

COMPLIANCE REVIEW REPORT

DEPARTMENT OF REHABILITATION

Compliance Review Unit
State Personnel Board
April 24, 2023

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INTRODUCTION

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

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Department of Rehabilitation (DOR) 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
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed ¹
Appointments	Technical	Department Did Not Provide Benefit Information in Accordance with Civil Service Law
Appointments	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
Equal Employment Opportunity	Very Serious	A Disability Advisory Committee Has Not Been Established
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts ²
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors ³
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ⁴
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors and Managers ⁵

¹ Repeat finding. The November 8, 2019, DOR Compliance Review Report identified 2 probationary evaluations were not provided in 50 of the 318 appointments reviewed, and 4 probationary evaluations were not timely in 50 of the 318 appointments reviewed.

² Repeat finding. The November 8, 2019, DOR Compliance Review Report identified unions were not notified prior to entering 19 of 55 PSCs reviewed.

³ Repeat finding. The November 8, 2019, DOR Compliance Review Report identified 3 of 54 new supervisors who were not provided sexual harassment prevention training within 6 months of appointment. In addition, the DOR did not provide sexual harassment prevention training to 8 of 162 existing supervisors every 2 years.

⁴ Repeat finding. The November 8, 2019, DOR Compliance Review Report identified 16 of 105 new filers were not provided ethics training within 6 months of their appointment. In addition, the DOR did not provide ethics training to 82 of 814 existing filers.

⁵ Repeat finding. The November 8, 2019, DOR Compliance Review Report identified 2 of 18 new supervisors was not provided basic supervisory training within 12 months of appointment.

Area	Severity	Finding
Compensation and Pay	Very Serious	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	Very Serious	Alternate Range Movements Did Not Comply with Civil Service Laws, Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay
Leave	Serious	Positive Paid Temporary Employees' Work Exceeded Time Limitations ⁶
Leave	Serious	Administrative Time Off Was Not Properly Documented
Leave	Very Serious	Incorrectly Posted Leave Usage and/or Leave Credit ⁷
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 ⁸

⁶ Repeat finding. The November 8, 2019, DOR Compliance Review Report identified 5 positive paid employees exceeded the 189 days/1500-hour limitation of the 36 reviewed.

⁷ Repeat finding. The November 8, 2019, DOR Compliance Review Report identified 5 of 89 timesheets incorrectly entered into the leave accounting system.

⁸ Repeat Finding. The November 8, 2019, DOR Compliance Review Report identified that performance appraisals were not provided to 32 of 94 employees reviewed at least once in each twelve calendar months after the completion of the employee's probationary period.

BACKGROUND

The DOR works in partnership with consumers and other stakeholders to provide services and advocacy resulting in employment, independent living, and equality for individuals with disabilities.

The DOR administers the largest vocational rehabilitation and independent living programs in the country. Vocational rehabilitation services are designed to help job seekers with disabilities obtain competitive employment in integrated work settings. Independent living services include peer support, skill development, systems advocacy, referrals, assistive technology services, transition services, housing assistance, and personal assistance services.

With 88 field offices throughout California, the DOR strives to empower individuals to prepare to enter the workforce, and maximize employability and independence. The DOR employs approximately 1,794 employees.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the DOR's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁹. The primary objective of the review was to determine if the DOR's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the DOR's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the DOR provided, which included examination plans, examination bulletins, job analyses, and scoring results.

The DOR did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the DOR's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The

⁹ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

CRU examined the documentation that the DOR provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The DOR did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the DOR did not make any additional appointments during the compliance review period.

The DOR's appointments were also selected for review to ensure the DOR applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the DOR provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay, e.g., bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments.

During the compliance review period, the DOR did not issue or authorize hiring above minimum requests, red circle rate requests, and arduous pay.

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

PSCs were also reviewed.¹⁰ It was beyond the scope of the compliance review to make conclusions as to whether the DOR's justifications for the contracts were legally sufficient. The review was limited to whether the DOR's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The DOR's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, that all supervisors, managers, and CEAs were provided leadership and development training, and that all

¹⁰If 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.

employees were provided sexual harassment prevention training within statutory timelines.

The CRU also identified the DOR's employees whose current annual leave, or vacation leave credits, exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Additionally, the CRU asked the DOR to provide a copy of their leave reduction policy.

The CRU reviewed the DOR's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRU selected a small cross-section of the DOR's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the DOR's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the DOR employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of DOR 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 DOR's policies and processes concerning nepotism, workers' compensation, performance appraisals. The review was limited to whether the DOR's policies and processes adhered to procedural requirements.

