



# **COMPLIANCE REVIEW REPORT**

## **AIR RESOURCES BOARD**

Compliance Review Unit  
State Personnel Board  
May 25, 2016

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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 authority's personnel practices in four areas: examinations, appointments, equal employment opportunity (EEO), and personal services contracts (PSC's) 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. 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.

## EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of Air Resources Board (ARB) personnel practices in the areas of examinations, appointments, EEO, PSC's, and mandated training from January 1, 2015, through September 30, 2015. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Law and Board Rules	In Compliance
Appointments	Probationary Evaluations Were Not Provided for all Appointments Reviewed	Serious
Appointments	Applications Were Not Date Stamped	Non-Serious or Technical
Equal Employment Opportunity	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Regulations	In Compliance

Area	Finding	Severity
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements	In Compliance
Mandated Training	Supervisory Training Was Not Provided for All Supervisors	Very Serious
Mandated Training	Sexual Harassment Training Was Not Provided for All Supervisors	Very Serious

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

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

### **BACKGROUND**

The ARB is a part of the California Environmental Protection Agency. The ARB is governed by a 12-member board appointed by the Governor and consists of six experts in fields such as medicine, chemistry, physics, meteorology, engineering, business, and law. The remaining six board members are elected officials who represent regional air pollution control agencies.

The ARB has approximately 1,364 positions that consist of scientists, engineers, and other professional staff. The ARB has headquarters located in Sacramento and operates a motor vehicle testing and analysis laboratory in El Monte.

The ARB's primary responsibility is to promote and protect public health, welfare, and ecological resources through the effective and efficient reduction of air pollutants, while recognizing and considering the effects on the economy of the state.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing ARB examinations, appointments, EEO program, PSC's, and mandated training from January 1, 2015 through September 30, 2015. The primary objective of the review was to determine if ARB personnel practices, policies, and procedures complied with state civil service laws and board regulations, and to recommend corrective action where deficiencies were identified.

A cross-section of ARB examinations and appointments were selected for review to ensure that samples of various examinations and appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the ARB provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action forms, vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

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

ARB PSC's were also reviewed.<sup>1</sup> It was beyond the scope of the compliance review to make conclusions as to whether ARB justifications for the contracts were legally sufficient. The review was limited to whether ARB practices, policies, and procedures relative to PSC's complied with procedural requirements.

In addition, the ARB mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors were provided supervisory and sexual harassment training within statutory timelines.

On April 14, 2016, an exit conference was held with the ARB to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the ARB's written response on May 10, 2016, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Examinations**

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in

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<sup>1</sup> If an employee organization requests the SPB to review any SPB personal services contract during the compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

the 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.) 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 in the office of the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934.) Generally, 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, the ARB conducted 20 examinations. The CRU reviewed nine of the examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Air Resources Supervisor	Departmental Promotional	Training and Experience (T&E) <sup>2</sup>	Continuous	34
Air Resources Technician I	Open	T&E	Continuous	49
Air Resources Technician II	Open	T&E	Continuous	63
Assistant Division Chief, ARB	Departmental Promotional	Qualification Appraisal Panel (QAP) <sup>3</sup>	3/10/2015	11
Assistant Division Chief, ARB	Departmental Promotional	QAP	7/13/2015	7

<sup>2</sup> The training and experience (T&E) 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, which are totaled by the online system or a department exam analyst, and then assigned a percentage score.

