

# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA ABLE ACT BOARD**

Compliance Review Unit  
State Personnel Board  
February 19, 2020

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## **INTRODUCTION**

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

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

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

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

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

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

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

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the California ABLE Act Board (CalABLE)'s personnel practices in the areas of appointments, EEO, PSC's, mandated training, compensation, leave, and policy and processes<sup>1</sup>. The following table summarizes the compliance review findings.

Area	Finding
Appointments	Probationary Evaluations Were Not Timely
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contract
Mandated Training	Mandated Training Complied with Statutory Requirements
Compensation	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Department Does Not Maintain A Current Nepotism Policy
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisal Policy and Process Complied with Civil Service Laws, Regulations and CalHR Policies and Guidelines

A color-coded system is used to identify the severity of the violations as follows:

<sup>1</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

## **BACKGROUND**

In 2015, California Governor Jerry Brown signed the CalABLE into law, establishing the California ABLE Act Board (SB 324, Pavley), the state's 529A Qualified ABLE Program, CalABLE (AB 449, Irwin), and opening up life-improving opportunities for people with disabilities and their families. The CalABLE Act has been heralded as one of the most important pieces of disability legislation since the Americans with Disabilities Act. The CalABLE Savings Plan opened to the public on December 18, 2018. The program enables Californians and out-of-state residents the ability to save for disability-related expenses by putting money in tax-advantaged investments while protecting their eligibility for means-tested public benefits programs. The Plan is managed by TIAA-CREF Tuition Financing, Inc. The California ABLE Act Board sets investment policies and oversees all activities of CalABLE.

The State Treasurer's Office (STO) performs human resources operations for the CalABLE.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CalABLE's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup>. The primary objective of the review was to determine if the CalABLE'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.

During the compliance review period, the CalABLE did not conduct examinations or permanent withhold actions.

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

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<sup>2</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

CRU examined the documentation that the CalABLE provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CalABLE did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CalABLE did not make any additional appointments during the compliance review period.

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

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

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

The CalABLE's PSC's were also reviewed.<sup>3</sup> It was beyond the scope of the compliance review to make conclusions as to whether the CalABLE's justifications for the contracts were legally sufficient. The review was limited to whether the CalABLE's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

During the compliance review period, the CalABLE did not have any employees who have significant "over-the-cap" leave balances.

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<sup>3</sup>If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

The CRU reviewed the CalABLE's Leave Activity and Correction Certification forms to verify that the CalABLE created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

The CalABLE did not have any employees with non-qualifying pay period transactions, did not authorize administrative time off, and did not track any temporary intermittent employees by actual time worked.

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

An exit conference was not held with the CalABLE to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CalABLE's written response on February 10, 2020, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Appointments**

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

During the period under review, August 1, 2018, through July 30, 2019, the CalABLE made one appointment. The CRU reviewed the appointment, which is listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	List	Permanent	Full Time	1

### **FINDING NO. 1 – Probationary Evaluations Were Not Timely**

**Summary:** The CalABLE did not prepare three probationary reports in a timely manner.

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Associate Governmental Program Analyst	List	1	3

**Criteria:** The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

**Severity:** Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that



the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

**Cause:** The CalABLE provides that the three probation reports were completed; however, they were not completed within 10 days after the end of each one-third period of the probationary period as required.

**Corrective Action:** Within 60 days of the date of this report, the CalABLE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### **Equal Employment Opportunity**

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

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like CalABLE, the EEO Officer may be the Personnel Officer.

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

## **FINDING NO. 2 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules**

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CalABLE EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CalABLE. The CalABLE also provided evidence of its efforts to promote EEO in its hiring and employment practices, and to increase its hiring of persons with disabilities.

### **Personal Services Contracts**

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

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

During the period under review, August 1, 2018, through July 30, 2019, the CalABLE had seven PSC's that were in effect. The CRU reviewed all seven, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notified
AKF Consulting LLC	529A Program Consulting	1/3/19-11/30/19	\$112,350	Yes	Yes
Meketa Investment Group, Inc.	529A Program Consulting	5/2/19-3/31/20	\$98,250	Yes	Yes
Municipal Resource Group LLC	Training Services	2/28/19-7/31/19	\$10,000	Yes	Yes
Municipal Resource Group LLC	Training Services	9/10/18-8/31/23	\$10,000	Yes	Yes
Sagent	Marketing Services	3/18/19-2/29/20	\$240,605	Yes	Yes
Spinelli, Donald &Nott	Legal Services	2/1/19-4/30/19	\$10,000	Yes	Yes
TIAA-CREF Tuition Financing, Inc.(Amendment)	Program Management	9/1/18-8/31/23	\$695,500	Yes	No

### **FINDING NO. 3 – Unions Were Not Notified of Personal Services Contract**

**Summary:** The CalABLE did not notify unions prior to amending one of seven PSC's.

**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 work that their members could perform.

**CalABLE Reply:** The CalABLE asserts that Government Code section 19132 does not explicitly state union notification is required for amendments to existing contracts.

