



# **COMPLIANCE REVIEW REPORT**

## **DEPARTMENT OF CONSUMER AFFAIRS**

Compliance Review Unit  
State Personnel Board  
January 12, 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 Department of Consumer Affairs (DCA) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed <sup>1</sup>
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
Appointments	Very Serious	Unlawful Appointment
Appointments	In Compliance	Unlawful Appointment Investigations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts <sup>2</sup>

<sup>1</sup> Repeat finding. The May 14, 2020, DCA compliance review report identified that the DCA did not provide 3 probationary reports of performance for 3 of the 59 appointments reviewed, and 7 probationary evaluations were not provided in a timely manner.

<sup>2</sup> Repeat finding. The May 14, 2020, DCA compliance review report identified that the DCA did not notify unions prior to entering into 3 of 20 PSC's.

Area	Severity	Finding
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers <sup>3</sup>
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Supervisors <sup>4</sup>
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, Board Rules, and/or CalHR Policies and Guidelines <sup>5</sup>
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay <sup>6</sup>
Compensation and Pay	Very Serious	Incorrect Authorization of Pay Differentials
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay
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 Certify That All Leave Records Were Reviewed

<sup>3</sup> Repeat finding. The May 14, 2020, DCA compliance review report identified that the DCA did not provide ethics training to 670 of 939 existing filers and did not provide ethics training to 191 of 263 new filers within 6 months of their appointment.

<sup>4</sup> Repeat finding. The May 14, 2020, DCA compliance review report identified that the DCA did not provide sexual harassment prevention training to 34 of 118 new supervisors within 6 months of their appointment and did not provide sexual harassment prevention training to 89 of 349 existing supervisors every 2 years.

<sup>5</sup> Repeat finding. The May 14, 2020, DCA compliance review report identified one error the DCA's determination of employee compensation.

<sup>6</sup> Repeat finding. The May 14, 2020, DCA Compliance Review Report identified 12 errors in the DCA's authorization of bilingual pay.

Area	Severity	Finding
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 <sup>7</sup>

## **BACKGROUND**

The DCA protects California consumers by providing a safe and fair marketplace through oversight, enforcement, and licensure. The DCA consists of 37 boards and bureaus which regulate over 3.9 million licenses in more than 250 various professions and occupations. The DCA's regulatory boards and bureaus protect, educate, and empower California consumers by investigating complaints and disciplining license holders who violate practice requirements. The DCA employs 4,167 employees and has approximately 100 field offices throughout the state of California.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the DCA's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>8</sup>. The primary objective of the review was to determine if the DCA'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.

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<sup>7</sup> Repeat finding. The May 14, 2020, DCA compliance review report identified that the DCA did not provide annual performance appraisals to 29 of 36 employees reviewed after the completion of the employee's probationary period.

<sup>8</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

A cross-section of the DCA'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 DCA provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the DCA's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the DCA's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the DCA provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CRU also reviewed the DCA's policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations. Additionally, the DCA did not make any additional appointments during the compliance review period.

The DCA's appointments were also selected for review to ensure the DCA applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the DCA 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., hire above minimum (HAM) requests, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments.

During the compliance review period, the DCA did not issue red circle rate requests and arduous pay.

The review of the DCA'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 DCA's PSC's were also reviewed.<sup>9</sup> It was beyond the scope of the compliance review to make conclusions as to whether the DCA's justifications for the contracts were legally sufficient. The review was limited to whether the DCA's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The DCA'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 DCA'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 DCA'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 DCA'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 DCA employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of DCA 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 DCA's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the DCA's policies and processes adhered to procedural requirements.

On November 17, 2023, an exit conference was held with the DCA to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DCA's written response on December 22, 2023, which is attached to this final compliance review report.

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<sup>9</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.



## 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, July 1, 2022, through December 31, 2022, the DCA conducted 32 examinations. The CRU reviewed 14 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Human Resources Chief	CEA	Statement of Qualifications (SOQ) <sup>10</sup>	7/19/22	3
CEA B, Legislation Chief (Contractors State License Board)	CEA	SOQ	10/28/22	4

<sup>10</sup> 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.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Consumer Services Representative	Departmental Open	Training and Experience (T&E) <sup>11</sup>	10/17/22	15
Deputy Chief, Investigations & Enforcement, DCA	Departmental Open	T&E	Continuous	4
Inspector II	Departmental Open	T&E	Continuous	10
Inspector III	Departmental Promotional	T&E	Continuous	1
Inspector, Board of Pharmacy	Departmental Open	T&E	Continuous	28
Medical Consultant (Enforcement), Medical Board of CA	Departmental Open	SOQ	Continuous	4
Office Services Supervisor II	Departmental Promotional	T&E	9/15/22	7
Private Postsecondary Education Specialist	Servicewide Open	T&E	Continuous	7
Structural Pest Control Board Specialist	Departmental Open	T&E	Continuous	17
Supervising Investigator I, DCA	Departmental Promotional	T&E	Continuous	8
Supervising Nursing Education Consultant	Departmental Open	Education and Experience <sup>12</sup>	Continuous	3
Supervising Special Investigator I (Non Peace Officer)	Departmental Promotional	T&E	Continuous	8

<b>IN COMPLIANCE</b>	<b>FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRU reviewed four departmental promotional and ten open examinations which the DCA administered in order to create eligible lists from which to make appointments. The DCA published and distributed examination bulletins containing the required information for all examinations. Applications received by the DCA were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process.