<sup>3</sup> The qualification appraisal panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Career Executive Assignment (CEA) B, Chief, Enforcement Division	CEA	Statement of Qualifications <sup>4</sup>	Until Filled	8
Fruit and Vegetable Quality Control Supervisor II	Open	QAP	6/12/2015	14
Staff Services Analyst	Departmental Promotional	Written <sup>5</sup>	1/27/2015	22
Vehicle Program Specialist, ARB	Departmental Promotional	QAP	4/28/2015	20

**FINDING NO. 1 – Examinations Complied with Civil Service Laws and Board Rules**

The CRU reviewed five departmental promotional, one CEA, and three open examinations the ARB administered in order to create eligible lists from which to make appointments. The ARB published and distributed examination bulletins containing the required information for all examinations. Applications received by the ARB were accepted prior to the final filing date and were thereafter properly assessed to determine whether applicants met the minimum qualifications for admittance to the examinations. The ARB notified applicants as to whether they qualified to take the examination, and those applicants who met the minimum qualifications were also notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. Competitors were then notified of their final scores.

The CRU found no deficiencies in the examinations that the ARB conducted during the compliance review period. Accordingly, the ARB fulfilled its responsibilities to administer those examinations in compliance with civil service laws and board rules.

<sup>4</sup> In a statement of qualifications (SOQ's) 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.

<sup>5</sup> A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

## 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.) Except as provided by law, appointments to vacant positions shall be made from employment lists. (*Ibid.*) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the compliance review period, the ARB made 249 appointments. The CRU reviewed 37 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Accountant I (Specialist)	Certification List	Permanent	Intermittent	1
Accounting Administrator I	Certification List	Permanent	Full Time	1
Air Resources Field Representative II	Certification List	Permanent	Full Time	1
Air Resources Supervisor II	Certification List	Permanent	Full Time	3
Assistant Division Chief, Air Resources Board	Certification List	Permanent	Full Time	1
Associate Budget Analyst	Certification List	Permanent	Full Time	2
Attorney IV	Certification List	Permanent	Full Time	1
Office Assistant (Typing)	Certification List	Permanent	Intermittent	1
Program Technician II	Certification List	Permanent	Intermittent	1
Senior Information Systems Analyst (Supervisor)	Certification List	Permanent	Full Time	1
Senior Programmer Analyst (Specialist)	Certification List	Permanent	Full Time	2
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager I (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1



Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Air Resources Engineer	Mandatory Reinstatement	Permanent	Full Time	1
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full Time	2
Automotive Emission Test Specialist III	Mandatory Reinstatement	Permanent	Full Time	1
Vehicle Program Specialist	Mandatory Reinstatement	Permanent	Full Time	1
Associate Budget Analyst	Retired Annuitant	Limited Term	Intermittent	1
Associate Governmental Program Analyst	Retired Annuitant	Limited Term	Intermittent	1
Attorney III	Retired Annuitant	Limited Term	Intermittent	1
Staff Information Systems Analyst (Specialist)	Retired Annuitant	Limited Term	Intermittent	2
Staff Services Manager II (Supervisory)	Retired Annuitant	Limited Term	Intermittent	1
Student Assistant	Temporary Authorization Utilization	Temporary	Intermittent	1
Student Assistant – Engineering and Architectural Sciences	Temporary Authorization Utilization	Temporary	Intermittent	2
Air Resources Supervisor I	Transfer	Permanent	Full Time	2
Staff Services Analyst (General)	Transfer	Permanent	Full Time	2

**FINDING NO. 2 – Probationary Evaluations Were Not Provided for all Appointments Reviewed**

**Summary:** The ARB did not prepare, complete, and/or retain required probationary reports of performance for four of the 38 appointments reviewed by the CRU.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Accountant I (Specialist)	Certification List	1	1
Associate Budget Analyst	Certification List	2	3

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Senior Programmer Analyst (Specialist)	Certification List	1	2
Total		4	6

**Criteria:** A new probationary period is not required when an employee is appointed by reinstatement with a right of return. (Cal. Code Regs., tit. 2, § 322, subd. (d)(2).) However, the service of a probationary period is required when an employee enters state civil service by permanent appointment from an employment list. (Cal. Code Regs., tit. 2, § 322, subd. (a).) In addition, unless waived by the appointing power, a new probationary period is required when an employee is appointed to a position under the following circumstances: (1) without a break in service in the same class in which the employee has completed the probationary period, but under a different appointing power; and (2) without a break in service to a class with substantially the same or lower level of duties and responsibilities and salary range as a class in which the employee has completed the probationary period. (Cal. Code Regs., tit. 2, § 322, subd. (c)(1) & (2).)