On March 16, 2023, an exit conference was held with the DOR to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DOR's written response on April 3, 2023, 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, June 1, 2021, through February 28, 2022, the DOR conducted six examinations. The CRU reviewed all those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps.
Career Executive Assignment (CEA) A, Assistant Deputy Director, Vocational Rehabilitation Employment Division	CEA	Statement of Qualifications (SOQ) ¹¹	12/10/2021	1
CEA B, Deputy Director, Vocational Rehabilitation Policy, and Resources Division	CEA	SOQ	10/13/2021	1
Support Services Assistant (Interpreter)	Departmental Open	Qualification Appraisal Panel ¹²	8/6/2021	1

¹¹ In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

¹² The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification

Classification	Exam Type	Exam Components	Final File Date	No. of Apps.
Teacher, Orientation and Mobility for the Blind	Departmental Open	Training and Experience (T&E) ¹³	2/18/2022	1
Vocational Instructor (Computer and Related Technologies)	Departmental Open	T&E	8/20/2021	1
Vocational Instructor (Computer and Related Technologies)	Departmental Open	T&E	11/19/2021	1

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed six open examinations which the DOR administered in order to create eligible lists from which to make appointments. The DOR published and distributed examination bulletins containing the required information for all examinations. Applications received by the DOR 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 DOR conducted 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

¹³ The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

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, June 1, 2021, through February 28, 2022, the DOR made 240 appointments. The CRU reviewed 50 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Account Clerk II	Certification List	Permanent	Full Time	1
Accountant I (Specialist)	Certification List	Permanent	Full Time	1
Account Trainee	Certification List	Permanent	Full Time	1
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	2
Associate Governmental Program Analyst (AGPA)	Certification List	Limited Term	Full Time	1
AGPA	Certification List	Permanent	Full Time	2
CEA	Certification List	Permanent	Full Time	1
Counselor Orientation Center for the Blind	Certification List	Permanent	Intermittent	1
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	2
Office Technician (OT) (General)	Certification List	Permanent	Full Time	1
OT (General)	Certification List	Limited Term	Full Time	3
OT (Typing)	Certification List	Permanent	Full Time	1
Personnel Specialist (PS)	Certification List	Permanent	Full Time	1
Program Technician (PT) II	Certification List	Limited Term	Full Time	1
PT II	Certification List	Permanent	Full Time	1
Senior Vocational Rehabilitation Counselor, Qualified Rehabilitation Professional (SVRC - QRP)	Certification List	Permanent	Full Time	3
Staff Services Analyst (SSA)	Certification List	Limited Term	Full Time	2
SSA	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Staff Services Manager (SSM) I	Certification List	Permanent	Full Time	2
SSM II	Certification List	Permanent	Full Time	1
SSM III	Certification List	Permanent	Full Time	1
Support Services Assistant (Interpreter)	Certification List	Permanent	Intermittent	2
Training Officer I	Certification List	Permanent	Full Time	1
OT (Typing)	Reinstatement	Permanent	Full Time	1
PT II	Reinstatement	Permanent	Full Time	2
SVRC - QRP	Reinstatement	Permanent	Full Time	1
SSA	Reinstatement	Limited Term	Full Time	1
SSM I	Reinstatement	Limited Term	Full Time	1
SSM I	Reinstatement	Permanent	Full Time	1
Research Data Analyst II	Training and Development	Permanent	Full Time	1
AGPA	Transfer	Permanent	Full Time	2
Information Technology Associate	Transfer	Permanent	Full Time	1
OT (Typing)	Transfer	Permanent	Full Time	1
PS	Transfer	Permanent	Full Time	1
SVRC - QRP	Transfer	Permanent	Full Time	1
SSA	Transfer	Permanent	Full Time	1
SSM I	Transfer	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 2 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary:

The DOR did not provide 9 probationary reports of performance for 4 of the 50 appointments reviewed by the CRU, as reflected in the table below. This is the second consecutive time this has been a finding for the DOR.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
AGPA	Certification List	1	2
Information Technology Specialist I	Certification List	1	1
AGPA	Transfer	1	3
PT II	Transfer	1	3

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; 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 DOR states that they did not have a central tracking system to monitor the completion of probationary reports.

Corrective Action: Within 90 days of the date of this report, the DOR must submit to the SPB a written corrective action response which addresses the corrections the department will implement 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. 3 DEPARTMENT DID NOT PROVIDE BENEFIT INFORMATION IN ACCORDANCE WITH CIVIL SERVICE LAW
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Summary: The DOR did not memorialize that the applicant received an explanation of benefits, prior to appointment, in a formal offer of employment 31 times out of the 50 appointments reviewed by the CRU.

Criteria: An appointing power, before offering employment to an applicant, shall provide the applicant, in writing, with an explanation of benefits that accompany state service. These documents shall include a summary of the applicable civil service position with salary ranges and steps within them, as well as information on benefits afforded by membership in the Public Employees' Retirement System and benefits and protections provided to public employees by the State Civil Service Act. (Gov. Code, § 19057.2.)

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

Cause: The DOR states that due to the Covid-19 pandemic, the 2020 amendments to Government Code section 19057.2 were not implemented.

