20	499.75
Seasonal Clerk	Temporary	4/9/20 - 4/8/21	20.25 Hours
Seasonal Clerk	Temporary	9/26/19 - 9/25/20	20 Days
Seasonal Clerk	Temporary	9/1/19 - 8/31/20	1359 Hours
Seasonal Clerk	Temporary	2/1/20 - 1/31/21	15 Days
Seasonal Clerk	Temporary	7/1/19 - 6/30/20	1440.5 Hours
Seasonal Clerk	Temporary	1/2/20 - 1/1/21	1587 Hours ¹³
Seasonal Clerk	Temporary	6/1/19 - 5/31/20	1132.5 Hours
Seasonal Clerk	Temporary	12/28/19 - 12/27/20	24 Days
Seasonal Clerk	Temporary	1/15/20 - 1/14/21	628.25 Hours
Seasonal Clerk	Temporary	5/1/19 - 4/30/20	26 Days

¹² Retired annuitant who performed services in support of the Governor’s Executive Order (EO) N-25-20 to address the impacts of COVID-19. EO N-25-20 temporarily suspended the 960-hour work limitation per fiscal year for retired annuitants hired on or after March 12, 2020, and expired March 31, 2022.

¹³ Intermittent employee who performed services in support of the Governor’s EO N-25-20 to address the impacts of COVID-19. EO N-25-20 temporarily suspended the 1500-hour work limitation per fiscal year for intermittent personnel hired on or after March 12, 2020, and expired March 31, 2022.

Classification	Tenure	Time Frame	Time Worked
Seasonal Clerk	Temporary	3/25/20 - 3/24/21	1469.5 Hours
Seasonal Clerk	Temporary	1/6/20 - 1/5/21	702.25 Hours
Seasonal Clerk	Temporary	3/11/20 - 3/10/21	1252 Hours
Seasonal Clerk	Temporary	10/19/19 - 10/18/20	1015 Hours

IN COMPLIANCE	FINDING NO. 14 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CalPERS 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, February 1, 2020, through January 31, 2021, the CalPERS placed 149 employees on ATO. The CRU reviewed 45 of these ATO appointments 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	6/1/2020	1 day
Associate Governmental Program Analyst	6/1/2020	1 day
Associate Governmental Program Analyst	1/27/2021	1 day
Associate Governmental Program Analyst	11/3/2020	2 hours
Associate Governmental Program Analyst	11/3/2020	2 hours
Associate Governmental Program Analyst	8/27/2020	1 day
Associate Governmental Program Analyst	1/27/2021	1 day
Associate Governmental Program Analyst	11/3/2020	2 hours
Associate Governmental Program Analyst	8/17/2020	1 day

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	6/1/2020	1 day
Associate Governmental Program Analyst	11/3/2020	2 hours
Associate Governmental Program Analyst	6/1/2020	1 day
Associate Governmental Program Analyst	8/19/2020	1 hour
Benefit Program Specialist	11/3/2020	2 hours
Benefit Program Specialist	1/27/2021	1 day
Benefit Program Specialist	6/2/2020	1 day
Financial Accountant I	8/19/2020	1 day
Information Technology Associate	6/1/2020	1 day
Information Technology Associate	11/3/2020	2 hours
Investment Officer II, PERS	2/21/2020–2/24/2020	3 days
Investment Officer II, PERS	5/22/2020-5/29/2020	5 days
Mailing Machines Operator II	8/10/2020-8/14/2020	5 days
Office Technician (General)	6/2/2020	1 day
Office Technician (General)	11/3/2020	2 hours
Research Data Specialist II	6/1/2020	1 day
Retirement Program Specialist II (Technical)	1/27/2021	1 day
Seasonal Clerk	6/1/2020	6 hours
Senior Accounting Officer	6/2/2020	1 day
Senior Actuarial Assistant, CalPERS	6/2/2020	1 day
Senior Actuarial Assistant, CalPERS	1/27/2021	1 day
Staff Management Auditor	1/27/2021	1 day
Staff Program Auditor, CalPERS	1/27/2021	1 day
Staff Program Auditor, CalPERS	1/27/2021	1 day
Staff Services Analyst (General)	5/21/2020-5/28/2020	5 days
Staff Services Analyst (General)	1/28/2021	6 hours
Staff Services Analyst (General)	1/27/2021	1 day
Staff Services Analyst (General)	6/2/2020	1 day
Staff Services Analyst (General)	11/2/2020	2 hours
Staff Services Analyst (General)	1/27/2021	1 day
Staff Services Analyst (General)	11/3/2020	1 hour
Staff Services Analyst (General)	1/27/2021	1 day
Staff Services Manager I	1/27/2021	1 day
Staff Services Manager I	1/27/2021	1 day
Staff Services Manager I	6/1/2020	1 day
Staff Services Manager II (Supervisory)	1/27/2021	1 day