During the probationary period, the appointing power is required to evaluate the work and efficiency of a probationer at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Gov. Code, § 19172; Cal. Code Regs., tit. 2, § 599.795.) The appointing power must prepare a written appraisal of performance each one-third of the probationary period. (Cal. Code Regs., tit. 2, § 599.795.)

**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 ARB states that the Human Resources Unit attempted to remind the managers/supervisors of their employees who were

serving a probation period; however, the tracking system used was not always consistent, was handled by several HR staff, and the notifications to the managers/supervisors were not always timely.

**Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the ARB submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19172.

### **FINDING NO. 3 – Applications Were Not Date Stamped**

**Summary:** The ARB accepted and processed 45 out of 500 applications that were not date stamped.

**Criteria:** California Code Regulations, title 2, section 174 (Rule 174) requires timely filing of applications: All applications must be filed at the place, within the time, in the manner, and on the form specified in the examination announcement.

Filing an application 'within the time' shall mean postmarked by the postal service or date stamped at one of the department's offices (or appropriate office of the agency administering the examination) by the date specified.

An application that is not postmarked or date stamped by the specified date shall be accepted, if one of the following conditions as detailed in Rule 174 apply: (1) the application was delayed due to verified error; (2) the application was submitted in error to the wrong state agency and is either postmarked or date stamped on or before the specified date; (3) the employing agency verifies examination announcement distribution problems that prevented timely notification to an employee of a promotional examination; or (4) the employing agency verifies that the applicant failed to receive timely notice of promotional examination. (Cal. Code Reg., tit. 2, § 174, subs. (a), (b), (c), & (d).) The same final filing date procedures are applied to the selection process used to fill a job vacancy.

**Severity:** Non-Serious or Technical. Final filing dates are established to ensure all applicants are given the same amount of time in which to

apply for a job vacancy and to set a deadline for the recruitment. Therefore, although the acceptance of applications after the final filing date may give some applicants more time to prepare their application than other applicants who meet the final filing date, the acceptance of late applications may not impact the results of the job vacancy selection.

**Cause:** The ARB states that applications were previously received by the assigned division liaisons and were not consistently date stamped upon receipt.

**Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the ARB submit to the CRU a written corrective action plan that the department will implement to ensure conformity with Rule 174. Copies of any relevant documentation should be included with the plan.

### **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 equal employment opportunity; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents and data. (*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.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation from the regular chain of command, as well as regular and unencumbered access to the head of the organization.

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).)

The CRU reviewed the ARB's EEO program that was in effect during the compliance review period.

**FINDING NO. 4 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Regulations**

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 ARB'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 Director of the ARB in regards to EEO issues. In addition, the ARB has an established DAC which reports to the Director on issues affecting persons with disabilities. The ARB also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff.

**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 Reg., 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 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 compliance review period, the ARB had 17 PSC's that were in effect and subject to General Services (DGS) approval. The CRU reviewed six of these, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
CSU Fullerton, Auxiliary Services Corporation	Large-Spark Ignition Equipment Fleet Survey	6/25/2015 – 3/31/2016	\$130,746.00	Yes
Gartner, Inc.	Proprietary Subscription to Gartner for IT Executives	5/1/2015 – 4/30/2016	\$51,710.00	Yes
KDS Technology Solutions, Inc.	Portable Equipment Program Software Maintenance and Support	4/13/2015 – 4/12/2017	\$400,000.00	Yes
Science Applications International Corporation	California GHG Reporting Tool System Maintenance	3/1/2015 – 2/29/2016	\$249,996.00	Yes
TMD Group, Inc.	Media Outreach Campaign	6/30/2015 – 6/29/2017	\$500,000.00	Yes
The Board of Regents of the University of Wisconsin System	Molecular Marker Measurements and Statistical Analysis	11/1/2014 – 11/30/2016	\$300,014.24	Yes

**FINDING NO. 5 – Personal Services Contracts Complied with Procedural Requirements**

When a state agency requests approval from the DGS for a subdivision (b) contract, the agency must include with its contract transmittal a written justification that includes specific and detailed factual information that demonstrates how the contract meets one or more conditions specified in Government Code section 19131, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.)

