



COMPLIANCE REVIEW REPORT

CALIFORNIA HEALTH BENEFIT EXCHANGE

Compliance Review Unit
State Personnel Board
November 30, 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 five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews. 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 California Health Benefit Exchange (Exchange) personnel practices in the areas of examinations, appointments, EEO, and PSC's from August 1, 2014, through July 1, 2016, and mandated training from August 1, 2014, through August 1, 2016. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
Appointments	Equal Employment Opportunity Questionnaires Were Not Separated From Applications	Very Serious
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed	Serious

Area	Finding	Severity
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time	Serious
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules	In Compliance
Mandated Training	Ethics Training Was Not Provided for All Filers	Very Serious
Mandated Training	Sexual Harassment Prevention 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 Exchange, otherwise known as Covered California was established in the fall of 2010, after the enactment of the California Patient Protection and Affordable Care Act. The Exchange is a public entity within state government, with a five-member board appointed by the Governor and Legislature. The Exchange employs approximately 730 Service Center employees, located in Fresno and Rancho Cordova, responsible for providing consumer services, and approximately 400 Headquarters employees in Sacramento to support Service Center employees' ability to provide consumer services.

The Exchange's purpose is to improve the health of Californians by ensuring their access to affordable, high-quality healthcare, with the mission of increasing the number of insured Californians, improving health care quality, lowering costs, and reducing health disparities by providing an innovative, competitive marketplace that empowers consumers to choose the health plan and providers that give them the best value. The Exchange has become a vital resource that is part of the broader fabric of ensuring all Californians have access to affordable health insurance, whether through their work, public programs, or the individual market.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing Exchange's examinations, appointments, EEO program, PSC's from August 1, 2014, through July 1, 2016, and mandated training from August 1, 2014, through August 1, 2016. The primary objective of the review was to determine if Exchange's 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 the Exchange's 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 Exchange provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action (NOPA) 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 Exchange'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 Exchange did not execute any PSC's subject to the Department of General Services approval and thus our procedural review during the compliance review period.

In addition, the Exchange 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 prevention training within statutory timelines.

On November 10, 2016, an exit conference was held with the Exchange explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the Exchange written response on November 17, 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 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 Exchange conducted four examinations. The CRU reviewed three of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Health Program Specialist I	Open Continuous	Statement of Qualifications (SOQ) ¹	6/30/2015	21
Health Program Specialist I	Open Continuous	SOQ	8/25/2015	17
Health Program Specialist I	Open Continuous	SOQ	1/15/2016	26

¹ 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.

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

The CRU reviewed three open examinations, which the Exchange administered in order to create eligible lists from which to make appointments. The Exchange published and distributed examination bulletins containing the required information for all examinations. Applications received by the Exchange 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 Exchange 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 Exchange conducted during the compliance review period. Accordingly, the Exchange fulfilled its responsibilities to administer those examinations in compliance with civil service laws and board rules.

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 compliance review period, the Exchange made 870 appointments. The CRU reviewed 103 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Accountant Trainee	List Appointment	Permanent	Full Time	1