**SPB Response:** Amendments to contracts are part of a contract. Therefore, appropriate union notification is required for all contracts and amendments prior to execution.

**Corrective Action:** Within 60 days of the date of this report, the CalABLE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### **Mandated Training**

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (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).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

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

appointment, the employee must be provided a minimum of 20 hours of leadership training on a biennial basis. (*Ibid.*)

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 CalABLE's mandated training program that was in effect during the compliance review period, August 1, 2017, through July 30, 2019.

#### **FINDING NO. 4 – Mandated Training Complied with Statutory Requirements**

The CalABLE provided ethics training to its one new filer within six months of appointment and, for one existing filer, "at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter." The CalABLE also provided supervisory training to its one new supervisor within 12 months of appointment. In addition, the CalABLE provided sexual harassment prevention training to its one new supervisor within six months of appointment, and sexual harassment prevention training to its one existing supervisor every two years. The CalABLE did not have any supervisors who were required to take CEA, manager, or biennial training during the compliance review period. Thus, the CalABLE complied with mandated training requirements within statutory timelines.

### **Compensation**

#### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>4</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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<sup>4</sup> "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

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

During the period under review, August 1, 2018, through July 30, 2019, the CalABLE made one appointment. The CRU reviewed the appointment to determine if the CalABLE applied salary regulations accurately and correctly processed the employee's compensation, which is listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	List Appointment	Permanent	Full Time	\$4975

**FINDING NO. 5 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found no deficiencies in the salary determinations that were reviewed. The CalABLE appropriately calculated and keyed the salary for the appointment and correctly determined the employee's anniversary date ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

## **Leave**

### **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, February 1, 2019, through April 30, 2019, the CalABLE reported one unit comprised of three 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
February 2019	001	3	3	0
March 2019	001	3	3	0
April 2019	001	3	3	0

**FINDING NO. 6 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CalABLE kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

## **Policy and Processes**

### **Nepotism**

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) In addition, there may be personal

relationships beyond this general definition that could be subject to these policies. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

#### **FINDING NO. 7 – Department Does Not Maintain a Current Written Nepotism Policy**

**Summary:** The CalABLE does not maintain a current written nepotism policy designed to prevent favoritism or bias in recruiting, hiring, or assigning of employees.

**Criteria:** It is the policy of the State of California to recruit, hire and assign all employees on the basis of fitness and merit in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204). All department policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

**Severity:** Very Serious. Departments must take proactive steps to ensure that the recruitment, hiring, and assigning of all employees is done on the basis of merit and fitness in accordance with civil service statutes. Maintaining a current written nepotism policy and disseminating it to all staff is the basis for achieving these ends.

**CalABLE Reply:** The STO states that pursuant to Welfare and Institutions Code section 4876 and 4877, subdivision (d), the STO is the chair of CalABLE, appoints the executive director, and determines the duties of the executive director and other staff as necessary. The CalABLE is required to comply with the STO departmental policies as described in the STO's Department Administrative Manual. The STO respectfully disagrees with this finding because the STO does maintain a current nepotism policy in the Department Administrative Manual that the CalABLE must follow.

**SPB Response:** CalABLE is a distinctly different agency than STO. STO's Nepotism policy does not specifically mention that it applies to CalABLE, nor could STO produce documentation that CalABLE's employees have



been specifically informed that CalABLE uses STO's Nepotism policy.

**Corrective Action:** Within 60 days of the date of this report, the CalABLE 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 1204. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### 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 subds. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401 subd. (a).)

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

In this case, the CalABLE did not employ volunteers during the compliance review period.

### **FINDING NO. 8 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU verified that the CalABLE provides notice to their employees to inform them of their rights and responsibilities under CA Workers' Compensation Law. The CalABLE did not receive any workers' compensation claims during the review period.

### Performance Appraisals

According to Government Code section 19992.2 subsection (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 one permanent CalABLE employee to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

Classification	Date Performance Appraisals Due
Staff Services Manager I	8/14/18

#### **FINDING NO. 9 – Performance Appraisal Policy and Processes Complied with Civil Service Laws, Regulations and CalHR Policies and Guidelines**

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

### **DEPARTMENTAL RESPONSE**

The CalABLE’s response is attached as Attachment 1.

### **SPB REPLY**

Based upon the CalABLE’s written response, the CalABLE will comply with the corrective actions specified in these report findings. Within 60 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.