The total dollar amount of all the PSC's reviewed was \$1,632,466.24. It was beyond the scope of the review to make conclusions as to whether ARB justifications for the contract were legally sufficient. For all PSC's reviewed, the ARB provided specific and detailed factual information in the written justifications as to how each of the three contracts met at least one condition set forth in Government Code section 19131,

subdivision (b). Accordingly, the ARB PSC's complied with civil service laws and board rules.

### **Mandated Training**

Each state agency shall offer at least semiannually to each of its filers an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, § 11146.1). New filers must be trained within six months of appointment. (Gov. Code § 11146.3.)

Each department must provide its new supervisors supervisory training within twelve months of appointment. (Gov. Code, § 19995.4 subd. (b) and (c).) The training must be a minimum of 80 hours, 40 of which must be structured and given by a qualified instructor. The other 40 hours may be done on the job by a higher-level supervisor or manager. (Gov. Code, § 19995.4 subd. (b).)

Additionally, each department must provide its supervisors two hours of sexual harassment training every two years. New supervisors must be provided supervisory training within six months of appointment. (Gov. Code, § 12950.1 subd. (a).)

The CRU reviewed the ARB mandated training program that was in effect during the compliance review period. While the ARB ethics training was found to be in compliance, the supervisory and sexual harassment training were found to be out of compliance.

### **FINDING NO. 6 – Supervisory Training Was Not Provided for All Supervisors**

**Summary:** The ARB did not provide supervisory training to six of its 52 existing supervisors.

**Criteria:** Each department must provide its new supervisors supervisory training within twelve months of appointment. (Gov. Code, § 19995.4 subd. (b) and (c).) The training must be a minimum of 80 hours, 40 of which must be structured and given by a qualified instructor. The other 40 hours may be done on the job by a higher-level supervisor or manager. (Gov. Code, § 19995.4 subd. (b).)

**Severity:** Very Serious. The department does not ensure its new supervisors understand the role of the supervisor, techniques of supervision, managing workload, performance standards and appraisal,

discipline, labor relations, employment law relating to persons with disabilities, and grievances.

**Cause:** The ARB states that the department does not have an automated tracking system for training, and due to manual process and limited staff resources the training was not scheduled in a timely manner.

**Action:** The ARB must take appropriate steps to ensure that new supervisors are provided supervisory training within twelve months.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the ARB must establish a plan to ensure compliance with supervisory training mandates and submit to the SPB a written report of compliance.

**FINDING NO. 7 – Sexual Harassment Training Was Not Provided for All Supervisors**

**Summary:** The ARB did not provide sexual harassment training to 10 of its 52 existing supervisors. In addition, seventeen new supervisors were not trained within six months of appointment.

**Criteria:** Each department must provide its supervisors two hours of sexual harassment training every two years. New supervisors must be provided supervisory training within six months of appointment. (Gov. Code, § 12950.1 subd. (a).)

**Severity:** Very Serious. The department does not ensure its new 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 ARB states that the internal lists the department provides to the EEO Office does not effectively identify new supervisors/managers. In addition, there was no continuous on-going AB1825 training since 2012-2013.



**Action:** The ARB must take appropriate steps to ensure that its supervisors are provided sexual harassment training within the time periods prescribed.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the ARB must establish a plan to ensure compliance with sexual harassment training mandates and submit to the SPB a written report of compliance.

### **DEPARTMENTAL RESPONSE**

The ARB's response is attached as Attachment 1.

