



COMPLIANCE REVIEW REPORT

CALIFORNIA COASTAL COMMISSION

Compliance Review Unit
State Personnel Board
April 12, 2019

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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 merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Effective July 1, 2012, the Governor's Reorganization Plan Number One (GRP1) of 2011 consolidated all of the functions of the Department of Personnel Administration and the merit-related operational functions of the State Personnel Board (SPB) into the California Department of Human Resources (CalHR).

Pursuant to Government Code section 18502(c), CalHR and SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." CalHR and SPB, 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 not monitored on a consistent, 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.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California Coastal Commission (CACC)’s personnel practices in the areas of examinations, appointments, EEO, PSC’s, mandated training, compensation and pay, leave, and policy and processes¹. The following table summarizes the compliance review findings.

| Area | Finding |
|------------------------------|--|
| Examinations | Examinations Complied with Civil Service Laws and Board Rules |
| Appointments | Probationary Evaluations Were Not Provided for All Appointments Reviewed |
| Equal Employment Opportunity | Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules |
| Mandated Training | Supervisory Training Was Not Provided for All Supervisors |
| Compensation and Pay | Salary Determination Laws, Board Rules, and CalHR Policies and Guidelines |
| Compensation and Pay | Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Compensation and Pay | Pay Differentials Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Compensation and Pay | Out of Class Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Leave | Administrative Time Off (ATO) Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Leave | Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely |
| Leave | Leave Reduction Policy and Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines |

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

| Area | Finding |
|--------|---|
| Policy | Nepotism Policy Failed to Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Policy | Performance Appraisals Were Not Provided to All Employees |

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 mission of the Commission is to implement the Coastal Act and to protect, conserve, restore, and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations. The Commission was established by voter initiative in 1972 (Proposition 20) and later made permanent by the Legislature through adoption of the California Coastal Act of 1976.

The Commission, in partnership with coastal cities and counties, plans and regulates the use of land and water in the coastal zone. Development activities, which are broadly defined by the Coastal Act to include (among others) construction of buildings, divisions of land, and activities that change the intensity of use of land or public access to coastal waters, generally require a coastal permit from either the Commission or the local government.

The staff of the Commission consists 172 authorized positions (165.2 regular and 6.8 temporary help). The program staff reviews permit applications for coastal development projects and advises local governments on the coastal planning process. Many of these employees are in the Coastal Program Analyst classification series. They are supported by a range of scientific, legal, administrative, and management staff.

The Commission is an independent, quasi-judicial state agency. The Commission is composed of twelve voting members, appointed equally (four each) by the Governor, the Senate Rules Committee, and the Speaker of the Assembly. Six of the voting

commissioners are locally elected officials and six are appointed from the public at large. Three ex officio (non-voting) members represent the Resources Agency, the California State Transportation Agency, and the State Lands Commission.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CACC's examinations, appointments, EEO program, mandated training, compensation and pay, leave, and policy and processes² when applicable. The primary objective of the review was to determine if CACC 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.

A cross-section of the CACC's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the CACC provided, which included examination plans, examination bulletins, job analyses, and scoring results. Additionally, the CACC did conduct the examination permanent withhold actions during the compliance review period.

A cross-section of the CACC's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CACC provided, which included notice of personnel action (NOPA) forms, request for personnel actions (RPA's), vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CACC did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CACC did not make any additional appointments during the compliance review period.

The CACC's appointments were also selected for review to ensure the CACC applied salary regulations accurately and correctly processed employee's compensation and pay. The CRU examined the documentation that the CACC provided, which included requests for employee's 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

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

compensation and pay: hiring above minimum (HAM) requests, bilingual pay, monthly pay differential, and out of class pay. During the compliance review period, the CACC did not issue or authorize red circle rates or arduous pay.

The review of the CACC'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 upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

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

The CRU also identified the CACC's employees whose current annual leave, or vacation leave credits, exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Additionally, the CRU asked the CACC to provide a copy of their leave reduction policy.