<sup>11</sup> 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.

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 DCA conducted during the compliance review period.

Permanent Withhold Actions

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

During the period under review, July 1, 2022, through December 31, 2022, the DCA conducted nine permanent withhold actions. The CRU reviewed seven of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Associate Governmental Program Analyst	9PB04	4/28/22	4/28/23	Failed to Meet Minimum Qualifications (MQs)
Associate Governmental Program Analyst	9PB04	8/25/22	8/25/23	Failed to Meet MQs
Information Officer I (Specialist)	1PB3101	10/28/22	10/28/23	Failed to Meet MQs

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Investigator	1PB02	9/8/22	9/8/23	Failed to Meet MQs
Program Technician II	0PBCS	9/10/22	9/10/24	Failed to Meet MQs
Staff Services Analyst	7PB15	4/4/22	4/4/23	Failed to Meet MQs
Staff Services Analyst	7PB34	9/26/22	9/26/23	Failed to Meet MQs

<b>IN COMPLIANCE</b>	<b>FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRU found no deficiencies in the permanent withhold actions undertaken by the department during the compliance review period.

### **Appointments**

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

During the period under review, February 1, 2022, through July 31, 2022, the DCA made 404 appointments. The CRU reviewed 59 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
CEA A, Chief of Legislative Affairs	CEA	Temporary	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Air Quality Engineer II, DCA	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Athletic Inspector	Certification List	Permanent	Intermittent	1
Attorney	Certification List	Permanent	Full Time	1
Consumer Services Representative	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Information Technology Supervisor II	Certification List	Permanent	Full Time	1
Inspector I, DCA	Certification List	Permanent	Full Time	1
Inspector II, DCA	Certification List	Permanent	Full Time	1
Investigator	Certification List	Permanent	Full Time	1
Labor Relations Manager I	Certification List	Permanent	Full Time	1
Labor Relations Specialist	Certification List	Permanent	Full Time	1
Management Services Technician	Certification List	Permanent	Full Time	1
Office Assistant (General)	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Personnel Specialist	Certification List	Permanent	Full Time	1
Program Representative I, DCA	Certification List	Permanent	Full Time	1
Program Representative II, DCA	Certification List	Permanent	Full Time	1
Program Technician	Certification List	Permanent	Full Time	1
Research Data Analyst II	Certification List	Permanent	Full Time	1
Research Data Specialist I	Certification List	Permanent	Full Time	1
Research Data Specialist II	Certification List	Permanent	Full Time	2
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Senior Personnel Specialist	Certification List	Permanent	Full Time	1
Special Investigator	Certification List	Permanent	Full Time	1
Staff Management Auditor	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Student Assistant – Engineering and Architectural Sciences	Certification List	Temporary	Intermittent	1
Supervising Investigator I, DCA	Certification List	Permanent	Full Time	1
Supervising investigator II, DCA	Certification List	Permanent	Full Time	1
Supervising Management Auditor	Certification List	Permanent	Full Time	1
Supervising Nursing Education Consultant	Certification List	Permanent	Full Time	1
Supervising Program Technician I	Certification List	Permanent	Full Time	1
Supervising Program Technician II	Certification List	Permanent	Full Time	1
Supervising Program Technician III	Certification List	Permanent	Full Time	1
Supervising Special Investigator I (Non-Peace Officer)	Certification List	Permanent	Full Time	1
Athletic Inspector	Retired Annuitant	Temporary	Intermittent	1
Attorney III	Retired Annuitant	Temporary	Intermittent	1
Medical Consultant (Enforcement) Medical Board of California	Reinstatement	Permanent	Intermittent	1
Special Investigator	Reinstatement	Permanent	Full Time	1
Examination Proctor	Temporary	Temporary	Intermittent	1
Seasonal Clerk	Temporary	Temporary	Intermittent	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Information Technology Manager I	Transfer	Permanent	Full Time	1
Investigator	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Half Time	1
Program Manager I, DCA	Transfer	Limited Term	Full Time	1
Program Representative II, DCA	Transfer	Permanent	Full Time	1
Staff Service Analyst (General)	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED</b>
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**Summary:** The DCA did not provide 21 probationary reports of performance for 9 of the 59 appointments reviewed by the CRU, as reflected in the table below. This is the second consecutive time this has been a finding for the DCA.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Accounting Officer (Specialist)	Certification List	1	2
Information Technology Specialist I	Certification List	1	3
Program Representative I, DCA	Certification List	1	1
Senior Accounting Officer (Specialist)	Certification List	1	2
Special Investigator	Certification List	1	3
Supervising Program Technician I	Certification List	1	1
Information Technology Manager I	Transfer	1	3
Investigator	Transfer	1	3
Staff Services Manager I	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 DCA states that its HR Liaisons failed to distribute a listing of employees who are due a probationary evaluation to managers and supervisors, who in turn failed to complete the probationary evaluations.

