



COMPLIANCE REVIEW REPORT

COLORADO RIVER BOARD

Compliance Review Unit
State Personnel Board
January 19, 2024

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INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Colorado River Board (CRB) 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 |
|------------------------------|---------------|--|
| Equal Employment Opportunity | In Compliance | Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules |
| Mandated Training | Very Serious | Ethics Training Was Not Provided for All Filers |
| Mandated Training | Very Serious | Sexual Harassment Prevention Training Was Not Provided for All Employees |
| Compensation and Pay | Very Serious | Incorrect Authorization of Bilingual Pay |
| Compensation and Pay | In Compliance | Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines |
| Leave | In Compliance | Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Leave | In Compliance | Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Leave | Serious | Department Did Not Retain Employee Time and Attendance Records |
| Policy | Serious | Performance Appraisals Were Not Provided to All Employees |

| Area | Severity | Finding |
|--------|---------------|---|
| Policy | In Compliance | Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Policy | Very Serious | Department Does Not Maintain a Current Written Nepotism Policy |

BACKGROUND

The CRB is charged with protecting the interests and rights of the State of California, its agencies and citizens, in the water and power resources of the Colorado River System. The CRB represents the State of California and its members in discussions and negotiations with the Colorado River Basin States, federal, state, and local governmental agencies, and the Republic of Mexico.

When fully staffed, the CRB has 14 employees, 8 of which are technical staff, 6 of which are administrative staff. Technical staff monitor hydrologic conditions, participate in multi-stakeholder environmental programs, and coordinate on a daily basis with intrastate and interstate stakeholders on the management of the resources of the Colorado River. Administrative staff ensure compliance with state rules and regulations, plan monthly board meetings, procure goods and services as needed for operation of the agency, and manage CRB's budget.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CRB's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if the CRB's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

The CRB did not conduct any examinations or permanent withhold actions during the compliance review period.

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

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

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

The CRU reviewed specific documentation for the following personnel functions related to compensation and pay: bilingual pay, and monthly pay differentials.

The review of the CRB'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.

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

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

The CRU reviewed the CRB'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 CRB's units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the CRB employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CRB positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

During the compliance review period, the CRB did not have any employees with non-qualifying pay period transactions.

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

On December 19, 2023, an exit conference was held with the CRB to explain and discuss the CRU’s initial findings and recommendations. The CRU received and carefully reviewed the CRB’s written response on December 28, 2023, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

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 CRB, 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).)

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| IN COMPLIANCE | FINDING NO. 1 | EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES |
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CRB’s 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 CRB. The CRB also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Mandated Training

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

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

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

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

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the CRB’s mandated training program that was in effect during the compliance review period, February 1, 2021, through January 31, 2023. The CRB’s supervisory training was found to be in compliance, while the CRB’s ethics training and sexual harassment prevention training were found to be out of compliance.

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| SEVERITY: VERY SERIOUS | FINDING NO. 2 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS |
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Summary: The CRB did not provide ethics training to 11 of 13 existing filers. In addition, the CRB did not provide ethics training to three of four new filers within six months of their appointment.

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

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

Cause: The CRB states that it did not have a tracking mechanism to ensure training was provided timely and lost key administrative staff support during the reporting period.

Corrective Action: Within 90 days of this report, the CRB must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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| SEVERITY: VERY SERIOUS | FINDING NO. 3 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES |
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Summary: The CRB did not provide sexual harassment prevention training to one of four existing supervisors every two years. In addition, the CRB did not provide sexual harassment prevention training to one of six existing non-supervisors every two years.

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

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

Cause: The CRB states that it did not have a tracking mechanism to ensure training was provided timely and lost key administrative staff support during the reporting period.

Corrective Action: Within 90 days of the date of this report, the CRB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that all employees are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Compensation and Pay

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, February 1, 2022, through January 31, 2023, the CRB issued bilingual pay to one employee. The CRU reviewed one bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

| Classification | Collective Bargaining Identifier | Time Base | No. of Appts. |
|--|----------------------------------|-----------|---------------|
| Associate Governmental Program Analyst | R01 | Full Time | 1 |

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| SEVERITY: VERY SERIOUS | FINDING NO. 4 INCORRECT AUTHORIZATION OF BILINGUAL PAY |
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Summary: The CRU found one error in the bilingual pay authorization reviewed:

| Classification | Description of Finding | Criteria |
|--|---|---------------------|
| Associate Governmental Program Analyst | Department failed to supply supporting documentation demonstrating the need for bilingual services. | Pay Differential 14 |

Criteria: An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and

time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

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

Cause: The CRB states that it maintained copies of the position statement, bilingual authorization and bilingual frequency reporting; however, it did not maintain a record of the justification used to validate the bilingual position designation.