The CRU reviewed the CACC's Leave Activity and Correction Certification forms to verify that the CACC created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected a small cross-section of the CACC'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 CACC's employee's 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 CACC employees who used Actual Time Worked (ATW) and Administrative Time Off (ATO) in order to ensure both ATW and ATO were appropriately administered.

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

On January 18, 2019, an exit conference was held with the CACC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CACC's written response on March 29, 2019, 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 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, February 1, 2017 through October 31, 2017, the CACC conducted two examinations, which the CRU reviewed are listed below:

| Classification | Exam Type | Exam Components | Final File Date | No. of Apps. |
|---------------------------|-----------|---|-----------------|--------------|
| Coastal Program Manager | Open | Qualifications Appraisal Panel (QAP) ³ | 05/31/17 | 20 |
| Coastal Program Analyst I | Open | QAP | 06/21/17 | 78 |

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

³ 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.

The CRU reviewed two open examinations, which the CACC administered in order to create eligible lists from which to make appointments. The CACC published and distributed examination bulletins containing the required information for all examinations. Applications received by the CACC were accepted prior to the final filing date. Applicants were 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. The CRU found no deficiencies in the examinations that the CACC conducted 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.) 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 period under review, February 1, 2017, through October 31, 2017, the CACC made 23 appointments. The CRU reviewed 16 of those appointments, which are listed below:

| Classification | Appointment Type | Tenure | Time Base | No. of Appts. |
|---------------------------------|--------------------|-----------|-----------|---------------|
| Information Systems Technician | Certification List | Permanent | Full Time | 1 |
| Research Manager II, (GIS) | Certification List | Permanent | Full Time | 1 |
| Attorney III | Certification List | Permanent | Full Time | 1 |
| Staff Programmer Analyst (Spec) | Certification List | Permanent | Full Time | 1 |
| Office Technician (Typing) | Certification List | Permanent | Full Time | 1 |
| Environmental Scientist | Certification List | Permanent | Full Time | 1 |
| Coastal Program Analyst I | Certification List | Permanent | Full Time | 1 |
| Coastal Program Analyst II | Certification List | Permanent | Full Time | 1 |
| Coastal Program Analyst II | Certification List | Permanent | Full Time | 1 |

| Classification | Appointment Type | Tenure | Time Base | No. of Appts. |
|---|--------------------|-----------|--------------|---------------|
| Research Program Specialist II (GIS) | Certification List | Permanent | Full Time | 1 |
| Coastal Program Analyst I | Certification List | Permanent | Full Time | 1 |
| Research Program Specialist II (GIS) | Certification List | Permanent | Full Time | 1 |
| Coastal Program Analyst I | Certification List | Permanent | Full Time | 1 |
| Coastal Program Analyst II | Transfer | Permanent | Full Time | 1 |
| Senior Environmental Scientist (Specialist) | Certification List | Permanent | Full Time | 1 |
| Coastal Program Analyst I | Limited Term | Permanent | Limited Term | 1 |

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

Summary: The CACC did not provide 11 required probationary reports of performance.

| Classification | Appointment Type | No. of Appointments | No. of Uncompleted Prob. Reports |
|---------------------------------|------------------|---------------------|----------------------------------|
| Information Systems Technician | List Appointment | 1 | 1 |
| Staff Programmer Analyst (Spec) | List Appointment | 1 | 1 |
| Attorney III | List Appointment | 1 | 1 |
| Office Technician (Typing) | List Appointment | 1 | 1 |
| Environmental Scientist | List Appointment | 1 | 2 |
| Coastal Program Analyst I | List Appointment | 1 | 2 |
| Coastal Program Analyst I | List Appointment | 1 | 2 |
| Coastal Program Analyst I | List Appointment | 1 | 1 |
| Total | 8 | 11 | Total |

Criteria: The service of a probationary period is required when an employee enters in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as CalHR may require. (Gov. Code, § 19172.) CalHR’s regulatory scheme provides that “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.) Specifically, 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.*)

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: While all required probation reports were provided to supervisors, and missing reports were noted, there was not consistent follow-up with supervisors to ensure all reports were received.

