



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA STATE LIBRARY**

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 State Library (CSL) personnel practices in the areas of examinations, appointments, EEO, and PSC's from October 1, 2015, through August 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	Probationary Evaluations Were Not Provided for All Appointments Reviewed	Serious
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules	In Compliance

Area	Finding	Severity
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements	In Compliance
Mandated Training	Mandated Training Complied with Statutory Requirements	In Compliance

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 CSL is to serve as the state’s information hub, preserving California’s cultural heritage and connecting people, libraries, and government to the resources and tools they need to succeed and to build a strong California. The CSL serves the people of California in several ways and is made up of five Bureaus including: Administrative Services, California Research, State Library Services, Information Technology, and Library Development Services. These bureaus ensure that the CSL is the central reference and research library for state government and the Legislature and provides non-partisan research to the Legislature and the Governor. The CSL collects, preserves, generates, and disseminates information ranging from California’s priceless historical items to today’s online texts, and it advises, consults with, and provides technical assistance to California’s public libraries, all while directing state and federal funds to support local public libraries and statewide library programs and services.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing CSL’s examinations, appointments, EEO program, and PSC’s from October 1, 2015, through August 1, 2016, and mandated training from August 1, 2014, through August 1, 2016. The primary objective of the review was to determine if Library’s personnel practices, policies, and procedures complied with state civil service laws and board regulations, and to recommend corrective action for those deficiencies identified.

A cross-section of the CSL’s examinations and appointments were selected to ensure that various samples of examinations and appointment types, classifications, and levels

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

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

The CSL declined to have an exit conference. On November 7, 2016, the CRU received and carefully reviewed the response, which is attached to this final compliance report.

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

## **FINDINGS AND RECOMMENDATIONS**

### Examinations

Examinations to establish an eligible list must be competitive and of such character as to fairly 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 of 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 in 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 CSL conducted ten examinations. The CRU reviewed five of those examinations, which are listed below:

Classification	Examination Type	Exam Components	Final File Date	No. of Applications
Digital Composition Specialist II	Departmental Promo	Education and Experience <sup>2</sup>	9/30/15	3

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<sup>2</sup> In an education and experience (E&E) examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

Classification	Examination Type	Exam Components	Final File Date	No. of Applications
Librarian	Open	Supplemental Application <sup>3</sup>	Continuous	41
Library Programs Administrator	Open	Supplemental Application	Continuous	2
Library Technical Assistant I	Open	Supplemental Application	Continuous	5
Supervising Librarian I	Open	Supplemental Application	Continuous	7

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

The CRU reviewed nine open examinations and one departmental promotional examination, which the CSL administered in order to create eligible lists from which to make appointments. The CSL published and distributed examination bulletins containing the required information for all examinations. Applications received by the CSL 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 CSL 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.

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<sup>3</sup> In a supplemental application (SA) examination, applicants are not required to present themselves in person at a predetermined time and place. Supplemental applications are in addition to the regular application and must be completed in order to remain in the examination. Supplemental applications are also known as "rated" applications.

The CRU found no deficiencies in the examinations that the CSL conducted during the compliance review period. Accordingly, the CSL 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 CSL made 22 appointments. The CRU reviewed 11 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Accounting Officer (Specialist)	Certification List	Permanent	Full time	1
Career Executive Assignment A	Certification List	Permanent	Full time	2
Digital Composition Specialist II	Certification List	Permanent	Full time	1
Library Programs Consultant	Certification List	Permanent	Full time	1
Office Technician (Typing)	Certification List	Permanent	Full time	1
Staff Services Analyst (General)	Certification List	Permanent	Full time	1
Staff Services Manager II	Certification List	Permanent	Full time	1
Supervising Librarian II	Certification List	Permanent	Full time	1
Research Program Specialist I	Mandatory Reinstatement	Permanent	Full time	1
Research Program Specialist II	Transfer	Permanent	Full time	1



For each of the nine list appointments, the CSL properly advertised the job vacancies, sent out contact letters, screened applications, interviewed candidates, and cleared the certification lists for SROA and reemployment, and conducted background and reference checks as appropriate.

The CSL made one appointment via mandatory reinstatement. A state agency is required to reinstate an employee to his or her former position if the employee is (1) terminated from a temporary or limited-term appointment by either the employee or the appointing power; (2) rejected during probation; or (3) demoted from a managerial position. (Gov. Code, § 19140.5.) The following conditions, however, must apply: the employee accepted the appointment without a break in continuity of service and the reinstatement is requested within ten working days after the effective date of the termination. (*Ibid.*) The CSL complied with the rules and laws governing mandatory reinstatements.