Assistant Information Systems Analyst	List Appointment	Permanent	Full Time	2
Associate Governmental Program Analyst	List Appointment	Permanent	Full Time	15
Associate Management Auditor	List Appointment	Permanent	Full Time	1
Career Executive Assignment A, Deputy Director	List Appointment	Permanent	Full Time	1
Career Executive Assignment B, Director	List Appointment	Permanent	Full Time	1
Executive Assistant	List Appointment	Permanent	Full Time	1
Health Program Manager III	List Appointment	Permanent	Full Time	1
Health Program Specialist I	List Appointment	Permanent	Full Time	3
Health Program Specialist II	List Appointment	Permanent	Full Time	1
Marketing Specialist I, California State Lottery	List Appointment	Permanent	Full Time	1
Office Assistant (Typing)	List Appointment	Permanent	Full Time	7
Office Technician (Typing)	List Appointment	Permanent	Full Time	1
Personnel Specialist	List Appointment	Limited Term	Full Time	1
Personnel Specialist	List Appointment	Permanent	Full Time	1
Program Technician II	List Appointment	Permanent	Intermittent	5
Program Technician III	List Appointment	Permanent	Full Time	1
Program Technician III	List Appointment	Permanent	Intermittent	5
Senior Information Systems Analyst (Specialist)	List Appointment	Permanent	Full Time	2
Senior Information Systems Analyst (Supervisor)	List Appointment	Permanent	Full Time	1
Staff Programmer Analyst (Specialist)	List Appointment	Permanent	Full Time	1
Staff Services Analyst (General)	List Appointment	Permanent	Full Time	7
Staff Services Management Auditor	List Appointment	Permanent	Full Time	1
Staff Services Manager I	List Appointment	Permanent	Full Time	1
Staff Services Manager III	List Appointment	Permanent	Full Time	3

Supervising Program Technician III	List Appointment	Permanent	Full Time	2
Systems Software Specialist I (Technical)	List Appointment	Permanent	Full Time	1
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full Time	1
Office Assistant (Typing) LEAP	Mandatory Reinstatement	Permanent	Full Time	1
Program Technician II	Mandatory Reinstatement	Permanent	Full Time	3
Senior Accounting Officer (Specialist)	Mandatory Reinstatement	Permanent	Full Time	1
Supervising Program Technician III	Mandatory Reinstatement	Permanent	Full Time	2
Program Technician II	Permissive Reinstatement	Permanent	Full Time	1
Executive Assistant	Training & Development	Permanent	Full Time	2
Supervising Program Technician III	Training & Development	Permanent	Full Time	1
Staff Services Manager II (Managerial)	Temporary Authorization Utilization (TAU)	Temporary	Full Time	1
Associate Government Program Analyst	Retired Annuitant	Temporary	Intermittent	1
Business Services Officer II (Specialist)	Retired Annuitant	Temporary	Intermittent	1
Senior Administrative Analyst (Accounting Systems)	Retired Annuitant	Temporary	Intermittent	1
Staff Services Analyst (General)	Retired Annuitant	Temporary	Intermittent	1
Associate Management Auditor	Transfer	Permanent	Full Time	1
Associate Personnel Analyst	Transfer	Permanent	Full Time	1
Health Program Manager I	Transfer	Permanent	Full Time	2
Health Program Specialist I	Transfer	Permanent	Full Time	2
Information Officer I (Specialist)	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	1
Personnel Specialist	Transfer	Permanent	Full Time	1

Research Program Specialist I	Transfer	Permanent	Full Time	1
Senior Marketing Specialist, California State Lottery	Transfer	Permanent	Full Time	1
Senior Personnel Specialist	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	2
Staff Services Manager I	Transfer	Permanent	Full Time	3
Staff Services Manager III	Transfer	Permanent	Full Time	1

FINDING NO. 2 – Equal Employment Opportunity Questionnaires Were Not Separated From Applications

Summary: Out of 103 appointments reviewed, 10 appointment files included applications where EEO questionnaires were not separated from the STD 678 employment application. Specifically, 134 of the 2,535 applications reviewed included EEO questionnaires that were not separated from the STD 678 employment application.

Criteria: Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, age, or sexual orientation). Applicants for employment in state civil service are asked to provide voluntarily ethnic data about themselves where such data is determined by the California Department of Human Resources (CalHR) to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD 678) states, "This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions."

Severity: Very Serious. The applicants' protected classes were visible, subjecting the agency to potential liability.

Cause: The Exchange states that this finding was the result of human oversight versus procedural error.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the Exchange submit to the CRU a written corrective action plan that the department will implement to ensure conformity with in the future that EEO questionnaires are separated from all applications. Copies of any relevant documentation should be included with the plan.

FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The Exchange did not prepare, complete, and/or retain 89 required probationary reports of performance.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Associate Governmental Program Analyst	List Appointment	8	20
Executive Assistant	List Appointment	1	2
Health Program Manager III	List Appointment	1	3
Health Program Specialist I	List Appointment	3	7
Health Program Specialist II	List Appointment	1	1
Marketing Specialist, California State Lottery	List Appointment	1	1
Office Assistant (Typing)	List Appointment	4	7
Office Technician (Typing)	List Appointment	1	1
Personnel Specialist	List Appointment	1	2
Program Technician II	List Appointment	4	10
Program Technician III	List Appointment	5	10
Senior Information Systems Analyst (Specialist)	List Appointment	2	5
Staff Services Manager III	List Appointment	2	4
Supervising Program Technician III	List Appointment	1	3

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Systems Software Specialist (Technical)	List Appointment	1	1
Program Technician II	Permissive Reinstatement	1	3
Information Officer I (Specialist)	Transfer	1	3
Office Technician (Typing)	Transfer	1	2
Senior Personnel Specialist	Transfer	1	2
Staff Services Manager I	Transfer	1	2
Total		41	89

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 Exchange states that this finding was due to the unprecedented nature of work and severe time constraints placed on supervisors involved with establishing the Exchange under the Affordable Care Act.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the Exchange 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. 4 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Summary: The Exchange failed to retain personnel records such as NOPA's, and applications. Specifically, of the 103 appointments reviewed, the Exchange did not retain six NOPA's. Additionally, 10 appointment files reviewed were missing all applications for recruitment, except the appointee's.

Criteria: As specified in California Code of Regulations, title 2, section 26 (Rule 26), appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Reg., tit. 2, § 26.)

Severity: Serious. Without documentation, the CRU could not verify if the appointments were properly conducted.

Cause: The Exchange states that this finding is a result of appointment documentation being retained by hiring supervisors versus in the human resources division.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the Exchange submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the record retention requirements of California Code of Regulations title 2, section 26. Copies of 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).)

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

FINDING NO. 5 – 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 Exchange 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 Exchange. In addition, the Exchange has an established DAC which reports to the Director on issues affecting persons with disabilities. The Exchange 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 Exchange 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 California Department of Human Resources (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).) 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 Exchange's mandated training program that was in effect during the compliance review period. While the Exchange supervisory training was found to be in compliance, the ethics training and sexual harassment prevention training were found to be out of compliance.

FINDING NO. 6 – Ethics Training Was Not Provided for All Filers

Summary: The Exchange did not provide ethics training to 13 of 207 existing filers. In addition, the Exchange did not provide ethics training to nine of 177 new filers within six months of their appointment.

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

Commission and the Attorney General. (Gov. Code, § 11146.1, subd. (c).)

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

Cause: The Exchange states that it does not have an automated tracking system for training and due to the manual process, the training was not scheduled in a timely manner.

Action: The Exchange must take appropriate steps to ensure that filers are provided ethics 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 Exchange must establish a plan to ensure compliance with ethics training mandates and submit to the SPB a written report of compliance.

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

Summary: The Exchange did not provide sexual harassment prevention training to 33 of 94 new supervisors within six months of their appointment. In addition, the Exchange did not provide sexual harassment prevention training to 102 of 143 existing supervisors every two years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, 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 Exchange states that this finding is due to severe time constraints involved with establishing the Exchange and not having mechanisms in place through the learning management system to generate electronic reminders and compliance reports.

Action: The Exchange must take appropriate steps to ensure that its supervisors are provided sexual harassment prevention 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 Exchange 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 Exchange's response is attached as Attachment 1.

SPB REPLY

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

It is further recommended that the Exchange 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.



November 17, 2016

Suzanne Ambrose
Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. Ambrose,

This letter is in response to the State Personnel Board's (SPB), Compliance Review of the California Health Benefit Exchange/Covered California's examinations, appointments, Equal Employment Opportunity (EEO) Program, and mandated training program during August 1, 2014, through July 1, 2016. Covered California would like to thank SPB's Compliance Review Unit (CRU) for their oversight and thoroughness in conducting our compliance review. The CRU's review afforded us the opportunity to work collaboratively with SPB to explore opportunities for enhancements to our hiring process, EEO Program, and administration of mandated training.

