



SPECIAL INVESTIGATION

Additional Appointments of Supervisory and Managerial Employees

California Department of Consumer Affairs

Prepared By:
State Personnel Board
Compliance Review Division
May 16, 2013

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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.

In addition, the SPB may review an appointing authority's personnel practices to ensure compliance with civil service laws, rules and policies. The four major areas of review are examinations, appointments, equal employment opportunity (EEO), and personal services contracts.

The SPB may also conduct special investigations of an appointing authority's personnel practices to ensure compliance with civil service laws, rules and policies. Special investigations may be initiated in response to a specific request or when SPB obtains information suggesting a potential merit-related violation.

EXECUTIVE SUMMARY

In response to a request by the Legislature, the SPB conducted a special investigation into the Department of Consumer Affairs (DCA)'s personnel policies and practices related to supervisory and/or managerial employees who held an additional appointment in a rank-and-file position on January 11, 2013. On that date, the DCA's personnel records showed that one manager held an additional appointment as a rank-and-file Athletic Inspector.

The SPB's review of the additional appointment found that the employee had not worked in the rank-and-file position since 2009, and that DCA's personnel records should have reflected that the manager was no longer employed in the rank-and-file position. The SPB determined that the DCA had inadvertently failed to update its personnel records. Upon learning of the oversight, the DCA promptly corrected its records. Accordingly, the SPB found that the additional appointment did not actually exist and was instead an inadvertent recordkeeping error.

BACKGROUND

Section 350 of the SPB's Personnel Management Policy and Procedures Manual on "Appointments and Status" (300-911 (1/79) Rev. 10/30/86) states, in pertinent part, that an additional appointment is subject to civil service laws and rules, as follows:

Additional appointment is the term used when a State civil service employee is appointed to a second position in State service. The term is descriptive only since the fact that an appointment is held as an additional appointment does not change the civil service law and rule provisions that would otherwise apply to it.

¶...¶

There are no laws or rules that relate specifically to additional appointments. The authorities for making additional appointments are the same as for making any other appointment. These include the provisions on list appointments, transfers, reinstatements, etc. For example, an Office Assistant II who was reachable on the promotional list for Stenographer could receive an additional appointment as a Stenographer in the same manner as any other reachable eligible.

Section 350 also addresses two areas of "particular concern" regarding the good faith of an additional appointment:

1. The intent of the appointment must not be to circumvent the full-time appointment process; for example, making two part-time appointments of an individual who is eligible for part-time, but not full-time employment.
2. The intent of the appointment must not be to circumvent the overtime provisions.

Additionally, to ensure the proper use of additional appointments, Section 350 provides these examples: an additional appointment "to a distinctly different employment situation than the employee's initial appointment; typically, this would involve appointment to a different class, department or State facility."

The following departments had supervisors and/or managers who held additional appointments in rank-and-file positions within the same department on January 11, 2013:

Department	Count
California Department of Consumer Affairs	1
California Department of Corrections and Rehabilitation	227
California Department of Education	2
California Department of Food and Agriculture	2

California Department of Forestry and Fire Protection	1
California Department of Motor Vehicles	2
California Department of State Hospitals	173
California Department of Social Services	101
California Public Employees' Retirement System	56
California Department of Veterans Affairs	2
Employment Development Department (CUIAB)	4
Total	571

Source: State Controller's Office

The Legislature requested that SPB and California Department of Human Resources (CalHR) review those additional appointments.¹ In order to provide a comprehensive review in the most expeditious manner, CalHR focused on compliance with classification, compensation and labor laws, rules, and policies, while SPB focused on compliance with civil service laws, rules, and policies.

This report contains only the results from the SPB's review.

SCOPE AND METHODOLOGY

The scope of this special investigation involved a review of additional appointments held by DCA supervisors and/or managers in rank-and-file positions on January 11, 2013. The DCA records showed that on this date the permanent full-time Chief Athletic Inspector also held an appointment as a permanent intermittent Athletic Inspector. The primary objective of this review was to determine if the additional appointment complied with state civil service laws, rules, and policies, and to recommend corrective action for any violations identified.

The SPB held an entrance conference with DCA on March 6, 2013, to explain the special investigation process. A material request form was also given to DCA to request documentation relevant to the special investigation.

The SPB examined the documentation that DCA provided, which included notices of personnel action, employment applications, duty statements, pay history summaries, and employee history summaries. The SPB also interviewed appropriate DCA staff.