Corrective Action: The DOR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with the explanation of benefits requirements of Government Code section 19057.2.

SEVERITY: TECHNICAL	FINDING NO. 4 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
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Summary: The DOR failed to retain personnel records. Of the 50 appointments reviewed, the DOR did not retain 8 NOPAs.

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 DOR states that some of the NOPAs were missed mainly due to the Covid-19 pandemic.

Corrective Action: Within 90 days of the date of this report, the DOR must submit to the SPB a written corrective action response which addresses the corrections the department will implement 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).)

SEVERITY: VERY SERIOUS	FINDING NO. 5 A DISABILITY ADVISORY COMMITTEE HAS NOT BEEN ESTABLISHED
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Summary: The DOR does not have an active DAC.

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

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

Cause: The DOR states that the previous DAC was cancelled from 2020 to mid-2022 due to staff turnover and the Covid-19 pandemic.

Corrective Action: The DOR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure the establishment of a DAC, comprised of members who have disabilities or who have an interest in disability issues. Copies of relevant documentation demonstrating

that the corrective action has been implemented, includes the new DAC roster, agenda, and meeting minutes.

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, Jun 1, 2021, through February 28, 2022, the DOR had 37 PSC's that were in effect. The CRU reviewed 20 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
A & M Vending	Vending Machine Service and Repair	10/19-6/22	\$300,000	Yes	Yes
A + Super Sanitation, Inc.	Grease Trap Service and Repair	7/19-6/22	\$37,500	Yes	Yes
Advanced Vending Technologies, DBA Morgan Vending Co.	Vending Machine Service and Repair	9/21-6/23	\$140,000	Yes	No

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Azur CART & Captioning	Remote Captioning	7/21-6/23	\$80,000	Yes	No
Eaton Interpreting Services	American Sign Language Interpreting	3/22-2/24	\$280,000	Yes	No
Focus Language International, Inc	American Sign Language (ASL) Interpreting	5/21-6/23	\$49,990	Yes	Yes
Hatch Food & Vending	Vending Machine Service and Repair	9/21-6/23	\$400,000	Yes	Yes
J & A Management	Refrigeration Maintenance	9/21-6/23	\$180,000	Yes	No
J & A Management	Cleaning and Relocation Services	7/19-6/22	\$219,000	Yes	Yes
J & A Management	Equipment Service and Repair	7/19-6/22	\$585,000	Yes	Yes
J & A Management	Refrigeration Service & Repair	7/19-6/22	\$315,000	Yes	Yes
Nolan Janitorial	Janitorial Services	8/21-6/24	\$43,200	Yes	Yes
Platinum Security Inc.	Security Services Central Office	8/20-3/23	\$532,421	Yes	No
Preferred Interpreting Services, LLC	ASL Interpreting	11/21-6/23	\$150,000	Yes	No
Preferred Interpreting Services, LLC	ASL Interpreting	2/22-1/24	\$89,105	Yes	No
Preferred Interpreting Services, LLC	ASL Interpreting	3/22-2/24	\$350,000	Yes	No
S & B Vending Inc	Vending Machine Service and Repair	9/21-6/23	\$200,000	Yes	No
S & B Vending Inc	Vending Machine Service and Repair	2/22-1/24	\$80,000	Yes	No
Vaneli's, Inc	Coffee Machine Installation, Service, and Repair	8/21-6/23	\$50,000	Yes	No

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Wind Dancer Moving Company	Office Moves	10/21-6/22	\$39,000	Yes	No

SEVERITY: SERIOUS	FINDING NO. 6 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The DOR did not notify unions prior to entering into 12 of the 20 PSCs reviewed. This is the second consecutive time this has been a finding for the DOR.

Criteria: The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

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

Cause: The DOR states that they did not follow the correct process to notify the unions prior to the awarding of contracts.

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

Mandated Training

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

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

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

Within 12 months of the initial appointment of an employee to a management or CEA position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*) 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 DOR's mandated training program that was in effect during the compliance review period, March 1, 2020, through February 28, 2022.

SEVERITY: VERY SERIOUS	FINDING NO. 7 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS
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Summary: The DOR did not provide sexual harassment prevention training to 5 of 30 new supervisors within 6 months of their appointment. This is the second consecutive time this has been a finding for the DOR.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors 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 supervisors 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 DOR states that they had an inefficient manual process to send reminder notices of mandated training requirements to staff by email or phone calls.

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

SEVERITY: VERY SERIOUS	FINDING NO. 8 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The DOR did not provide ethics training to 40 of 120 existing filers. In addition, the DOR did not provide ethics training to 29 of 50 new

filers within 6 months of their appointment. This is the second consecutive time this has been a finding for the DOR.

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 DOR states that they had an inefficient manual process to send reminder notices of mandated training requirements to staff by email or phone calls.