The following are in response to SPB's Compliance Review Report.

Finding No. 1 - Examinations Complied with Civil Service Laws and Board Rules:

The SPB, CRU requires no response or action to this finding.

Finding No. 2 – Equal Employment Opportunity Questionnaires Were Not Separated from Applications:

Covered California recognizes the importance of protecting and ensuring confidentiality of EEO information during the hiring process. It is standard practice for the Human Resources Branch (HRB) to remove all EEO Questionnaires from employment applications. We are confident this finding is a result of human, versus procedural, error. With implementation of the Statewide Examination and Certification Online System (ECOS), EEO Questionnaires will no longer be accessible to hiring supervisors. Additionally, we have since reiterated the importance of and advised all HRB personnel to remove the EEO Questionnaire from all paper employment applications received.

Finding No. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed:

In 2011, Covered California established the first Health Benefit Exchange under the Affordable Care Act. Due to the unprecedented nature of the work involved, there were severe time constraints placed upon supervisory staff that may have hindered their ability to perform some administrative tasks. In support of our commitment to provide all employee's performance feedback, HRB personnel developed and began providing annual training on When and How to Complete Probationary Period Reports in 2016. Additionally, we are in the process of implementing a probationary period tracking and reporting procedure for release in 2017.

Finding No. 4 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time:

Covered California recognizes the importance of maintaining and retaining appointment documentation and began revising our processes prior to SPB's Compliance Review. As of September 2016, HRB's Employment and Classification Services Unit revised our hiring process by implementing a new handbook and providing mandatory training to all hiring supervisors, HR liaisons, and HRB personnel. This process requires all hiring documents be processed by and retained within HRB. Retention of appointment documentation prior to implementation of our new hiring process is attributed to human error as applications were previously maintained by hiring supervisors. Through implementation of ECOS, ongoing training of HRB personnel, and requiring adherence to our new hiring process, we are committed to ensuring appointment documents are properly maintained.

Finding No. 5 – Equal Employment Opportunity Program Complied with Civil Service Laws and board Rules:

The SPB, CRU requires no response or action to this finding.

Finding No. 6 – Ethics Training Was Not Provided for All Filers:

Covered California currently requires completion of Ethics training by all Conflict of Interest (COI) filers through the Department of Justice's online training. Though Ethics training is offered to and completion is required by all COI filers, submission of training certificates is not consistently followed up on. This is a result of manual tracking in which we are taking steps to correct by requiring all employees complete Ethics training through our Covered California University's (CCU) Learning Management System (LMS). The LMS will administer and track completion of Ethics training for all employees and generate electronic reminders and compliance reports for executive management.

Finding No. 7 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors:

Covered California acknowledges the importance of providing and requiring completion of Sexual Harassment Prevention (SHP) training for all employees including fulfillment of the two hour supervisory requirement through Basic Supervision. CCU notifies all supervisors of the Basic Supervision training requirements, which includes SHP training, and makes available to all supervisors through the California Department of Human Resources and Sacramento State College of Continuing Education. Though SHP training is made available, CCU is committed to ensuring compliance with completion and is in the process of utilizing LMS to generate electronic reminders and compliance reports for executive management. Supervisor's not having completed SHP training is attributed to the unprecedented nature of the work involved, wherein severe time constraints placed upon supervisory staff may have hindered their ability to do so, and mechanisms not being in place through LMS to generate electronic reminders and compliance reports.

In response to SPB's Compliance Review, we acknowledge there are continual opportunities to build upon our appointment process and completion of mandated training. Through this process, we are confident we have established and communicated practices to ensure compliance with laws and rules governing our appointments and mandated training.

Sincerely,



Jaclyn Padilla
Human Resources Branch Chief