Action: It is recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the CACC submit to SPB 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. 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 EEO; 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).)

FINDING NO. 3 – Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CACC 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 CACC. In addition, the CACC has an established DAC which reports to the Director on issues affecting persons with disabilities. The CACC 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. Accordingly, the CACC's EEO program complied with civil service laws and Board rules.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics

statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & (c), & 19995.4, subd. (b).)

Additionally, the training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

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

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

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

FINDING NO. 4 – Supervisory Training Was Not Provided for All Supervisors

- Summary:** The CACC did not provide certificates to document that all five new supervisors completed the remaining 40 hours of required basic supervisory training.
- Criteria:** Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. Upon completion of initial training, supervisory employees shall receive a minimum of 20 hours of leadership training biannually. (Gov. Code, § 19995.4, subds. (b) and (c).)
- Severity:** Very Serious. The department does not ensure its leaders are properly trained. Without proper training, leaders may not properly carry out their leadership roles, including managing employees.
- Cause:** The California Coastal Commission had a practice of providing 40 hours of classroom training to new supervisors and providing the remaining required training with a combination of formal and informal on-the-job training which was not documented.
- Action:** It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the CACC submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19995.4 subdivisions (b) and (c). Copies of any relevant documentation should be included with the plan.

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 rate⁴ upon appointment depending on the appointment type, and the employee's state employment pay history and tenure.

During the period under review, February 1, 2017 through October 31, 2017, the CACC made 36 appointments. The CRU reviewed 15 of those appointments to determine if the CACC applied salary regulations accurately and correctly processed employees' compensation transactions. These appointments are listed below:

| Classification | Appointment Type | Tenure | Time Base | Salary (Monthly Rate) |
|---|-------------------------|---------------|------------------|------------------------------|
| Research Program Specialist II (GIS) | List Appointment | Permanent | Full Time | \$6,641.00 |
| Research Program Specialist II (GIS) | List Appointment | Permanent | Full Time | \$7,136.00 |
| Coastal Program Analyst I | List Appointment | Permanent | Full Time | \$4,217.00 |
| Staff Programmer Analyst (Spec) | List Appointment | Permanent | Full Time | \$7,311.15 |
| Research Program Specialist II (GIS) | List Appointment | Permanent | Full Time | \$6,641.00 |
| Coastal Program Analyst I | List Appointment | Permanent | Full Time | \$4,016.00 |
| Coastal Program Analyst I | List Appointment | Permanent | Full Time | \$4,217.00 |
| Coastal Program Analyst I | List Appointment | Permanent | Full Time | \$3,484.00 |
| Info Systems Tech | List Appointment | Permanent | Full Time | \$3,215.00 |
| Senior Environmental Scientist (Specialist) | List Appointment | Permanent | Full Time | \$6,219.00 |
| Environmental Scientist | List Appointment | Permanent | Full Time | \$6,361.00 |
| Coastal Program Analyst II | List Appointment | Permanent | Full Time | \$4,829.00 |
| Coastal program Analyst II | List Appointment | Permanent | Full Time | \$6,048.00 |
| Attorney III | List Appointment | Permanent | Full Time | \$10,382.00 |
| Coastal Program Analyst II | List Appointment | Permanent | Full Time | \$5,022.00 |

⁴ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

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

The CRU found no deficiencies in 15 of 36 salary determinations that the DTSC made during the compliance review period. The CACC appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules, and CalHR policies and guidelines.

Hiring Above Minimum (HAM) Requests

Government Code section 19836 authorizes CalHR to allow payments above-the minimum rate in the salary range in order to hire persons who have extraordinary qualifications. On April 1, 2005, CalHR granted delegated authority to all departments to approve HAM's for former legislative employees, and former exempt employees (PML 2005-012, "Delegation of Personnel Management Functions.") On September 25, 2007, CalHR also granted delegated authority for all departments to approve exceptions to the HAM criteria for extraordinary qualifications for all new state employees without prior review or approval from CalHR. However, for existing state employees, departments should obtain approval from CalHR and delegated authority does not apply. (PML 2010-005, "Hiring Above Minimum Standards for Extraordinary Qualifications.")