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



<b>SEVERITY: TECHNICAL</b>	<b>FINDING NO. 4</b>	<b>DEPARTMENT DID NOT PROVIDE BENEFIT INFORMATION IN ACCORDANCE WITH CIVIL SERVICE LAW</b>
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**Summary:** The DCA did not memorialize that the applicant received an explanation of benefits, prior to appointment, in a formal offer of employment 10 times out of the 59 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 deciding whether to accept or decline the appointment.

**Cause:** The DCA states that the benefits information was inadvertently removed by some HR Liaisons.

**Corrective Action:** Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with the explanation of benefits requirements of Government Code section 19057.2. Copies of relevant documentation (including a template letter) demonstrating that the corrective action has been implemented must be included with the corrective action response.

<b>SEVERITY: TECHNICAL</b>	<b>FINDING NO. 5</b>	<b>APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME</b>
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**Summary:** Of the 59 appointments reviewed, the DCA did not retain 5 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 DCA states that appropriate measures were not taken by human resources staff to ensure that all NOPAs were filed and maintained appropriately.

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

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 6 UNLAWFUL APPOINTMENT</b>
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**Summary:** The DCA failed to ensure that all appointments are based on merit and comply with the laws and rules governing equitable administration of the civil service merit system.

The DCA made one appointment utilizing the certification list for the Information Technology Associate. The hired candidate did not meet the MQs for the classification at the time of appointment, as they possessed only 12 of the required 18 months of experience in order to meet Pattern I of the Information Technology Associate MQs.

The appointment will be allowed to stand pursuant to California Code of Regulations, title 2, section 243.2, as there was no evidence that either the department or the employee engaged in other than good faith, and more than one year has elapsed.

**Criteria:** Pursuant to Government Code section 18931, subdivision (a), the Board shall establish minimum qualifications for determining the fitness and qualifications of employees for each class of position. In accordance with California Code of Regulations, title 2, section 249.4, appointing powers shall verify that the candidate satisfies the minimum qualifications of the classification before the candidate is appointed.

**Severity:** Very Serious. An unlawful appointment provides the employee with an unfair and unearned appointment advantage over other employees whose appointments have been processed in compliance with the requirements of civil service law. Unlawful appointments which are not corrected also create appointment inconsistencies that jeopardize the equitable administration of the civil service merit system.

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If “bad faith” is determined on the part of the appointing power, civil or criminal action may be initiated. Disciplinary action may also be pursued against any officer or employee in a position of authority who directs any officer or employee to take action in violation of the appointment laws. If bad faith is determined on the part of the employee, the employee may be required to reimburse all compensation resulting from the unlawful appointment and may also be subject to disciplinary action. In this case, the appointment will stand as more than one year has elapsed and the candidate accepted the job offer in good faith.

**Cause:** The DCA states that the human resources staff who reviewed the employee’s application incorrectly interpreted the employee’s experience as meeting the minimum qualifications for the classification.

**Corrective Action:** Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate that the department will improve its hiring practices. Copies of relevant

documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Unlawful Appointment Investigations

Departments that entered into an Unlawful Appointment Investigation Delegation Agreement between their executive management and the CalHR have the authority to manage their own unlawful appointment investigations. The Delegation Agreement defines the reporting requirements, responsibilities, obligations, and expectations of the department in this process. The delegation agreement mandates that departments maintain up-to-date records on each unlawful appointment investigation including, at a minimum: the specific facts surrounding the appointment in question, a description of the circumstances which may have resulted in the unlawful appointment, copies of relevant appointment documents, and any documentation which may demonstrate that the agency and employee acted in good faith when the appointment was offered and accepted. Departments must also maintain a tracking system to monitor its unlawful appointments.

During the period under review, January 1, 2020, through January 31, 2023, the DCA conducted two unlawful appointment investigations. The CRU reviewed both of those unlawful appointment investigations, which are listed below:

Classification	Date Investigation Initiated	Date Investigation Concluded
Office Technician (Typing)	10/8/20	11/20/20
Program Technician II	11/10/20	12/21/20

<b>IN COMPLIANCE</b>	<b>FINDING NO. 7 UNLAWFUL APPOINTMENT INVESTIGATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The DCA’s unlawful appointment investigations were found to comply with the rules set forth in the signed Delegation Agreement with the CalHR.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing,

processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

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

IN COMPLIANCE	<b>FINDING NO. 8</b> <b>EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES</b>
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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 DCA'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 DCA. The DCA also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