¹ In January 2013, CalHR issued Policy Memo 2013-007 to Personnel Management Liaisons (PML) prohibiting departments from processing any new additional appointments. On April 25, 2013, CalHR issued Policy Memo 2013-015 instructing that effective immediately departments were no longer authorized to make any additional appointments for managers and supervisors. Policy Memo 2013-015 also sets forth options departments can consider in lieu of appointing managers and supervisors to additional positions.

FINDINGS

On January 11, 2013, the Chief Athletic Inspector, a supervisory classification, also held an additional appointment as a rank-and-file, permanent intermittent Athletic Inspector. The employee was appointed as an Athletic Inspector on August 2, 2006. His first full-time permanent appointment was as an Office Technician effective on December 3, 2007. He was subsequently promoted to the first of two consecutive supervisory classifications: Assistant Chief Athletic Inspector effective on November 24, 2009, and then Chief Athletic Inspector effective on February 1, 2012.

While the employee's permanent intermittent appointment as an Athletic Inspector was in effect during the time he worked in a supervisory role, he had not performed any services in the rank-and-file position since before his first supervisory appointment in 2009. Further, pay records beginning January 2010 through March 2013 do not indicate any pay for the additional appointment. In addition, the incumbent believed he had been separated from the rank-and-file appointment several years before.

DCA confirmed that the Chief Athletic Inspector had not been performing any services in the rank-and-file position. DCA separated the Athletic Inspector position January 30, 2013.

Accordingly, the additional appointment of the manager as an Athletic Inspector existed on paper on January 11, 2013, only as the result of an inadvertent recordkeeping error and did not implicate or violate civil service laws and/or board rules. Given the DCA's prompt response to update and correct its personnel records, no corrective action is recommended.

DEPARTMENTAL RESPONSE

DCA was provided a draft copy of this report to review and concurred with the report in its entirety. A copy of DCA's response is attached.

The SPB appreciates the professionalism and cooperation of the DCA during this special investigation.

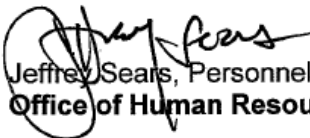
ATTACHMENT 1



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MEMORANDUM

DATE	April 10, 2012
TO	Madeline Olson State Personnel Board
FROM	 Jeffrey Sears, Personnel Officer Office of Human Resources
SUBJECT	Response to SPB Special Investigation Report

I have reviewed the draft report prepared by the State Personnel Board (SPB) in the investigation of additional positions throughout the State. I concur with the SPB findings that the position that appeared on the State Controller's listing of additional positions for DCA was a recordkeeping error and that the Department did not violate civil service laws and/or board rules. As stated within the report, DCA has corrected that administrative oversight.

Thank you for the opportunity to review and respond to the SPB report findings. Please don't hesitate to contact me if you have any additional questions on this matter or if I can be of service. I am reachable via email at jeffrey.sears@dca.ca.gov or by phone at (916) 574-8301.

cc: Denise Brown
Sandra Mayorga
Cathleen Sahlman

**BOARD RESOLUTION ADOPTING
SPECIAL INVESTIGATION REPORT AND FINDINGS BY SPB
COMPLIANCE REVIEW DIVISION OVER ADDITIONAL APPOINTMENTS OF
SUPERVISORIAL AND MANAGERIAL EMPLOYEES IN
THE CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS**

WHEREAS, the State Personnel Board (SPB or the Board) at its duly noticed meeting of May 16, 2013, carefully reviewed and considered the attached Special Investigation Report submitted by SPB's Compliance Review Division concerning additional appointments of supervisory and managerial employees in the California Department of Consumer Affairs.

WHEREAS, the Report was prepared following a special investigation that was conducted in response to the Legislature's request to examine whether the practice of appointing supervisory and/or managerial employees in additional rank-and-file positions within the California Department of Consumer Affairs violates civil service laws.

WHEREAS, each Report details the background, scope and methodology of the review, the findings and recommendations, and the affected department's response.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the Report, including all findings and recommendations contained therein, and authorizes the issuance of the Report to the Legislature in response to its request for review. A true copy of the Report shall be attached to this Board Resolution and the adoption of the Board Resolution shall be reflected in the record of the meeting and the Board's minutes.

* * * * *

The foregoing Board Resolution was made and adopted by the State Personnel Board during its meeting on May 16, 2013, as reflected in the record of the meeting and Board minutes.



SUZANNE M. AMBROSE
Executive Officer