Corrective Action: The DOR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOR must submit to the SPB documentation which demonstrates the corrections the department has implemented to demonstrate conformity with Government Code section 11146.3.

SEVERITY: VERY SERIOUS	FINDING NO. 9 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS
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Summary: The DOR did not provide basic supervisory training to 1 of 20 new supervisors within 12 months of appointment; and did not provide manager training to 1 of 3 new managers within 12 months of appointment. This is the second consecutive time this has been a finding for the DOR.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. Upon completion of the initial training, supervisory employees shall receive a minimum 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subds. (b) and (c).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a

minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (d).)

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

Cause: The DOR states that due to an oversight staff used incorrect CBID information to enroll one new manager; and despite receiving training notices one new supervisor missed the deadline to take the required basic supervisor training.

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

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate¹⁴ 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, June 1, 2021, through February 28, 2022, the DOR made 50 appointments. The CRU reviewed 22 of those appointments to determine if the DOR

¹⁴ "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).

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

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator I	Certification List	Permanent	Full Time	\$7,599
Account Clerk II	Certification List	Permanent	Full Time	\$3,100
AGPA	Certification List	Permanent	Full Time	\$5,383
Counselor Orientation Center for the Blind	Certification List	Permanent	Intermittent	\$3,403
Information Technology Specialist I	Certification List	Permanent	Full Time	\$6,394
OT (General)	Certification List	Limited Term	Full Time	\$3,227
OT (General)	Certification List	Permanent	Full Time	\$3,227
SVRC - QRP	Certification List	Permanent	Full Time	\$4,523
SSA	Certification List	Limited Term	Full Time	\$4,320
SSA	Certification List	Permanent	Full Time	\$4,476
SSM I	Certification List	Permanent	Full Time	\$7,076
SSM II	Certification List	Permanent	Full Time	\$8,352
Support Services Assistant (Interpreter)	Certification List	Permanent	Intermittent	\$3,786
Training Officer I	Certification List	Permanent	Full Time	\$6,739
OT (Typing)	Reinstatement	Permanent	Full Time	\$4,004
PT II	Reinstatement	Permanent	Full Time	\$4,015
SSA	Reinstatement	Limited Term	Full Time	\$4,534
SSM I	Reinstatement	Permanent	Full Time	\$7,954
Research Data Analyst II	Training and Development	Permanent	Full Time	\$7,079
Information Technology Associate	Transfer	Permanent	Full Time	\$6,739
SSA	Transfer	Permanent	Full Time	\$4,503
SSM I	Transfer	Permanent	Full Time	\$6,739

SEVERITY: VERY SERIOUS	FINDING NO. 10 INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT
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Summary: The CRU found the following errors in the DOR's determination of employee compensation:

Classification	Description of Findings	Criteria
PT II	Employee's salary was not properly reconstructed with all general salary increases included upon return from a permanent separation. Upon reentry into the state the employee was not provided the correct salary, resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, § 599.677
SSA	Employee was placed into Range C of the classification when they met the Range B criteria, resulting in the employee being overcompensated.	Alternate Range Criteria 282

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

Severity: Very Serious. In two circumstances, the DOR failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The DOR states that the errors occurred due to the insufficiency of training provided to newly appointed staff, as well as oversight by the reviewing supervisors.

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

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, June 1, 2021, through February 28, 2022, the DOR employees made 35 alternate range movements within a classification. The CRU reviewed 15 of those alternate range movements to determine if the DOR 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)
PS	C	D	Full Time	\$4,511
PS	B	C	Full Time	\$5,006
PS	B	C	Full Time	\$4,473
PS	C	D	Full Time	\$4,719
SVRC - QRP	A	B	Full Time	\$5,230
SVRC - QRP	A	B	Full Time	\$4,986
SVRC - QRP	B	C	Full Time	\$5,212
SVRC - QRP	B	C	Full Time	\$6,500
SVRC - QRP	B	C	Full Time	\$4,964
SVRC - QRP	A	B	Full Time	\$4,746
SSA	B	C	Full Time	\$4,476
SSA	B	C	Full Time	\$4,476
SSA	B	C	Full Time	\$4,476
SSA	A	B	Full Time	\$3,805
Vocational Instructure (Computer Related Technologies)	B	C	Full Time	\$5,933

SEVERITY: VERY SERIOUS	FINDING NO. 11 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
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Summary: The CRU found the following error in the DOR's determination of employee compensation:

Classification	Description of Finding	Criteria
SVRC - QRP	Incorrect salary determination resulting in the employee being undercompensated	Cal. Code Regs., tit. 2, § 599.675

Criteria: Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)

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

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

Cause: The DOR states that the errors occurred due to the insufficiency of training provided to newly appointed staff, as well as oversight by the reviewing supervisors.