Prior to approving a HAM under delegated authority, departments should demonstrate and document the candidate's extraordinary qualifications which should contribute to the work of the department significantly beyond that which other applicants offer and provide expertise in a particular area of the department's program well beyond the normal requirements of the class. The department may also consider the unique talent, ability or skill demonstrated by the candidate's previous job experience as extraordinary qualifications, but the scope and depth of such experience should be more significant than the length. The qualifications and hiring rates of state employees already in the same class should be carefully considered. (CalHR Online Manual Section 1707). In all cases, the candidate's current salary or other bona fide salary offers should be above the minimum rate, verified and appropriately documented. Additionally, departments must request and approve HAM's before a candidate accepts employment (*Ibid.*).

During the period under review, February 1, 2017, through October 31, 2017, the CACC authorized one HAM request. The CRU reviewed the one HAM request to determine if the CACC correctly verified, approved and documented the candidate's extraordinary qualifications and subsequent salaries, which is listed below:

| Classification | Appointment Type | Status | Salary Range | Salary (Monthly Rate) |
|----------------------------|--------------------------|---------------|--------------|-----------------------|
| Coastal Program Analyst II | Permissive Reinstatement | Reinstatement | N/A | \$6,290.00 |

FINDING NO. 6 – Hiring Above Minimum (HAM) Requests Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found that the one HAM request that CACC made during the compliance review period, satisfied civil service laws, Board rules, and CalHR policies and guidelines.

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. (CalHR Classification and Pay Manual Section 230)

California State Civil Service Pay Scales (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, November 1, 2016, through July 31, 2017, the CACC issued eight pay differentials that the CRU reviewed to ensure compliance with applicable CalHR policies and regulations, which are listed below:

| Classification | Pay Differential | Monthly Amount |
|--|----------------------|----------------|
| Staff Programmer Analyst (Specialist) | Pay Differential 13 | \$362.10 |
| Senior Information Systems Analyst (Supervisor) | Pay Differential 13 | \$430.55 |
| Associate Information Systems Analyst (Specialist) | Pay Differential 13 | \$330.20 |
| Associate Information Systems Analyst (Specialist) | Pay Differential 13 | \$330.20 |
| Associate Information Systems Analyst (Specialist) | Pay Differential 13 | \$330.20 |
| Staff Programmer Analyst (Specialist) | Pay Differential 13 | \$334.60 |
| Legal Secretary | Pay Differential 13 | \$445.16 |
| Personnel Supervisor II | Pay Differential 211 | \$564.40 |

FINDING NO. 7 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the eight pay differentials that the CACC authorized during the compliance review period. Pay differentials were authorized in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and regulations.

Out-of-Class Assignments (OOC) and Pay

For excluded⁵ and most rank and file employees, out of class 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.)

According to CalHR’s Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and DPA Rule 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 provision or DPA regulation. Before assigning

⁵ “Excluded employee” means an employee as defined in section 3572(b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Section 375)

During the period under review, November 1, 2016, through July 31, 2017, the CACC issued out-of-class pay⁶ to one employee. The CRU reviewed the one out-of-class assignment to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

| Classification | Bargaining Unit | Out-of-Class Classification | Time Frame |
|--------------------|-----------------|-----------------------------|-----------------|
| Executive Director | M01 | CEA B | 3/9/16 - 1/2017 |

FINDING NO. 8 – Out of Class (OOC) Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies with the one out-of-class pay (OOC) assignment that the CACC authorized during the compliance review period. OOC pay was issued appropriately to one employee 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.

Leave

Administrative Time Off

Administrative Time Off (ATO) is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. 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. Additionally, ATO may be granted when employees need time off for any of the following: donating blood, extreme weather that makes getting to work impossible, and/or, when employees need time off to attend special events. Any ATO requests lasting over 30 days must be submitted and approved by CalHR. Approval will generally be given in 30 calendar day increments and any extension must be approved prior to the expiration of the 30 calendar days. Departments must properly document and track ATO for any length of time. (PML 2012-008, “Administrative Time Off (ATO) – Policy, Procedure and Documentation Requirements.”)