IN COMPLIANCE	FINDING NO. 15 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CalPERS 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, November 1, 2020, through January 31, 2021, the CalPERS reported 71 units comprised of 2,638 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
November 2020	190	229	229	0
December 2020	103	21	21	0

IN COMPLIANCE	FINDING NO. 16 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU reviewed employee leave records from two different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on this review, the CRU found no deficiencies. The CalPERS 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.

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 considered to be 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.¹⁴ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁵ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

¹⁴ 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.

¹⁵ 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.

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, July 1, 2020, through December 31, 2020, the CalPERS had 13 employees with non-qualifying pay period transactions. The CRU reviewed these 13 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Periods	Full Time	13

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

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

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

IN COMPLIANCE	FINDING NO. 19 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the CalPERS 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 CalPERS 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 160 permanent CalPERS employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Accounting Administrator I (Specialist)	4/11/2020
Accounting Officer (Specialist)	1/30/2020
Accounting Officer (Specialist)	12/27/2020
Actuarial Assistant	10/14/2020
Administrative Assistant II	10/31/2020
Associate Accounting Analyst	1/4/2020
Associate Accounting Analyst	2/1/2020
Associate Accounting Analyst	6/1/2020
Associate Accounting Analyst	9/12/2020
Associate Accounting Analyst	9/14/2020
Associate Accounting Analyst	9/9/2020
Associate Accounting Analyst	9/30/2020
Associate Governmental Program Analyst	1/23/2020
Associate Governmental Program Analyst	2/16/2020
Associate Governmental Program Analyst	5/30/2020
Associate Governmental Program Analyst	6/30/2020
Associate Governmental Program Analyst	7/31/2020
Associate Governmental Program Analyst	8/31/2020
Associate Governmental Program Analyst	8/31/2020
Associate Governmental Program Analyst	11/1/2020
Associate Governmental Program Analyst	12/4/2020
Associate Investment Manager, PERS	2/1/2020
Associate Pension Actuary	2/12/2020
Associate Pension Actuary	2/12/2020
Associate Personnel Analyst	6/30/2020
Attorney III	8/14/2020
Attorney IV	1/31/2020

Classification	Date Performance Appraisals Due
Attorney IV	6/23/2020
Attorney V	3/15/2020
Attorney V	5/23/2020
Benefit Program Analyst (CalPERS)	5/1/2020
Benefit Program Analyst (CalPERS)	11/30/2020
Digital Composition Specialist II	6/30/2020
Executive Secretary I	1/7/2020
Executive Secretary II	9/17/2020
Executive Secretary II	11/15/2020
Financial Accountant II	11/13/2020
Financial Accountant IV	5/12/2020
General Counsel	1/31/2020
Graphic Designer III	5/11/2020
Graphic Designer III	5/31/2020
Graphic Designer III	12/26/2020
Health Program Specialist II	5/30/2020
Information Officer II	1/16/2020
Information Officer II	4/30/2020
Information Technology Associate	1/10/2020
Information Technology Associate	3/31/2020
Information Technology Associate	4/30/2020
Information Technology Associate	5/24/2020
Information Technology Associate	7/13/2020
Information Technology Associate	7/31/2020
Information Technology Associate	8/2/2020
Information Technology Associate	9/13/2020
Information Technology Associate	10/5/2020
Information Technology Associate	11/18/2020
Information Technology Associate	12/30/2020
Information Technology Associate	12/31/2020
Information Technology Manager I	1/31/2020
Information Technology Manager I	3/13/2020
Information Technology Manager I	9/10/2020
Information Technology Manager I	11/12/2020
Information Technology Specialist I	1/31/2020
Information Technology Specialist I	2/18/2020
Information Technology Specialist I	2/19/2020
Information Technology Specialist I	2/28/2020
Information Technology Specialist I	4/4/2020
Information Technology Specialist I	5/1/2020
Information Technology Specialist I	5/7/2020