**Personal Services Contracts**

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state's authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC's achieve cost savings for the state. PSC's that are of

a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

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

During the period under review, July 1, 2022, through December 31, 2022, the DCA had 52 PSC's that were in effect. The CRU reviewed 21 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Behavior Analysis Training, Inc.	Training	\$48,875	Yes	Yes
Colonial Van & Storage, Inc.	Moving	\$3,447	Yes	Yes
Corrine L Jikaku	BAR Driver	\$9,999	Yes	Yes
eScribers, LLC	Audio and Video Transcription	\$10,200	Yes	Yes
General Logistics Systems US, Inc.	Small Package Delivery	\$167,000	Yes	Yes
Gutierrez Preciado & House, LLP	Outside Counsel	\$75,000	Yes	Yes
Kennedy Court Reporters, Inc	CBA Court Reporting	\$4,170	Yes	Yes
Kennedy Court Reporters, Inc	CBA Court Reporting	\$3,195	Yes	Yes
La Verne Power Equipment, Inc	Generator Repair	\$17,160	Yes	Yes
Mindy Scouler	BAR Driver	\$9,999	Yes	Yes
National Association of State Boards of Geology	National Examination	\$493,650	Yes	Yes
National Date Stamp Corporation	Stamping Machine Maintenance	\$7,040	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Pacific Coast Technologies	Mailing Machine Maintenance	\$4,160	Yes	Yes
Rescue Education	CPR Training	\$21,063	Yes	No
RMA Consulting Group, Inc.	AB 107 Project Manager	\$259,000	Yes	Yes
Sew 2 Cute Embroidery Shop, LLC	Uniform Patches and Embroidery	\$21,000	Yes	Yes
Shaw Law Group PC	Pre-Existing Training	\$1,800	Yes	Yes
Shred City, Inc.	Shredding Services	\$26,995	Yes	Yes
Skillsets Online Corporation	Pre-Existing Training	\$8,995	Yes	Yes
Viking Shred, LLC	Confidential Document Destruction	\$1,656	Yes	No
Wind Dancer Moving Company	Moving and Disposal	\$1,965	Yes	Yes

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 9 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS</b>
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**Summary:** The DCA did not notify unions prior to entering into 2 of the 21 PSC’s reviewed. This is the second consecutive time this has been a finding for the DCA.

**Criteria:** Before a state agency executes a contract or amendment to a contract for personal services conditions specified within Government Code section 19130, subdivision (b), the agency shall notify all organizations that represent state employees who perform or could perform the type of work that is called for within the contract, unless exempted under Government Code section 19132, subdivision (b)(1). (Cal. Code Regs., tit. 2, § 547.60.2.)

**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 DCA states that business services staff inadvertently notified the unions after contracts were awarded.

**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. Within 90 days of the date of this report, the DCA 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 California Code of Regulations section 547.60.2. 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) 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 DCA's mandated training program that was in effect during the compliance review period, January 1, 2021, through December 31, 2022.

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 10 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS</b>
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**Summary:** The DCA did not provide ethics training to 107 of 1,706 existing filers. In addition, the DCA did not provide ethics training to 20 of 213 new filers within six months of their appointment. This is the second consecutive time this has been a finding for the DCA.

**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 DCA states that their Learning Management System does not currently contain a data field that identifies who must take ethics training.

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

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 11 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS</b>
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**Summary:** The DCA did not provide sexual harassment prevention training to 2 of 38 new supervisors within 6 months of their appointment. This is the second consecutive time this has been a finding for the DCA.

**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 DCA states that its learning management system did not have all the search parameters or data tracking required to comprehensively track compliance. Additionally, due to the EEO Office's management and staff turnover, a formalized sexual harassment prevention training compliance process was not fully established to bridge gaps in the automated process.

**Corrective Action:** Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors are provided supervisory training within twelve months of appointment as required by Government Code section 19995.4. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

**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 rate<sup>13</sup> upon appointment depending on the appointment type, the employee’s state employment and pay history, and tenure.

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

During the period under review, February 1, 2022, through July 31, 2022, the DCA made 59 appointments. The CRU reviewed 28 of those appointments to determine if the DCA applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$4,701
Air Quality Engineer II, DCA	Certification List	Permanent	Full Time	\$10,138
Associate Accounting Analyst	Certification List	Permanent	Full Time	\$5,885
Attorney	Certification List	Permanent	Full Time	\$6,979

<sup>13</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).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Consumer Services Representative	Certification List	Permanent	Full Time	\$4,180
Information Technology Specialist II	Certification List	Permanent	Full Time	\$9,591
Information Technology Supervisor II	Certification List	Permanent	Full Time	\$7,593
Investigator	Certification List	Permanent	Full Time	\$9,087
Labor Relations Manager I	Certification List	Permanent	Full Time	\$7,781
Office Technician (Typing)	Certification List	Permanent	Full Time	\$4,113
Personnel Specialist	Certification List	Permanent	Full Time	\$3,995
Program Representative I, DCA	Certification List	Permanent	Full Time	\$5,360
Program Representative II (Specialist), DCA	Certification List	Permanent	Full Time	\$6,514
Research Data Specialist I	Certification List	Permanent	Full Time	\$6,518
Research Data Specialist II	Certification List	Permanent	Full Time	\$7,772
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$5,383
Special Investigator	Certification List	Permanent	Full Time	\$5,758
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$4,700
Staff Services Manager I	Certification List	Permanent	Full Time	\$7,954
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$7,765
Supervising Investigator I, DCA	Certification List	Permanent	Full Time	\$9,541
Supervising Investigator II, DCA	Certification List	Permanent	Full Time	\$10,223
Supervising Program Technician II	Certification List	Permanent	Full Time	\$3,908
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,935
Information Technology Manager I	Transfer	Permanent	Full Time	\$11,231
Office Technician (Typing)	Transfer	Permanent	Half Time	\$1,997
Program Manager I, DCA	Transfer	Limited Term	Full Time	\$8,699
Program Representative II, DCA	Transfer	Permanent	Full Time	\$7,473

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 12 INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT</b>
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**Summary:** The CRU found the following errors in the DCA’s determination of employee compensation:

Classification	Description of Findings	Criteria
Accounting Analyst	Incorrect salary determination resulting in the employee being undercompensated.	Cal. Code Regs., tit.2, section 599.675
Supervising Program Technician II	Incorrect salary determination resulting in the employee being undercompensated.	Cal. Code Regs., tit.2, section 599.675

**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 DCA 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 DCA attributes these findings to human error.