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

Bilingual Pay

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

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

During the period under review, June 1, 2021, through February 28, 2022, the DOR issued bilingual pay to 213 employees. The CRU reviewed 50 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
OT (General)	R04	Full Time	8
OT (Typing)	R04	Full Time	1
PT	R04	Full Time	2
SVRC - QRP	R19	Full Time	24
SSA	R01	Full Time	9
SSA (Service Coordinator)	R01	Full Time	1
SSM I	S01	Full Time	1
Support Services Assistant (General)	R04	Intermittent	1
Teacher Home Economics	R03	Full Time	1
Vocational Instructor (Culinary Arts)	R19	Full Time	1
Vocational Psychologist	R19	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, June 1, 2021, through February 28, 2022, the DOR authorized 179 pay differentials.¹⁵ The CRU reviewed 40 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount	Number of Positions
Account Clerk II	441	\$250	2
AGPA	441	\$250	1
CEA	412	10%	1
Information Technology Associate	13	5%	1
Medical Consultant Department of Rehabilitation	450	10%	1
Office Assistant (General)	441	\$250	1
OT (General)	441	\$250	1
OT (Typing)	441	\$250	1
PT II	441	\$250	3
Research Data Analyst II	412	10%	1
SVRC - QRP	151	\$200	11
SSA	441	\$250	6

¹⁵ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount	Number of Positions
SSM I	441	\$250	3
SSM I	412	10%	1
Support Services Assistant (General)	441	\$250	5
Support Services Assistant (Interpreter)	441	\$250	1

IN COMPLIANCE	FINDING NO. 13 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differentials that the DOR 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.

Out-of-Class Assignments and Pay

For excluded¹⁶ and most rank-and-file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the time period outlined in applicable law, policy or MOU expires. (Classification and Pay Guide Section 375.)

¹⁶ "Excluded employee" means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

During the period under review, June 1, 2021, through February 28, 2022, the DOR issued OOC pay to nine employees. The CRU reviewed four of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
AGPA	R01	SSM I	7/20/21-1/18/22
Office Assistant (General)	R04	SSA	1/4/21-6/30/21
OT (Typing)	R04	SSA	4/14/21-7/9/21
SSM II	S01	SSM III	10/1/21-1/28/22

SEVERITY: VERY SERIOUS	FINDING NO. 14 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
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Summary: The CRU found two errors in the DOR's authorization of OOC pay:

Classification	Out-of-Class Classification	Description of Findings	Criteria
Office Assistant (General)	SSA	OOC was not properly calculated for June 2021, resulting in the employee being undercompensated.	Pay Differential 236
SSM II	SSM III	OOC was not properly calculated for October 2021, and January 2022, resulting in the employee being undercompensated.	Pay Differential 236

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

Employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in

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

Severity: Very Serious. The DOR failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

Cause: The DOR states that the errors occurred due to the insufficiency of training provided to newly appointed staff, as well as oversight by the reviewing supervisors.

Corrective Action: The DOR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 236.

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

days¹⁷ worked and paid absences¹⁸, 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 may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

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

At the time of the review, the DOR had 179 positive paid employees whose hours were tracked. The CRU reviewed five 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
AGPA	Intermittent	7/1/2020-6/30/2021	845 Hours
Seasonal Clerk	Temporary	11/1/2020-10/31/2021	1521.5 Hours
SVRC - QRP	Intermittent	7/1/2020-6/30/2021	787.5 Hours
SVRC - QRP	Intermittent	7/1/2020-6/30/2021	597 Hours

¹⁷ For example, two hours or ten hours count as one day.

¹⁸ For example, vacation, sick leave, compensating time off, etc.

Classification	Tenure	Time Frame	Time Worked
Student Assistant	Temporary	11/1/2020-10/31/2021	1551 Hours

SEVERITY: SERIOUS	FINDING NO. 15 POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS
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Summary: The DOR did not consistently monitor the actual number of days and/or hours worked in order to ensure that two positive paid employees did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period. This is the second consecutive time this has been a finding for the DOR.

Classification	Tenure	Time Frame	Time Worked	Time Over Limit
Seasonal Clerk	Temporary	11/1/2020-10/31/2021	1521.5 Hours	21.5 Hours
Student Assistant	Temporary	11/1/2020-10/31/2021	1551 Hours	51 Hours

Criteria: If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary appointments that cannot be extended for any reason. (Cal Const., art. VII, § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) Another controlling factor limits the maximum work time for student, youth, and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

And According to Government Code Section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June) for all state employers without reinstatement or loss or interruption of benefits.

Severity: Serious. Existing law allows a person retired from state service to be rehired by the State as a retired annuitant. However, retired annuitants shall not work more than 960 hours each fiscal year

without reinstatement, loss, or interruption of benefits for all state employers.

Cause: The DOR states that they did not have a process in place to ensure employees did not exceed beyond the time limitation.

Corrective Action: The DOR asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DOR must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with California Code of Regulations, title 2, section 265.1.