Classification	Date Performance Appraisals Due
Information Technology Specialist I	6/1/2020
Information Technology Specialist I	6/24/2020
Information Technology Specialist I	6/26/2020
Information Technology Specialist I	10/11/2020
Information Technology Specialist I	10/31/2020
Information Technology Specialist I	11/1/2020
Information Technology Specialist II	1/15/2020
Information Technology Specialist II	3/31/2020
Information Technology Specialist II	5/22/2020
Information Technology Specialist II	6/30/2020
Information Technology Specialist II	9/10/2020
Information Technology Specialist II	10/12/2020
Information Technology Specialist II	12/5/2020
Information Technology Technician	3/31/2020
Information Technology Technician	6/30/2020
Investment Director, PERS	3/21/2020
Investment Director, PERS	6/18/2020
Investment Director, PERS	9/26/2020
Investment Director, PERS	12/9/2020
Investment Manager, PERS	8/3/2020
Investment Officer I, PERS	1/29/2020
Investment Officer I, PERS	10/30/2020
Investment Officer II, PERS	1/22/2020
Investment Officer II, PERS	6/1/2020
Investment Officer II, PERS	7/30/2020
Investment Officer II, PERS	8/14/2020
Investment Officer II, PERS	10/31/2020
Investment Officer II, PERS	12/31/2020
Investment Officer III, PERS	3/21/2020
Investment Officer III, PERS	6/30/2020
Investment Officer III, PERS	7/26/2020
Investment Officer III, PERS	8/31/2020
Investment Officer III, PERS	10/2/2020
Legal Secretary	10/16/2020
Mail Machine Operator II	4/7/2020
Mail Machine Operator II	8/21/2020
Managing Investment Director, PERS	2/25/2020
Material and Stores Supervisor	5/1/2020
Office Technician (General)	8/2/2020
Office Technician (General)	8/30/2020
Office Technician (Typing)	6/25/2020

Classification	Date Performance Appraisals Due
Research Data Analyst II	10/31/2020
Research Data Analyst II	11/6/2020
Research Data Analyst II	11/21/2020
Research Data Specialist I	6/30/2020
Research Data Specialist I	10/15/2020
Research Data Specialist I	10/16/2020
Research Data Specialist II	2/26/2020
Research Data Supervisor II	12/31/2020
Retirement Program Specialist II (Technical)	4/2/2020
Retirement Program Specialist I (Technical)	6/30/2020
Retirement Program Specialist II (Technical)	9/9/2020
Senior Actuarial Assistant	5/31/2020
Senior Actuarial Assistant	11/19/2020
Senior Benefit Program Specialist (CALPERS)	2/16/2020
Senior Benefit Program Specialist (CalPERS)	2/28/2020
Senior Life Actuary	9/10/2020
Senior Pension Actuary	4/17/2020
Senior Program Auditor, CalPERS	6/30/2020
Senior Program Auditor, CalPERS	8/15/2020
Senior Program Auditor, CalPERS	11/21/2020
Staff Services Analyst (General	7/31/2020
Staff Services Analyst (General)	1/18/2020
Staff Services Analyst (General)	3/31/2020
Staff Services Analyst (General)	4/9/2020
Staff Services Analyst (General)	4/30/2020
Staff Services Analyst (General)	6/8/2020
Staff Services Analyst (General)	7/3/2020
Staff Services Analyst (General)	8/31/2020
Staff Services Analyst (General)	10/30/2020
Staff Services Analyst (General)	11/30/2020
Staff Services Analyst (General)	12/2/2020
Staff Services Analyst (General)	12/8/2020
Staff Services Analyst (General)	12/31/2020
Staff Services Manager I	1/31/2020
Staff Services Manager I	4/27/2020
Staff Services Manager I	5/1/2020
Staff Services Manager I	10/30/2020
Staff Services Manager II (Supervisory)	2/28/2020
Staff Services Manager II (Supervisory)	3/5/2020
Staff Services Manager II (Supervisory)	9/1/2020

Classification	Date Performance Appraisals Due
Staff Services Manager II (Supervisory)	9/30/2020
Staff Services Manager II (Supervisory)	10/30/2020
Staff Services Manager II (Supervisory)	12/31/2020
Staff Services Manager III	1/30/2020
Staff Services Manager III	4/30/2020
Staff Services Manager III	9/30/2020
Staff Services Manager III	10/6/2020
Staff Services Manager III	12/31/2020
Supervising Pension Actuary	4/30/2020
Television Specialist	8/31/2020
Training Officer I	3/29/2020

SEVERITY: SERIOUS	FINDING NO. 20 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The CalPERS did not provide annual performance appraisals to 26 of 160 employees reviewed after the completion of the employee’s probationary period.