**Corrective Action:** Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The DCA must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, February 1, 2022, through July 31, 2022, the DCA employees made 104 alternate range movements within a classification. The CRU reviewed 50 of those alternate range movements to determine if the DCA 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)	No. of Positions
Information Technology Associate	B	C	Full Time	\$5,804	1
Information Technology Associate	C	D	Full Time	\$5,822	2
Information Technology Specialist I	A	B	Full Time	\$7,697	1
Information Technology Specialist I	A	B	Full Time	\$8,183	1
Investigator	B	C	Full Time	\$7,985	1
Investigator	B	C	Full Time	\$6,572	1
Management Services Technician	A	B	Full Time	\$3,981	1
Management Services Technician	A	B	Full Time	\$3,805	1
Management Services Technician	A	B	Full Time	\$3,448	1
Office Assistant (General)	A	B	Full Time	\$2,988	1
Office Assistant (Typing)	A	B	Full Time	\$3,047	1
Personnel Specialist	B	C	Full Time	\$4,383	1
Personnel Specialist	B	C	Full Time	\$4,696	1
Personnel Specialist	B	C	Full Time	\$4,277	1
Special Investigator	A	B	Full Time	\$5,758	2
Special Investigator	B	C	Full Time	\$7,365	1
Special Investigator	B	C	Full Time	\$7,668	14

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)	No. of Positions
Special Investigator	B	C	Full Time	\$7,512	2
Special Investigator	B	C	Full Time	\$7,551	1
Staff Services Analyst	A	B	Full Time	\$3,992	1
Staff Services Analyst	A	B	Full Time	\$4,280	1
Staff Services Analyst	A	B	Full Time	\$4,458	1
Staff Services Analyst	A	B	Full Time	\$4,536	2
Staff Services Analyst	B	C	Full Time	\$4,476	7
Staff Services Analyst	B	C	Full Time	\$4,613	1
Staff Services Analyst	B	C	Full Time	\$4,906	2

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 13 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES</b>
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**Summary:** The CRU found the following error in the DCA's determination of employee compensation. This is the second consecutive time this has been a finding for the DCA.

Classification	Description of Finding	Criteria
Personnel Specialist	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 DCA 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 DCA states that human resources staff made an error that led to an incorrect salary determination.

**Corrective Action:** Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The DCA must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### Hiring Above Minimum Requests

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

Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum



of understanding shall be controlling without further legislative action.<sup>14</sup> (Gov. Code, § 19836, subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

Appointing authorities may request/approve HAMs for former exempt employees appointed to a civil service class. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be competitive with the employee’s salary in the exempt appointment. (*Ibid.*) For example, an employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. (*Ibid.*)

During the period under review, February 1, 2022, through July 31, 2022, the DCA authorized seven HAM requests. The CRU reviewed six of those authorized HAM requests to determine if the DCA correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates’ extraordinary qualifications which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Investigator	Certification List	New to State	\$5,003 - \$9,087	\$8,201
Investigator	Certification List	New to State	\$5,003 - \$9,087	\$5,566
Investigator	Certification List	New to State	\$5,003 - \$9,087	\$9,087

<sup>14</sup> Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Investigator	Certification List	New to State	\$5,003 - \$9,087	\$9,087
Special Investigator	Certification List	New to State	\$5,045 - \$7,854	\$7,854
Staff Services Manager I	Certification List	New to State	\$6,403 - \$7,954	\$7,954

<b>IN COMPLIANCE</b>	<b>FINDING NO. 14 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b>
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The CRU found that the HAM requests the DCA made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

### Bilingual Pay

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

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

During the period under review, February 1, 2022, through July 31, 2022, the DCA issued bilingual pay to 67 employees. The CRU reviewed 27 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.
Associate Governmental Program Analyst	R01	Full Time	2
Consumer Services Representative	R01	Full Time	1

Classification	Bargaining Unit	Time Base	No. of Appts.
Enforcement Representative I, Contractors State License Board (Non-Peace Officer)	R07	Full Time	1
Information Officer II	S01	Full Time	1
Management Services Technician	R01	Full Time	3
Office Technician (Typing)	R04	Full Time	4
Program Manager II, DCA	M07	Full Time	1
Program Representative I, DCA	R07	Full Time	5
Program Representative II (Specialist), DCA	R07	Full Time	2
Program Technician II	R04	Full Time	3
Special Investigator	R07	Full Time	3
Television Specialist	R01	Full Time	1

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 15 INCORRECT AUTHORIZATION OF BILINGUAL PAY</b>
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**Summary:** The CRU found five errors in the DCA's authorization of bilingual pay. This is the second consecutive time this has been a finding for the DCA.