⁶ Excluding bilingual and arduous pay.

Employees may also be granted a paid leave of absence of up to five days by their appointing power when the employee works or resides in a county where a state of emergency has been proclaimed by the Governor. (Cal. Code Regs., tit 2, § 599.785.5.)

During the period under review, August 1, 2016, through July 31, 2017, the CACC placed one employee on ATO that the CRU reviewed to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

| Classification | Time Frame | No. of Days on ATO |
|-----------------|----------------------|--------------------|
| Legal Assistant | 2/9/2017 - 2/17/2017 | 8 |

FINDING NO. 9 – Administrative Time Off (ATO) Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies with the one employee placed on ATO during the compliance review period. The CACC 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.)

Additionally, in accordance with CalHR Online Manual Section 2101, departments must create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. 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. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. Accurate and timely attendance reporting is required of all departments and is subject to audit.

During the period under review, May 1, 2017 through July 31, 2017, the CACC reported one unit comprised of 56 active employees during the May 2017 pay period, one unit comprised of 31 active employees during the July 2017 pay period and two units comprised of 34 active employees during the August 2017 pay period. The pay periods and timesheets reviewed by the CRU are summarized as follows:

| Timesheet Leave Period | No. of Units Reviewed | No. of Employees | No. of Timesheets Reviewed | No. of Missing Timesheets |
|------------------------|-----------------------|------------------|----------------------------|---------------------------|
| May 2017 | 1 | 56 | 56 | 0 |
| June 2017 | 1 | 31 | 31 | 0 |
| July 2017 | 2 | 34 | 34 | 0 |

FINDING NO. 10 – Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely

Summary: The CACC failed to implement a monthly internal audit process to verify time worked is keyed accurately and timely. Furthermore, the CACC failed to provide completed Leave Activity and Correction Certification forms for all four of the units reviewed during the May through August 2017 pay periods.

Criteria: 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 of Regs., tit. 2, § 599.665.) CalHR also directs that departments identify and record all leave errors found using a Leave Activity and Correction Certification form. (*Ibid.*) Moreover, CalHR requires that departments certify that all leave records for the unit/pay period identified on the certification form have been reviewed regardless of whether errors were identified.

Severity: Serious. The CACC failed to reconcile timesheets against their leave accounting system at the conclusion of the pay period, which affected employee compensation. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. For post audit purposes, the completion of Leave Activity and Correction forms demonstrates compliance with CalHR policies and guidelines.

Cause: The required auditing and record keeping was completed, but the forms were not maintained separately as required. Staff did not understand the requirement that the information for each reporting unit was to be maintained on a separate form, the information was maintained on the same form for all reporting units.

Action: It is recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the CAC submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of California Code of Regulations section 599.665. Copies of any relevant documentation should be included with the plan.

Leave Reduction Efforts

Departments must comply with the regulations and CalHR policies that require a leave plan for every employee with vacation or annual leave hours over the maximum amount permitted. (Cal. Code Regs., tit. 2, § 599.742.1.) Bargaining Unit Agreements and California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. For instance, pursuant to California Code of Regulations, title 2, section 599.737, if a represented employee does not use all of the vacation to which he or she is entitled in a calendar year, “the employee may accumulate the unused portion, provided that on January 1st of a calendar year, the employee shall not have more than” the established limit as stipulated by the applicable bargaining unit agreement⁷. Likewise, if an excluded employee does not use all of the vacation to which he or she is entitled in a calendar year, the “employee may accumulate the unused portion of vacation credit, provided that on January 1st of a calendar year, the excluded employee shall not have more than 80 vacation days.” (Cal. Code Regs., tit. 2, § 599.738.)

In accordance with CalHR Online Manual Section 2124, departments must create a leave reduction policy for their organization and monitor employees’ leave to ensure compliance with the departmental leave policy; and ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place.