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, December 1, 2020, through November 30, 2021, the DOR authorized 501 ATO transactions. The CRU reviewed 45 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
AGPA	12/2/20-4/21/21	93.50 Hours
AGPA	11/5/2021	2 Hours
AGPA	3/18/21-4/15/21 11/22/21	4 Hours
Consulting Psychologist	4/6/21	4 Hours
Information Technology Specialist I	3/3/2021	8 Hours
OT (General)	4/26/2021	8 Hours
OT (General)	4/27/21-4/29/21	6.50 Hours
OT (General)	4/14/21-4/28/21 5/14/21	24 Hours
PT II	3/12/21-4/2/21	3 Hours

Classification	Time Frame	Amount of Time on ATO
SVRC - QRP	4/13/2021-4/26/21	55.50 Hours
SVRC - QRP	12/14/20-12/24/20	72 Hours
SVRC - QRP	5/3/21-5/5/21	19 Hours
SVRC - QRP	4/8/21-4/9/21 4/29/21-4/30/21	32 Hours
SVRC - QRP	5/19/21-6/30/21 7/30/21 8/26/21-8/27/21 9/15/21-9/17/21 9/23/21-9/24/21	72 Hours
SVRC - QRP	4/7/21-4/8/21 5/17/21-5/18/21 7/6/21-7/8/21	62 Hours
SSA	7/9/21-7/12/21 8/6/21-8/13/21	59 Hours
SSA	5/6/21-5/11/21 6/9/21	15 Hours
SSA	11/19/2021	2 Hours
SSA	1/11/21-1/15/21 2/16/21-2/19/21 7/2/21	73 Hours
Supervising PT II	2/22/21-2/24/21 3/2/21-3/8/21	57 Hours
Support Services Assistant (General)	12/23/2020	32 Hours
Support Services Assistant (General)	4/21/21-4/28/21	32 hours

SEVERITY: SERIOUS	FINDING NO. 16 ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED
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Summary: The DOR did not grant ATO in conformity with the established policies and procedures. Of the 45 ATO authorizations reviewed by the CRU, 4 were found to be out of compliance for failing to properly document justification for ATO.

Criteria: Appointing authorities are authorized to approve ATO for up to five (5) working days. (Gov. Code, § 19991.10.) Furthermore, they “have delegated authority to approve up to 30 calendar days.” (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the CalHR. (*Ibid.*) In most

cases, if approved, the extension will be for an additional 30 calendar days. (*Ibid.*) The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. (*Ibid.*)

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. (*Ibid.*) ATO may not be used and will not be granted for an indefinite period. (*Ibid.*) If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. (*Ibid.*)

Regardless of the length of ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. (*Ibid.*)

Severity: Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

Cause: The DOR states that the justification for ATO authorization were not properly documented due to an oversight by the reviewing supervisors.

Corrective Action: Within 90 days of the date of this report, the DOR must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19991.10 and Human Resources Manual Section 2121. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, September 1, 2021, through November 30, 2021, the DOR reported 59 units comprised of 1,804 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
September 2021	3	57	57	0
October 2021	3	64	64	0
November 2021	1	84	84	0

SEVERITY: VERY SERIOUS	FINDING NO. 17 INCORRECTLY POSTED LEAVE USAGE AND/OR LEAVE CREDIT
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Summary: The DOR did not correctly enter six of 205 timesheets into the Leave Accounting System during the September 2021 pay period. As a result, six employees retained their prior leave balance despite having used leave credits. This is the second consecutive time this has been a finding for the DOR.

Criteria: Departments shall create a monthly internal audit process to verify that all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) 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.*)

Severity: Very serious. Errors in posting leave usage and/or leave credits puts the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

Cause: The DOR states that they incorrectly posted leave usage due to insufficiency of training to newly appointed staff, as well as oversight by the reviewing supervisors.

Corrective Action: Within 90 days of the date of this report, the DOR must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Human Resources Manual Section 2101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

State Service

The state recognizes two different types of absences while an employee is on pay status: paid or unpaid. The unpaid absences can affect whether a pay period is a qualifying or non-qualifying pay period for state service and leave accruals.

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.¹⁹ (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

¹⁹ 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.

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 employees²⁰ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, June 1, 2021, through February 28, 2022, the DOR had 56 employees with qualifying and non-qualifying pay period transactions. The CRU reviewed 35 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 Period	Full Time	32
Qualifying Pay Period	Full Time	3

IN COMPLIANCE	FINDING NO. 18	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 DOR 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.

²⁰ As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

Policy and Processes

Nepotism

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

IN COMPLIANCE	FINDING NO. 19	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 DOR's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the DOR's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers' Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving

notice or knowledge that the employee has suffered a work-related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers' compensation coverage is not mandatory for volunteers as it is for employees. (*Ibid.*) This is specific to the legally uninsured state departments participating in the Master Agreement. (*Ibid.*) Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*)

DOR did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 20	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 DOR 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 DOR 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 90 permanent DOR employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies, and guidelines.