Classification	Description of Findings	Criteria
Enforcement Representative I, Contractors State License Board (Non-Peace Officer)	Department failed to provide certification that the employee's duties required use of bilingual skills for at least 10% of their time.	Pay Differential 14
Program Representative II (Specialist), DCA		
Special Investigator		
Special Investigator		
Special Investigator		

**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 DCA states that the human resources staff who temporarily assumed this responsibility failed to retain the Bilingual Authorization form.

**Corrective Action:** Within 90 days of the date of this report, the DCA 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 July 31, 2022, the DCA authorized 215 pay differentials.<sup>15</sup> The CRU reviewed 50 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

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

Classification	Pay Differential	Monthly Amount	No. of Positions
Air Quality Engineer II, DCA	433	2%	1
Air Quality Engineer II, DCA	433	6%	2
Flammability Research Test Engineer	433	2%	1
Flammability Research Test Engineer	433	6%	1
Inspector, Board of Pharmacy	269	\$2,000	8
Investigator	244	\$50	1
Investigator	244	\$75	1
Investigator	244	\$125	12
Investigator	245	7%	1
Program Technician	125	\$150	1
Program Technician II	125	\$150	7
Program Technician III	125	\$150	2
Senior Air Quality Engineer, DCA	433	6%	1
Senior Registrar, Board for Professional Engineers and Land Surveyors	433	2%	1
Senior Registrar, Board for Professional Engineers and Land Surveyors	433	6%	1
Supervising Inspector, Board of Pharmacy	269	\$2,000	3
Supervising Investigator I, DCA	244	\$125	3
Supervising Investigator I, DCA	245	5%	1
Supervising Investigator I, DCA	245	7%	1
Supervising Investigator II, DCA	245	2%	1

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 16 INCORRECT AUTHORIZATION OF PAY DIFFERENTIALS</b>
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**Summary:** The CRU found one error in the 50 pay differentials reviewed:

Classification	No. of Positions	Area	Description of Findings	Criteria
Program Technician II	1	Call Center	Department failed to supply documentation demonstrating the employee met the criteria for the pay differential.	Pay Differential 125

**Criteria:** A pay differential may be appropriate 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. 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. (CalHR Classification and Pay Manual Section 230.)

**Severity:** Very Serious. The DCA 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 DCA states that the human resources staff tasked with determining the pay differential made an error.

**Corrective Action:** Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 125 and ensure that employees are compensated correctly and that transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### Out-of-Class Assignments and Pay

For excluded<sup>16</sup> 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

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<sup>16</sup> "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.

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.)

During the period under review, February 1, 2022, through July 31, 2022, the DCA issued OOC pay to 16 employees. The CRU reviewed 13 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
Associate Governmental Program Analyst	R01	Staff Services Manager I	1/18/22 - 5/17/22
C.E.A A, Human Resources Chief	M01	CEA B, Deputy Director, Administration	1/3/22 - 6/17/22
Deputy Chief, Investigators and Enforcement, DCA	M07	CEA B, Division of Investigation Chief	6/16/21 - 3/28/22
Investigative Certified Public Accountant	R01	Supervising Investigative Certified Public Accountant	11/15/2021 - 11/14/22
Investigator	R07	Supervising Investigator I, DCA	1/14/22 - 12/15/22
Nursing Education Consultant	R21	Supervising Nursing Education Consultant	7/1/22 - 8/1/22
Private Postsecondary Education Senior Specialist	R21	Private Postsecondary Education Administrator	3/10/22 - 7/7/22
Program Representative II (Specialist), DCA	R07	Program Representative III (Supervisor), DCA	10/1/21 - 5/27/22
Special Investigator	R07	Supervising Special Investigator I (Non-Peace Officer)	1/18/22 - 6/24/22

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Staff Services Manager I	S01	Staff Services Manager II (Supervisory)	8/9/21 - 6/30/22
Supervising Investigator I, DCA	S07	Supervising Investigator II, DCA	12/29/21 - 6/17/22
Supervising Investigator I, DCA	S07	Supervising Investigator II, DCA	5/2/22 - 8/29/22
Supervising Property Appraiser/Investigator (Office of Real Estate Appraisers)	S01	CEA A, Deputy Bureau Chief of Enforcement	12/13/21 - 3/13/22

<b>SEVERITY: VERY SERIOUS</b>	<b>FINDING NO. 17 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY</b>
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**Summary:** The CRU found five errors in the DCA's authorization of OOC pay:

Classification	Out-of-Class Classification	Description of Findings	Criteria
CEA A, Human Resources Chief	CEA B, Deputy Director, Administration	Employee was overcompensated for April 2022.	Pay Differential 101
Deputy Chief, Investigation and Enforcement, DCA	CEA B, Division of Investigation Chief	Employee was overcompensated for March 2022.	Pay Differential 101
Private Postsecondary Education Senior Specialist	Private Postsecondary Education Administrator	Employee was overcompensated for March 2022 and undercompensated for July 2022.	Pay Differential 236
Program Representative II (Specialist), DCA	Program Representative III (Supervisor), DCA	Employee was overcompensated for May 2022.	Pay Differential 236
Supervising Investigator I, DCA	Supervising Investigator II, DCA	Employee was undercompensated for April and June 2022.	Pay Differential 101