The CRU reviewed one CSL appointment made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Reg., tit. 2, § 425.) The CSL verified the eligibility of the candidate to their appointed class.

The CSL did not provide probation reports for all appointments as described in finding 2.

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

**Summary:** The CSL did not prepare, complete, and/or retain eight required probationary reports of performance.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Accounting Officer (Specialist)	List Appointment	1	3
Digital Composition Specialist II	List Appointment	1	3
Library Programs Consultant	List Appointment	1	1

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Office Technician (Typing)	List Appointment	1	1
<b>Total</b>		<b>4</b>	<b>8</b>

**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 CSL states that the CSL Human Resources Services Office does not have a formal tracking system in place to ensure timely completion of probationary reports. The Human Resources Services Office provides blank copies, including dates of completion of the probationary reports to managers upon appointment; however, management did not comply in all instances.

**Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the CSL 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.

### Equal Employment Opportunity (EEO)

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to equal employment opportunity; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the CalHR 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.) In a state agency with less than 500 employees, like the FPPC, the EEO officer may be the personnel officer. (*Ibid.*)

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 CSL's EEO policies, procedures, and programs in effect during the compliance review period.

**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 CSL's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CSL. In addition, the CSL has an established DAC that reports to the director on issues affecting persons with a disability. The CSL also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with a disability, and to offer upward mobility opportunities for its entry-level staff. Accordingly, the CSL's EEO program complied with civil service laws and board rules.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the State. (Cal. Code Reg., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state's authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC's achieve cost savings for the state. PSC's that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

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

During the compliance review period, the CSL had two PSC's that were in effect and subject to Department of General Services (DGS) approval, and thus our procedural review. The CRU reviewed both contracts, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Braille Institution of America	Service to Blind	7/1/16-6/30/17	\$409,190.00	Yes
Inter-Con Security Systems, Inc	Security Guard	5/1/16-6/31/16	\$170,753.44	Yes

**FINDING NO. 4 – Personal Services Contracts Complied with Procedural Requirements**

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

The total amount of all the PSC's reviewed was \$579,943.44. It was beyond the scope of the review to make conclusions as to whether the CSL justifications for the contract were legally sufficient. For all PSC's subject to DGS approval, the CSL provided specific and detailed factual information in the written justifications as to how each of the two contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the CSL PSC's complied with procedural requirements.

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 CSL's mandated training program that was in effect during the compliance review period. The CSL's ethics, supervisory, and sexual harassment prevention training were found to be in compliance.

**FINDING NO. 5– Mandated Training Complied with Statutory Requirements**

The CSL provided ethics training to its 17 new filers within six months of appointment and semiannual ethics training to its 35 existing filers during two year calendar year period commencing in 2014. In addition, the CSL provided sexual harassment prevention training to its four new supervisors within six months of appointment and sexual harassment prevention training to its 14 existing supervisors every two years. Thus, the CSL complied with mandated training requirements within statutory timelines.

**DEPARTMENTAL RESPONSE**

The CSL's response is attached as Attachment 1.

**SPB REPLY**

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


It is further recommended that the CSL 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.



## M E M O R A N D U M

Date: November 7, 2016

To: Compliance Review Unit, State Personnel Board



From: Virginia Perry, Personnel Officer  
Human Resources Services Office

Subject: Compliance Review Report – California State Library Response

The California State Library (CSL), Human Resources Services Office is in receipt of the State Personnel Board's (SPB) draft Compliance Review Report dated October 31, 2016.

The draft Compliance Review Report found that 4 out of 11 appointments reviewed during the audit did not have probationary reports of performance.

The CSL provides the following information regarding Finding No. 2 – Probationary Evaluations were not provided for all appointments reviewed:

**Cause:** CSL's Human Resources Services Office does not have a formal tracking system in place to ensure timely completion of probationary reports. The Human Resources Services Office provides blank copies, including dates of completion of the probationary reports to managers upon appointment; however, management did not comply in all instances.

**Response:** CSL recognizes the importance of the probationary period and the need to provide its employees with continuous feedback and to ensure that the individuals selected can successfully perform the full scope of their job duties.

The CSL's Human Resources Services Office has implemented a probationary tracking system and will send reminders to the managers and supervisors of upcoming probationary dates 30 days prior to the probation due dates.

If you have any questions or need additional information, please contact me at (916) 651-8341.