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 of its employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The CalPERS HRSD located two performance evaluations after the review occurred. The CalPERS HRSD acknowledges the missing 24 Performance Management Documents and attributes this missing document pattern to several challenges: (1) CalPERS staff were working primarily from home since March 2020 and throughout the SPB CRU period; (2) telework caused a backlog in document

handling; (3) one part-time Office Technician was responsible for routing, tracking, and handling all these documents and records.

Corrective Action: The CalPERS provides it has taken steps to improve the management of its performance appraisal process. Within 90 days of the date of this report, the CalPERS must submit to the SPB a written corrective action response which addresses 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. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

DEPARTMENTAL RESPONSE

The CalPERS' response is attached as attachment one.

SPB REPLY

Based upon the CalPERS' written response, the CalPERS 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 Public Employees' Retirement System

Human Resources Division

400 Q Street, Sacramento, CA 95811 | Phone: (916) 795-3065 | Fax: (916) 795-4001

888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442 | www.calpers.ca.gov

Memorandum

June 30, 2022

To: Michelle La Grandeur, Chief
Compliance Review Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

From: Michelle Tucker, Chief
Human Resources Division

Subject: Compliance Report Responses

The California Public Employees' Retirement System (CalPERS) reviewed the draft Compliance Report prepared by the State Personnel Board's (SPB) Compliance Review Unit (CRU).

Attached are the CalPERS responses to the findings. If you have any questions or would like to discuss further, please contact me at (916) 795-3583 or Michelle.Tucker@calpers.ca.gov.

Attachment

Finding No. 3 – Appointments, Serious – Probationary Evaluations were not provided for appointments reviewed.

Summary: The CalPERS did not provide 13 probationary reports of performance for 7 of the 63 appointments reviewed by the CRU, as reflected in the table below. This is the third consecutive time this has been a finding for the CalPERS.

The CalPERS Human Resources Division (HRSD) acknowledges missing Probationary Report documents and attributes this missing document pattern to several challenges. Due to the COVID-19 pandemic, since March 2020 and throughout the SPB CRU period (November 2020 – April 2021), like all state agencies, CalPERS was working primarily from home in a telework environment leading to a backlog in document handling. Further, one part-time Office Technician was previously responsible for routing, tracking, and handling all these documents and records. To improve this process, create operational efficiencies and better manage workload, a continuous improvement project was started in June 2020. During the intake phase of the project, documented procedures were found lacking and the volume of workload too large for a part-time Office Technician; CalPERS HR is evaluating restructuring workflows and other processes to provide additional support. CalPERS continues to prioritize this project and has included it in a new Business Process Initiative in support of our Strategic Plan Goal of Organizational Excellence.

Probationary Report documents are provided to all CalPERS team members via our intranet site and are available, on demand. The CalPERS HRSD has an electronic notification system showing due dates for all Probationary Reports visible to team leaders. Team leaders are automatically prompted 30-days in advance of due dates in this system to complete these documents. The system then sends two additional reminder emails during the month and a notice of items past due for these documents. Additionally, reports of pending probation reports can be generated ad hoc by team leaders and divisional HR liaisons through the CalPERS Human Capital Management system. However, these documents are not always completed and submitted timely by individual team leaders.

Finding No. 4 – Appointments, Technical – Appointment documentation was not kept for the appropriate amount of time.

Summary: The CalPERS failed to retain personnel records such as Notice of Personnel Actions (NOPA)s. Of the 63 appointments reviewed, the CalPERS did not retain the following: 42 NOPAs. This is the second consecutive time this has been a finding for the CalPERS.

When NOPAs were initially requested, CalPERS was unable to provide 32 NOPAs, not the reported 42. The CalPERS HRSD attributes this variation in the count to the subsequent record request which identified other missing documentation from the Appointments Material Request Form (MRF). The CalPERS HRSD acknowledges these 32 missing NOPAs and attributes this missing document pattern to NOPAs being created and distributed as paper documents. Due to the COVID-19 pandemic, since March 2020 and throughout the SPB CRU period

(November 2020 – April 2021), like all state agencies, CalPERS was working primarily from home in a telework environment leading to a backlog in document handling. The NOPAs are being routed as received from SCO as physical documents and were being handled by the few Human Resources team members working on site. Once sent to the CalPERS employee, the paper forms then must be signed and returned to the CalPERS HRSD team. These three paper touch points were greatly challenged when over 85% of CalPERS team members were teleworking during the COVID-19 pandemic.