### **SPB REPLY**

Based upon the ARB's written response, the ARB will comply with the CRU recommendations and findings and provide the CRU a corrective action plan.

It is further recommended that the ARB comply with the afore-stated recommendations and submit to the CRU a written report of compliance within 60 days of the Executive Officer's approval.



# Air Resources Board



**Matthew Rodriguez**  
Secretary for  
Environmental Protection

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**Edmund G. Brown Jr.**  
Governor

May 10, 2016

Alton Ford, Manager  
Compliance Review Unit  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814

Dear Mr. Ford:

The Air Resources Board (ARB) would like to thank the State Personnel Board (SPB) for the opportunity to provide feedback to the 2016 compliance review conducted by the Compliance Review Unit.

ARB has reviewed the final draft report and provides the following information regarding the findings:

**FINDING NO. 1 Examinations Complied with Civil Service Laws and Board Rules.**

**FINDING NO. 2 Probationary Evaluations Were Not Provided for all Appointments Received.** The report noted that ARB did not prepare, complete, and/or retain required probationary reports of performance for four of the 38 appointments reviewed.

**Cause:** ARB Human Resources unit attempted to remind the managers/supervisors of their employees that were serving a probation period. However, the tracking system used was not always consistent, and was handled by several Human Resources (HR) staff, and the notifications to the managers/supervisors were not always timely.

**Response:** ARB will now have one designated staff within HR tasked with maintaining a tracking system, notifying the managers/supervisors of probation periods for their employees, as well as following up with the managers/supervisors to ensure the probation reports are completed and received.

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website: <http://www.arb.ca.gov>.*

California Environmental Protection Agency

**FINDING NO. 3 Applications Were Not Date Stamped.** The report noted that ARB accepted and processed 45 out of 500 applications that were not date stamped.

**Cause:** Previously, the applications were received by the assigned division liaisons, whether by mail or hand-delivered. However, the applications were not consistently dated stamped upon receipt.

**Response:** With the implementation of the California Department of Human Resources updated Exam and Cert Online Systems (ECOS), ARB now has all applications submitted directly to the HR, whether by mail, hand-delivered or electronically. Having HR staff handle applications, will help ensure that all applications are date stamped appropriately.

**FINDING NO. 4 Equal Employment Opportunity Program Complied with all Civil Service Laws and Board Regulations.**

**FINDING NO. 5 Personal Services Contracts Complied with Procedural Requirements.**

**FINDING NO. 6 Supervisory Training Was Not Provided for All Supervisors.** ARB did not provide supervisory training to six of its 52 existing supervisors.

**Cause:** ARB does not have an automated tracking system for training, and due to manual process and limited staff resources; the training was not scheduled in a timely manner.

**Response:** ARB has implemented a new process to ensure consistent tracking and compliance with this mandate going forward.

**FINDING NO. 7 Sexual Harassment Training Was Not Provided for All Supervisors.** ARB did not provide sexual harassment training to 27 of its 53 existing supervisors.

**Cause:** 1) ARB's internal lists provided to the EEO Office is not effectively identifying "New" Supervisors/Managers; 2) No continuous on-going AB1825 training since 2012-2013.

**Response:** AB 1825 training will be provided to supervisors/managers in Fall 2016 and First Quarter in 2017. This training will be continued every six months thereafter. The EEO Office is working closely with ARB HR to ensure that new supervisors/managers are noticed

Alton Ford  
May 10, 2016  
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that AB 1825 training must be completed within six months of appointment.

ARB Human Resources would like to once again thank the SPB Compliance Review team and appreciate the opportunity to respond to the reports. ARB will continue to educate and train our Divisions on the best hiring practices and requirements to ensure compliance with the SPB's civil service merit system.

If you have questions or need additional information, feel free to contact me at (916) 324-2813.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shereta Alexander", written in a cursive style.

Shereta Alexander, Chief  
Human Resources Branch

cc: Alice Stebbins, Chief of Administration Services Division