SEVERITY: SERIOUS	FINDING NO. 21	PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The DOR did not provide annual performance appraisals to 67 of 90 employees reviewed after the completion of the employee's

probationary period. This is the second consecutive time this has been a finding for the DOR.

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 DOR states that they did not have a process in place to notify all managers and supervisors of the requirements of performance appraisals.

Corrective Action: Within 90 days of the date of this report, the DOR must submit to the SPB a written corrective action response which addresses the corrections the department will implement 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 DOR's response is attached as Attachment 1.

SPB REPLY

Based upon the DOR written response, the DOR 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.



Gavin Newsom.,
Governor



State of California
Health and Human Services Agency
721 Capitol Mall
Sacramento, CA 95814-4702
(916) 558-5545
(916) 558-5547 TTY

April 3, 2023

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

Dear Ms. Ambrose:

This letter is in response pursuant to Governmental Code Section 18661, the State Personnel Board's (SPB) Compliance Review Unit (CRU) conducted a review of the Department of Rehabilitation (DOR) personnel practices on March 8th, 2022, in the areas of examinations, appointments, Equal Employment Opportunity (EEO), Personal Services Contracts, mandated trainings, compensation and pay, leave, and policy and processes. The DOR has reviewed the draft report and prepared the responses to the findings below.

FINDING No. 2 – Probationary evaluations were not provided for all appointments reviewed.

Cause: DOR does not have a central tracking system; however, in July of 2022, DOR developed a process that includes the managers and supervisors on the requirements of probationary reports.

Department Response: In 2023, DOR will complete the implementation process to notify all managers and supervisors on the importance of the

probationary reports. In addition, DOR leadership team will emphasize the importance of completing probationary reports in executive and senior leadership meetings to ensure compliance on an annual basis. DOR will add an escalation process to address non-compliance to ensure accountability at all levels.

FINDING No. 3 – Department did not provide Benefit information in accordance with Civil Service Law.

Cause: Due to the peak of the Covid - 19 pandemic, the drafted procedure per AB 1033 released in 2020, never was implemented; therefore, the Department did not have a standard final employment offer template that included all benefit information required by law.

Department Response: In 2022, The DOR implemented a Hiring Guideline that includes a formal job offer template with employee benefits summary and salary information for all hiring managers to complete and submit to their hires.

FINDING No. 4 – Appointment Documentation was not kept for the appropriate amount of time.

Cause: The DOR has some missing NOPA's mainly because of the peak of the COVID-19 pandemic and did not obtain the NOPAs from the employees as some were submitted electronically and/or by mail and were missed.

Department Response: The State Controller's Office (SCO) recently announced that the paper NOPA will be discontinued effective April 3, 2023, and an electronic NOPA will be available via the SCO Mobius View reporting portal. DOR plans to continue building on the NOPA process that was implemented in April 2022 which involves emailing the NOPA electronically and placing a copy in the Official Personnel File. If a signed NOPA copy is not returned within the required 30 days, HRB will follow up with the employee, while a copy of the unsigned NOPA continues to be retained in the OPF.

FINDING No. 5 – A Disability Advisory Committee has not been established.

Cause: Due to DAC members turnover, including the COVID-19 pandemic,

the previous DAC was cancelled from 2020 to mid-2022.

Department Response: DOR has reestablished the DAC committee effective July 1st, 2022. Our first meeting was held July 11th, 2022, and meeting notices and agendas are posted to our external website. In addition, we submit internal communications to all staff inviting anyone to join.

FINDING No. 6 – Unions were not notified of Personal Services Contracts.

Cause: DOR did not follow the correct process to notify the Unions.

Department Response: To ensure compliance with this requirement, Contracts and Procurement has implemented an updated tracking log with instructions for union notifications that will include language that is clear the union must be notified prior to the contract execution including amendments. To confirm, the 17 contracts listed, unions were notified but unfortunately it was after the contracts were awarded.

FINDING No. 7 – Sexual Harassment Prevention Training was not provided for all supervisors.

Cause: Up until July 2021, DOR had a manual process to send notices to learners by way of email or making phone calls, of the requirement to take the Sexual Harassment Prevention Training. Reminders were also sent via email and by making phone calls.

Department Response: As of July 2021, DOR has implemented a Learning Management System (LMS) which will track and send out notices to learners to take the training and has implemented an escalation process to help prevent delays occurring with mandated trainings.

FINDING No. 8 – Ethics Training was not provided for all filers.

Cause: Up until July 2021, DOR had a manual process to send notices to learners by way of email or making phone calls, of the requirement to take the Sexual Harassment Prevention Training. Reminders were also sent via email and by making phone calls.

Department Response: As of July 2021, DOR has implemented a Learning Management System (LMS) which will track and send out notices to learners to take the training and has implemented an escalation process to help prevent delays occurring with mandated trainings.