As of January, 2018, three CACC employees exceeded the established limits of vacation or annual leave. The CRU reviewed all three employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

⁷ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.

| Classification | Collective Bargaining Identifier | Total Hours Over Established Limit | Leave Reduction Plan Provided |
|-------------------------|----------------------------------|------------------------------------|-------------------------------|
| Executive Director | E99 | 208 | No |
| Attorney III | R02 | 31 | No |
| Coastal Program Manager | S01 | 19.5 | No |
| Total Hours | | 258.5 | |

FINDING NO. 11 – Leave Reduction Policy and Plans Complied with Civil Service Laws, Board Rules, and CalHR Policy and Guidelines

The CRU reviewed employee vacation and annual leave to ensure that those employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are actively reducing hours. In addition, the CRU reviewed the department’s leave reduction policy to verify its compliance with applicable rule and law, and to ensure its accessibility to employees. Based on our review, the CRU found no deficiencies in this area.

State Service

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. In addition, there may be personal relationships beyond this general definition that could be subject to these policies. (CalHR Online Manual Section 1204) Overall, departmental nepotism policies should aim to prevent favoritism or bias based on a personal relationship when recruiting, hiring or assigning employees. Departments have the discretion, based on organizational structure and size, to develop nepotism policies as they see fit.

FINDING NO. 12 – Nepotism Policy Failed to Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Summary: The CACC’s nepotism policy from 1979 was disseminated to all staff. However, PML 2015-014 “Statewide Guidance on Nepotism Policies” concerning nepotism supercedes the 1979 Pinkie and instructs departments that they should update their nepotism policy; and if they did not have one, develop one. The CACC did not timely review and update its policy to ensure consistency with statewide guidance on preventing nepotism. Therefore, corrective action is warranted.

CACC’s nepotism policy is also not consistent with current statewide policy. The 2015 PML is clear that all department policies should emphasize that nepotism is antithetical to a merit-based personnel system. CACC’s nepotism policy does not make this important statement. The PML also provides that a department’s nepotism policy should state that the department is committed to the state’s policy of recruiting, hiring, and assigning employees based on merit. Given the brevity of the CACC’s nepotism policy, it is evident these considerations were either inadvertently overlooked or purposely ignored. Accordingly, corrective action is warranted.

Criteria: It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (CalHR Online Manual Section 1204.)

Severity: Very serious. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. Overall, departmental nepotism policies should aim to prevent favoritism or bias based on a personal relationship when recruiting, hiring or assigning employees.

Cause: Other priorities prevented the small Human Resources staff from addressing this issue.

Action: It is recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the CAC submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the nepotism requirements of PML 2015-014. Copies of any relevant documentation should be included with the plan.

Performance Appraisals

According to government Code section 19992.2, departments must “prepare performance reports.” Furthermore, California Code of Regulations, title 2, section 599.978, 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 six permanent CACC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines.

In reviewing the CACC performance appraisals policies and processes, the CRU determined the following:

FINDING NO. 13 – Performance Appraisals Were Not Provided to All Employees

Summary: The CACC did not provide performance appraisals for all six employees at least once in each twelve calendar month period after completion of the employee’s probationary period.

| Classification | Date Performance Appraisals Due |
|-----------------------------|---------------------------------|
| Coastal Program Analyst III | 10/25/2017 |
| Coastal Program Analyst II | 10/31/2017 |
| Coastal Program Analyst II | 10/31/2017 |
| Environmental Scientist | 02/01/2017 |
| Coastal Program Analyst II | 10/31/2017 |
| Coastal Program Analyst I | 10/19/2017 |
| Total | 6 |

Criteria: Departments are required to “prepare performance reports and keep them on file as prescribed by department rule.” (Government Code section 19992.2.) 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.

- Severity:** Serious. The department does not ensure that all employees are apprised of work performance issues and/or goals in a fair and systematic manner.
- Cause:** In the past, the Coastal Commission had not placed a strong emphasis on annual evaluations, focusing instead on continuous feedback.
- Action:** It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the CAC submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19992.2. Copies of any relevant documentation should be included with the plan.