**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).)

For excluded employees, there shall be no compensation for assignments that last for 15 consecutive working days or less. (Cal. Code Regs., tit. 2, § 599.810, subd. (c).) An excluded employee performing in a higher class for more than 15 consecutive working days shall receive the rate of pay the excluded employee would receive if appointed to the higher class for the entire duration of the assignment, not to exceed one year. (Cal. Code Regs., tit. 2, § 599.810, subd. (d).) An excluded employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the appointing power files a written statement with the CalHR certifying that the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. (Cal. Code Regs., tit. 2, § 599.810, subd. (e).)

**Severity:**

Very Serious. The DCA 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 DCA states that incorrect formulas were in the automated Excel calculator for OOC compensation. Staff included the pay differential amounts erroneously when calculating the OOC pay.

**Corrective Action:** Within 90 days of the date of this report, the DCA 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 599.810 and Pay Differentials 101 and 236. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## Leave

### Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days<sup>17</sup> worked and paid absences<sup>18</sup>, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

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<sup>17</sup> For example, two hours or ten hours count as one day.

<sup>18</sup> For example, vacation, sick leave, compensating time off, etc.

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1,500 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 DCA had 96 positive paid employees whose hours were tracked. The CRU reviewed 35 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 (Hours)
Associated Governmental Program Analyst	Retired Annuitant	7/1/21-6/30/22	918
Associated Governmental Program Analyst	Retired Annuitant	7/1/21-6/30/22	316
Associated Governmental Program Analyst	Retired Annuitant	7/1/21-6/30/22	934.75
Associated Governmental Program Analyst	Retired Annuitant	7/1/21-6/30/22	245.75
Associated Governmental Program Analyst	Retired Annuitant	7/1/21-6/30/22	579.5
Associated Governmental Program Analyst	Retired Annuitant	7/1/21-6/30/22	102
Associated Governmental Program Analyst	Retired Annuitant	7/1/21-6/30/22	591
Assistant Examination Proctor	Temporary	11/1/21-11/30/22	31
Assistant Examination Proctor	Temporary	11/1/21-11/30/22	34
Athletic Inspector	Retired Annuitant	7/1/21-6/30/22	42
Athletic Inspector	Retired Annuitant	7/1/21-6/30/22	24
Athletic Inspector	Retired Annuitant	7/1/21-6/30/22	487
Athletic Inspector	Retired Annuitant	7/1/21-6/30/22	57
Athletic Inspector	Retired Annuitant	7/1/21-6/30/22	223
Attorney III	Retired Annuitant	7/1/21-6/30/22	410
Examination Proctor	Temporary	11/1/21-11/30/22	16

Classification	Tenure	Time Frame	Time Worked (Hours)
Information Technology Specialist I	Retired Annuitant	7/1/21-6/30/22	689
Inspector Board of Pharmacy	Retired Annuitant	7/1/21-6/30/22	281.25
Office Technician (General)	Retired Annuitant	7/1/21-6/30/22	958
Seasonal Clerk	Temporary	7/1/21-7/31/22	930
Special Investigator	Retired Annuitant	7/1/21-6/30/22	739.5
Special Investigator	Retired Annuitant	7/1/21-6/30/22	974.5
Special Investigator	Retired Annuitant	7/1/21-6/30/22	942
Special Investigator	Retired Annuitant	7/1/21-6/30/22	475
Special Investigator	Retired Annuitant	7/1/21-6/30/22	242.5
Special Investigator	Retired Annuitant	7/1/21-6/30/22	560
Senior Management Auditor	Retired Annuitant	7/1/21-6/30/22	2028
Staff Services Analyst (General)	Retired Annuitant	7/1/22-6/30/22	301
Staff Services Manager I	Retired Annuitant	7/1/22-6/30/22	892.75
Student Assistant	Temporary	3/1/21-3/30/22	1443
Student Assistant	Temporary	12/1/21-12/31/22	671
Student Assistant	Temporary	3/1/21-3/30/22	827
Student Assistant	Temporary	5/1/21-5/30/22	949.25
Student Assistant – Engineering and Architectural Sciences	Temporary	10/1/21-10/31/22	810.25
Supervising Special Investigator II (Non-Peace Officer)	Retired Annuitant	7/1/22-6/30/22	1408