FINDING No. 9 – Supervisor Training was not provided for all Supervisors, Managers, and CEAs.

Cause: It was an oversight that DOR used the incorrect CBID information to enroll one new manager into the manager training. In addition, one new supervisor missed the deadline to take their required basic supervisor training within 6 months of their initial appointment, despite receiving notices to take the training.

Department Response: DOR's process has changed and CBIDs are reviewed to determine who's required to complete which leadership training. DOR's LMS system, allows the ability to better track and monitor the completion of Supervisor Training for all newly hired Supervisors, Managers, and CEAs. Furthermore, the department has implemented an escalation process to prevent delays occurring with mandated trainings.

FINDING No. 10 – Incorrect applications of Salary Determination Laws, Rules and CalHR Policies and Guidelines for Appointment.

Cause: This finding is an oversight by the reviewing Payroll Supervisors or Manager and due to the insufficiency of training provided to newly appointed staff.

Department Response: To mitigate this issue, DOR will further ensure staff are trained on salary determination laws and rules. The Payroll Supervisors or Manager will conduct a review of all salary determinations documents for accuracy before they're keyed into the SCO system. On the backend, the Payroll Supervisors or Manager will review the monthly error reports to ensure all errors are identified and corrected timely.

FINDING No. 11 – Alternative Range Movements did not comply with Civil Service Laws, Rules, and CalHR Policies and Guidelines.

Cause: This finding is an oversight by the reviewing Payroll Supervisors or Manager and due to the insufficiency of training provided to newly appointed staff.

Department Response: To mitigate this issue, DOR will further ensure staff are trained on salary determinations, laws, and rules. The Payroll Supervisors or Manager will conduct a review of all Alternate Range Movements for accuracy before they're keyed into the SCO system. On the backend, the Payroll Supervisors or Manager will review the monthly error reports to ensure all errors are identified and corrected timely.

FINDING No. 14 – Incorrect Authorization of Out-of-Class Pay.

Cause: This finding is an oversight issue by the reviewing Payroll Supervisors or Manager and due to the insufficiency of training provided to newly appointed staff.

Department Response: To mitigate this issue, DOR will further ensure staff are trained on out-of-class salary determinations, laws, and rules. The Payroll Supervisors or Manager will conduct a review of all out-of-class determinations for accuracy before they're keyed into the SCO system. On the backend, the Payroll Supervisors or Manager will review the monthly error reports to ensure all errors are identified and corrected timely.

FINDING No. 15 – Positive Paid Temporary Employees Work exceeded the Time Limitation.

Cause: The finding is an oversight as DOR did not have a process to enforce employees not to exceed beyond the 189 – day or 1,500 – hour limitation.

Department Response: The DOR implemented a tracking monitoring mechanism to alert all staff and their supervisors that are closely reaching the allowable limits. The DOR will ensure that monthly reports are consistently reviewed by Payroll Supervisors or Manager and all errors corrected in a timely manner. DOR will add an escalation process to address non-compliance to ensure accountability at all levels.

FINDING No. 16 – Administrative Time Off was not properly documented.

Cause: Due to an oversight by the reviewing Payroll Supervisors or Manager, the justifications for ATO authorization were not properly documented.

Department Response: The DOR will implement a new process to closely monitor any ATO requests and review the monthly reports generated by the Performance and Special Projects Unit. The reports will be provided to the Personnel Supervisors or Manager for review and correction of any errors identified. All timesheets reflecting ATO will not be processed without the proper ATO substantiation.

FINDING No. 17 – Incorrectly Posted Leave Usage and/or Leave Credit.

Cause: Due to an oversight issue by the reviewing Payroll Supervisors or Manager and due to the insufficiency of training provided to newly appointed staff, the DOR incorrectly posted leave usage.

Department Response: To mitigate this issue, DOR will further ensure staff are trained on how to correctly post leave balances in the CLAS system. In addition, the Payroll Supervisors or Manager will conduct a review of all timesheets for accuracy before they're keyed.

FINDING No. 21 – Performance Appraisals were not provided to all Employees.

Cause: DOR did not have a process in place; however, in July of 2022, DOR developed a process that includes the managers and supervisors on the requirements of performance appraisals.

Department Response: In 2023, DOR will complete the implementation process to notify all managers and supervisors on the importance of the performance appraisals. In addition, DOR leadership team will emphasize the importance of completing performance appraisals in executive and senior leadership meetings to ensure compliance on an annual basis. DOR will add an escalation process to address non-compliance to ensure accountability at all levels.

DOR thanks SPB for the opportunity to respond to the draft Compliance Review Report. If you have any questions, please contact Jean Cooper, Assistant Deputy Director at jean.cooper@dor.ca.gov or at 916-558-5702.

Respectfully,

Jean Cooper
Assistant Deputy Director
Administrative Services Division