Corrective Action: Within 90 days of the date of this report, the CRB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, February 1, 2022, through January 31, 2023, the CRB authorized one pay differential.² The CRU reviewed the pay differential to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

| Classification | Pay Differential | Monthly Amount |
|------------------------------------|------------------|----------------|
| Principal Engineer Water Resources | 433 | 2% |

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| IN COMPLIANCE | FINDING NO. 5 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 CRB authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee’s time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days³ worked and paid absences⁴, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

² For the purposes of CRU’s review, only monthly pay differentials were selected for review at this time.

³ For example, two hours or ten hours count as one day.

⁴ For example, vacation, sick leave, compensating time off, etc.

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 CRB had two positive paid employees whose hours were tracked. The CRU reviewed all 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 |
|--|--------------|-------------------------|-------------|
| Executive Director, Colorado River Board | Intermittent | 07/01/2021 – 06/30/2022 | 660 Hours |
| Staff Services Analyst | Intermittent | 07/01/2021 – 06/30/2022 | 1500 Hours |

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| IN COMPLIANCE | FINDING NO. 6 | POSITIVE PAID EMPLOYEES’ TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES |
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CRB provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also be granted

when employees need time off for reasons such as blood or organ donation, extreme weather preventing safe travel to work, states of emergency, voting, and when employees need time off to attend special events. (*Ibid.*)

During the period under review, November 1, 2021, through October 31, 2022, the CRB authorized two ATO transactions. The CRU reviewed all of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

| Classification | Time Frame | Amount of Time on ATO |
|--|--|-----------------------|
| Associate Governmental Program Analyst | 03/14/2022 - 03/18/2022 | 5 Days |
| Staff Services Manager I | 01/10/2022 - 1/14/2022, 01/18/2022 - 01/21/2022 | 9 Days |

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| IN COMPLIANCE | FINDING NO. 7 | ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES |
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CRB provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

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

occurred. *(Ibid.)* Accurate and timely attendance reporting is required of all departments and is subject to audit. *(Ibid.)*

During the period under review, August 1, 2022, through October 31, 2022, the CRB reported one unit comprised of eight active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

| Timesheet Leave Period | Unit Reviewed | No. of Employees | No. of Timesheets Reviewed | No. of Missing Timesheets |
|------------------------|---------------|------------------|----------------------------|---------------------------|
| August 2022 | 100 | 8 | 7 | 1 |
| September 2022 | 100 | 8 | 7 | 1 |
| October 2022 | 100 | 8 | 7 | 1 |

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| SEVERITY: SERIOUS | FINDING NO. 8 DEPARTMENT DID NOT RETAIN EMPLOYEE TIME AND ATTENDANCE RECORDS |
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Summary: The CRB did not retain one of eight timesheets from the August 2022 pay period, one of eight timesheets from the September 2022 pay period, and one of eight timesheets from the October 2022 pay period.

Criteria: Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.) Such records shall be kept in the form and manner prescribed by the Department of Finance in connection with its powers to devise, install and supervise a modern and complete accounting system for state agencies. *(Ibid.)*

Severity: Serious. The CRB failed to retain employee time and attendance records for each employee. Therefore, the department was unable to reconcile timesheets against their leave accounting system at the conclusion of the pay period, which could have affected employee leave accruals and compensation.

Cause: The CRB states that it did not have a tracking mechanism to ensure all timesheets were retained and lost key administrative staff support during the reporting period.

Corrective Action: Within 90 days of the date of this report, the CRB must submit to

the SPB a written corrective action response which addresses the corrections the department will implement to ensure all timesheets are accounted for and processed in conformity with California Code of Regulations, title 2, section 599.665. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Policy and Processes

Nepotism

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

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| SEVERITY: VERY SERIOUS | FINDING NO. 9 | DEPARTMENT DOES NOT MAINTAIN A CURRENT WRITTEN NEPOTISM POLICY |
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Summary: The CRB does not maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees.