<b>IN COMPLIANCE</b>	<b>FINDING NO. 18 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The DCA 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, October 1, 2021, through September 30, 2022, the DCA authorized 1,349 ATO transactions. The CRU reviewed 40 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 (Hours)
Associate Governmental Program Analyst	6/1/22 and 6/7/22	20
Associate Governmental Program Analyst	6/1/22 - 6/7/22	44
Associate Governmental Program Analyst	12/27/21 - 12/29/21	24
Associate Governmental Program Analyst	6/7/22	10
Associate Governmental Program Analyst	6/27/22 - 6/29/22	24
Associate Governmental Program Analyst	6/6/22 - 6/7/22	16
Associate Management Auditor	2/7/22 - 2/14/22	48
Associate Personnel Analyst	5/16/22 - 5/20/22	40
Cosmetology Examiner I	10/4/21 - 10/8/21	31
Information Technology Specialist I	12/27/21 - 13/31/21	40
Information Technology Specialist III	3/18/22 - 3/24/22	40
Investigator	1/3/22 - 1/13/22	72
Investigator	9/16/22 - 10/11/22	120
Investigator	6/6/22 - 6/10/22	38
Management Services Technician	4/14/22 - 4/21/22	44
Office Assistant (General)	9/6/2022	5.5
Office Technician (Typing)	10/7/21 - 12/17/21	416
Office Technician (Typing)	2/1/22 - 2/9/22	56
Office Technician (Typing)	9/6/22 - 9/21/22	84
Office Technician (Typing)	1/10/22 - 1/21/22	72
Office Technician (Typing)	6/6/22 - 6/7/22	16
Office Technician (Typing)	5/10/22 - 5/31/22	104
Program Representative I, DCA	12/27/21 - 12/29/21	16
Program Representative II (Specialist), DCA	9/8/22 - 9/13/22	20
Program Representative II (Specialist), DCA	12/27/21 - 12/29/21	24
Program Representative II (Specialist), DCA	3/17/22 - 3/23/22	40
Program Representative II (Specialist), DCA	9/9/22 - 9/16/22	45
Program Technician II	11/29/21 - 1/31/22	261
Research Data Analyst II	1/18/22 - 1/21/22	32
Senior Accounting Officer (Supervisor)	1/7/22 - 1/14/22	46.5
Special Investigator	7/26/22 - 8/1/22	40
Special Investigator	6/7/22 - 6/23/22	26

Classification	Time Frame	Amount of Time on ATO (Hours)
Staff Services Analyst (General)	9/15/22 - 9/22/22	43.5
Staff Services Analyst (General)	9/7/22 - 9/9/22	24
Staff Services Analyst (General)	2/23/22 - 3/1/22	40
Staff Services Analyst (General)	8/17/22 - 8/23/22	40
Staff Services Analyst (General)	4/24/22 - 4/28/22	44.25
Staff Services Manager I	12/2/21 - 12/9/21	45.5
Staff Services Manager I	12/6/21 - 12/10/21	40
Structural Pest Control Board Specialist	6/6/22 - 6/14/22	38

<b>IN COMPLIANCE</b>	<b>FINDING NO. 19 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The DCA 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, July 1, 2022, through September 30, 2022, the DCA reported 98 units comprised of 3,392 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
July 2022	110	16	16	0
July 2022	110	14	14	0
July 2022	600	22	22	0
July 2022	740	57	56	0
August 2022	772	18	17	0
August 2022	110	62	40	0
September 2022	725	4	4	0
September 2022	110	62	33	0

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 20 DEPARTMENT DID NOT CERTIFY THAT ALL LEAVE RECORDS WERE REVIEWED</b>
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**Summary:** The DCA failed to certify that all leave records have been reviewed and corrected if necessary for one out of the eight units/pay periods reviewed.

**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.) Departments are directed to create an audit process to verify all leave input is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall identify and record all errors found and shall certify that all leave records for the unit/pay period identified have been reviewed and all leave errors identified have been corrected. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

**Severity:** Serious. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. Failure to audit leave could put 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 DCA states that changes in staffing led to a temporary lapse in the consistent application of the procedures for properly conducting leave record reviews.

**Corrective Action:** Within 90 days of the date of this report, the DCA must submit to the SPB documentation which demonstrates the actions it has taken to ensure that their monthly internal audit process is documented and that all leave input is keyed accurately and timely. The DCA must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected.

### 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.<sup>19</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

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

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<sup>19</sup> 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.



(*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>20</sup> 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, August 1, 2022, through January 30, 2023, the DCA had 25 employees with qualifying and non-qualifying pay period transactions. The CRU reviewed 23 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time Base	No. Reviewed
Qualifying Pay Period	Full Time	13
Non-Qualifying Pay Period	Full Time	10

<b>IN COMPLIANCE</b>	<b>FINDING NO. 21</b>	<b>SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU determined that the DCA ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

**Policy and Processes**

Nepotism

It is the policy of the State of California to 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

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<sup>20</sup> 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.

“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	<b>FINDING NO. 22 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the policy was disseminated to all staff and emphasized the DCA’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the DCA’s nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers’ Compensation

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

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

<b>IN COMPLIANCE</b>	<b>FINDING NO. 23 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the DCA 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 DCA received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must "prepare performance reports." Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee's probationary period.

The CRU selected 160 permanent DCA employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

<b>SEVERITY: SERIOUS</b>	<b>FINDING NO. 24 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES</b>
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**Summary:** The DCA did not provide annual performance appraisals to 130 of 160 employees reviewed after the completion of the employee's probationary period. This is the second consecutive time this has been a finding for the DCA.

**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 DCA states that the HR Liaisons failed to distribute the listing of employees who are due a performance appraisal to the managers and supervisors, who in turn failed to complete the performance appraisals.

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

To DCA's response is attached as Attachment 1.

### **SPB REPLY**

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