DEPARTMENTAL RESPONSE

The CACC's Response is attached as Attachment 1.

SPB REPLY

Based upon the CACC's written response, the CACC will comply with the CRU recommendations and findings and provide the CRU with an action plan. It is further recommended that the CACC comply with the afore-stated recommendations within 60 days of the Executive Officer's approval and submit to the CRU a written report of compliance.

CALIFORNIA COASTAL COMMISSION

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March 29, 2019

**Suzanne M. Ambrose, Executive Director
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814**

Dear Suzanne Ambrose,

The California Coastal Commission submits this letter in response to the State Personnel Board's compliance review of the Coastal Commission's personnel policies. We appreciate the opportunity to respond to the findings and have taken appropriate steps, as indicated in the attached document, to address the issues identified in your report.

If you have any questions or require additional information, please contact Melanie Wong, Chief of Human Resources at (415) 904-5433, or by email at Melanie.Wong@coastal.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Hansch".

**Susan Hansch
Chief Deputy Director
California Coastal Commission**

DEPARTMENT RESPONSES TO SPB COMPLIANCE REVIEW

Probationary Reports

Cause: While all required probation reports were provided to supervisors, and missing reports were noted, there was not consistent follow-up with supervisors to ensure all reports were received.

Plan: The California Coastal Commission Human Resources Office has instituted a procedure to track the issuance of Probationary Reports and to require their completion. (See attached Procedure for Tracking Probationary Reports).

Supervisor Training

Cause: The California Coastal Commission had a practice of providing 40 hours of classroom training to new supervisors and providing the remaining required training with a combination of formal and informal on-the-job -training which was not documented.

Plan: The California Coastal Commission will follow the guidance from CalHR in Section 2801 of its HR Handbook.

Internal Audit of Leave Accounting

Cause: The required auditing and record keeping was completed, but the forms were not maintained separately as required. Staff did not understand the requirement that the information for each reporting unit was to be maintained on a separate form, the information was maintained on the same form for all reporting units.

Plan: As of February 1, 2019, the California Coastal Commission has adapted the process for completing Leave Activity and Correction Activity forms and is now completing one form for each reporting unit.

Nepotism Policy

Cause: Other priorities prevented the small Human Resources staff from addressing this issue.

Plan: The California Coastal Commission is following the guidance from CalHR and revising the Nepotism Policy. We hope to have this accomplished by June 2019.

Performance Evaluations

Cause: In the past, the Coastal Commission had not placed a strong emphasis on annual evaluations, focusing instead on continuous feedback.

Plan: The California Coastal Commission has instituted a policy of requiring all supervisors to complete annual performance evaluations for the employees they supervise. Beginning in 2018, management has partnered with Human Resources to more actively monitor and remind supervisors of the need to complete these.

PROCEDURE FOR TRACKING PROBATIONARY REPORTS

12/1/18

1. Upon receipt of a NOPA indicating probationary reports are required for a particular employee, the report forms are prepared with the employee's name and due dates.
2. The report forms are filed in the tickler file by month – one month prior to the due date on the form.
3. Each month, all forms that are due the following month are sent to the supervisor for completion, and a list is generated for the reports sent out that month.
4. When a completed probationary report is received in the Human Resources Office, it is routed directly to the unit's Management Services Technician.
5. The monthly list is updated to indicate the receipt of each report.
6. At the first of each month, the MST will forward the list of overdue probationary reports to the Senior Personnel Specialist who will send a standard email reminder to the appropriate supervisor, manager and Deputy Director of the appropriate unit and copying the assigned HR Analyst.
7. Each HR Analyst will keep a list of overdue probationary reports and check every two weeks with the Personnel Specialist to update any reports received. If there are outstanding reports, a reminder email will be sent to the supervisor with a copy to the appropriate manager.
8. If any reports are still outstanding after one month, the appropriate CEA will be notified by the Chief of Human Resources.