In the CalPERS compliance review response related to this finding in 2018, CalPERS was exploring whether a new Human Resources Management System (HRMS) would assist us in tracking NOPAs, with the possibility of eliminating the need to route and track hard copy forms. However, a new HRMS was not secured to assist the CalPERS HRSD in this endeavor, and the joint SCO/CalHR California State Payroll System project should support an electronic NOPA process. CalPERS continues to work towards automated solutions for paper-based systems.

Finding No. 7 – Mandated Training, Very Serious – Ethics training was not provided for all filers timely.

Summary: While the CalPERS provided existing filers with ethics training as required, it did not provide ethics training to 16 of 134 new filers within 6 months of their appointment.

Unfortunately, 13 of 134 new filers failed to complete their training within 6 months of their appointment. All CalPERS filers are offered free online ethics training through the Office of the Attorney General’s website.

As of March 2021, CalPERS established additional system enhancements and developed an escalation process to mitigate non-compliance with the AG Ethics Training by Form 700 filers. System enhancements include sending weekly reminders to filers up to the due date and sending weekly overdue reminders after the due date has passed. Escalation process includes: team member pulls status reports weekly for outstanding Ethics Training, one week prior to the due date, sends an email to the filer and their direct manager, and past due date, sends an email to the filer with a copy to senior leaders in the division.

Finding No. 8 – Mandated Training, Very Serious – Sexual Harassment Prevention training was not provided for all employees timely.

Summary: While the CalPERS provided sexual harassment prevention training as mandated by statute to supervisors, the CalPERS did not provide sexual harassment prevention training to 1 of 106 new non-supervisors within 6 months of their appointment.

It is unfortunate that 2 out of 106 new employees failed to complete their training within 6 months of their appointment and 1 out of 518 existing employees failed to complete their training by the due date. All CalPERS employees are offered free online sexual harassment prevention training. One new employee completed the training within 10 days of the due date. The other new employee has subsequently taken the training and is current in their obligation.

The existing employee that failed to take the training by the due date appears to have been on a leave of absence for a substantial period during the training cycle and has since remediated the issue.

CalPERS employees are assigned sexual harassment prevention training through CalPERS online learning portal (“GoLearn”). In April of 2019, CalPERS formalized its Mandatory Training Policy outlining expectations, roles, and responsibilities around mandatory training requirements. CalPERS provides monthly status reports on all mandatory training to the Chief Compliance Officer. For annual mandatory training, division chiefs are sent weekly updates of their team’s progress starting two months before the due date. In addition, since July of 2021, CalPERS (HRSD) sends weekly mandatory training reports to all senior leaders.

Finding No. 20 – Policy, Serious – Performance Appraisals were not provided to all employees.

Summary: The CalPERS did not provide annual performance appraisals to 29 of 160 employees reviewed after the completion of the employee’s probationary period.

When Performance Appraisals were initially requested, the CalPERS HRSD was unable to provide 26 Performance Appraisals, not the 29 reported. The CalPERS HRSD attributes this variation in the count to the subsequent record request which identified other missing documentation from the Appointments Material Request Form (MRF). A systems search was conducted which revealed two (2) more undiscovered documents from the review period. The CalPERS HRSD acknowledges the missing 24 Performance Management Documents and attributes this missing document pattern to several challenges. Due to the COVID-19 pandemic, since March 2020 and throughout the SPB CRU period (November 2020 – April 2021), like all state agencies, CalPERS was working primarily from home in a telework environment leading to a backlog in document handling. Further, one part-time Office Technician was previously responsible for routing, tracking, and handling all these documents and records. To improve this process, create operational efficiencies and better manage workload, a continuous improvement project was started in June 2020. During the intake phase of the project, documented procedures were found lacking and the volume of workload too large for a part-time Office Technician; CalPERS HR is evaluating restructuring workflows and other processes to provide additional support. CalPERS continues to prioritize this project and has included it in a new Business Process Initiative in support of our Strategic Plan Goal of Organizational Excellence.

Performance Management documents are provided to all CalPERS team members via our intranet site and are available, on demand. The CalPERS HRSD has an electronic notification system showing due dates for all Performance Appraisals visible to the team leader. Team leaders are automatically prompted 30-days in advance of due dates in this system to complete these documents. The system sends additional two reminder emails during the month and a notice of items past due for these documents to team leaders. Additionally, reports of pending probation reports can be generated ad hoc by team leaders and divisional HR liaisons through the CalPERS Human Capital Management system. However, these documents are not always completed and submitted timely by individual team leaders.