Criteria: 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. (Human Resources Manual Section 1204). All department nepotism policies shall include

six specific components which emphasize that nepotism is antithetical to merit-based civil service and include definitions and prohibitions integral to upholding the merit system. (Cal. Code Regs., tit. 2, § 87.)

Severity: Very Serious. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. Departments must take proactive steps to ensure that the hiring, transferring, and promoting 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 its dissemination to all staff, is the cornerstone for achieving these outcomes.

Cause: The CRB states that it utilized the Employment Development Department’s nepotism policy instead of utilizing one specific to the CRB.

Corrective Action: Within 90 days of the date of this report, the CRB must submit to the SPB a written corrective action response which includes an updated nepotism policy which contains requirements outlined in Human Resources Manual section 1204, and documentation demonstrating that it has been distributed to all staff.

Workers’ Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers’ compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee’s “personal physician,” as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work-related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers’ compensation coverage is not mandatory for volunteers as it is for employees. (*Ibid.*) This is specific to the legally uninsured state departments participating in the

Master Agreement. (*Ibid.*) Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*)

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

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| IN COMPLIANCE | FINDING NO. 10 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 CRB 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 CRB 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 four permanent CRB employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

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| SEVERITY: SERIOUS | FINDING NO. 11 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES |
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Summary: The CRB did not provide annual performance appraisals to four of four employees reviewed after the completion of the employee's probationary period.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve

calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

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

Cause: The CRB states that it did not have a tracking mechanism to ensure performance appraisals were completed and lost key administrative staff support during the reporting period.

Corrective Action: Within 90 days of the date of this report, the CRB 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 CRB departmental response is attached as Attachment 1.

SPB REPLY

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

MEMORANDUM

DATE: December 22, 2023
TO: State Personnel Board, Policy & Compliance Review Division
FROM: Jessica Neuwerth, Deputy Director, Colorado River Board
Subject: Colorado River Board Responses to 2023 Compliance Review Report

This memorandum serves as a response to the findings of the 2023 Compliance Review Report for the Colorado River Board (CRB). The Department takes compliance issues very seriously and has taken steps to ensure both current and future compliance with the State Personnel Board (SPB) audit findings.

Finding No. 2 – Ethics Training Was Not Provided for All Filers

The CRB did not provide ethics training to 11 of 13 existing filers. In addition, the CRB did not provide ethics training to three of four new filers within six months of their appointment.

Cause: The CRB did not have a tracking mechanism to ensure training was provided timely and lost key administrative staff support during the reporting period.

Finding No. 3 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

The CRB did not provide sexual harassment prevention training to one of four existing supervisors every two years. In addition, the CRB did not provide sexual harassment prevention training to one of six existing non-supervisors every two years.

Cause: The CRB did not have a tracking mechanism to ensure training was provided timely and lost key administrative staff support during the reporting period.

Finding No. 4 – Incorrect Authorization of Bilingual Pay

The CRU found one error in the bilingual pay authorization reviewed.

Cause: The CRB did not maintain records of the justification used for the bilingual designation. The CRB did maintain copies of the position statement, bilingual authorization and bilingual frequency reporting.

Finding No. 8 – Department Did Not Retain Employee Time and Attendance Records

The CRB did not retain one of eight timesheets from each of the following time periods: August 2022, September 2022, and October 2022.

Cause: The CRB did not have a tracking mechanism to ensure all timesheets were retained and lost key administrative staff support during the reporting period.

Finding No. 9 – Department Does Not Maintain A Current Written Nepotism Policy

The CRB does not maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees.

Cause: During this reporting period, the CRB utilized the Employment Development Department’s Nepotism Policy.

Finding No. 11 – Performance Appraisals Were Not Provided to All Employees

The CRB did not provide annual performance appraisals to four of four employees reviewed after the completion of the employee’s probationary period.

Cause: The CRB recognizes the importance of completing performance appraisals for all employees. The CRB did not have a tracking mechanism to ensure performance appraisals were completed and lost key administrative staff support during the reporting period.

If you have any questions or need additional information, please contact Yuanyuan Myint at ymyint@crb.ca.gov