



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA COMMUNITY COLLEGES CHANCELLOR'S OFFICE**

Compliance Review Unit  
State Personnel Board  
July 15, 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 Community Colleges Chancellor's Office (CCCCO) personnel practices in the areas of examinations, appointments, and EEO from May 1, 2015, through January 31, 2016, and mandated training from February 1, 2014, through January 31, 2016. There were no PSC's executed during the compliance review period. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
Appointments	Appointments Complied with Civil Service Laws and Board Rules	In Compliance

Area	Finding	Severity
Equal Employment Opportunity	A Disability Advisory Committee Has Not Been Established	Very Serious
Mandated Training	Supervisory Training Was Not Provided for All Supervisors	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 mission of the California Community Colleges Board of Governors and the Chancellor’s Office is to empower the community colleges through leadership, advocacy and support. The California Community Colleges is the largest system of higher education in the nation, with 2.1 million students attending 113 colleges. Our colleges provide students with the knowledge and background necessary to compete in today’s economy. With a wide range of educational offerings, the colleges provide workforce training, basic courses in English and math, certificate and degree programs, and preparation for transfer to four-year institutions.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing CCCC CO examinations, appointments, and EEO program from May 1, 2015, through January 31, 2016, and mandated training from February 1, 2014, through January 31, 2016. The primary objective of the review was to determine if CCCC CO 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 CCCC CO 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 CCCC CO provided, which included examination plans, examination bulletins, job analyses, 511b’s, scoring results, notice of personnel action forms, vacancy postings, application

screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The review of the CCCCCO 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 CCCCCO did not execute any PSC's subject to the Department of General Services approval during the compliance review period.

In addition, the CCCCCO 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 June 15, 2016, an exit conference was held with the CCCCCO to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CCCCCO written response on July 5, 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 CCCCCO conducted 40 examinations. The CRU reviewed 18 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Administrator for Academic Planning and Development	Departmental Open	Training and Experience (T&E) <sup>1</sup>	Continuous	15
Administrator for Facilities Planning & Utilization	Departmental Open	T&E	6/19/2015	30
Administrator for Facilities Planning and Utilization, CCC	Departmental Open	T&E	Continuous	32
Administrator for Fiscal Planning and Administration	Departmental Open	T&E	Continuous	7
Administrator for Student Services Planning & Development	Departmental Open	T&E	6/19/2015	30
Administrator for Student Services Planning and Utilization, CCC	Departmental Open	T&E	Continuous	32
CEA B Board of Governors, CCC--Vice Chancellor--Technology, Research and Information Systems	CEA	Statement of Qualifications <sup>2</sup>	10/14/15	17
Director, Vocational Education	Departmental Promotional	Qualification Appraisal Panel <sup>3</sup>	7/3/2015	2

<sup>1</sup> The training and experience (T&E) examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

<sup>2</sup> In a statement of qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

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

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Specialist For General Vocational Education	Departmental Open	T&E	12/10/2015	38
Specialist in Academic Planning and Development, CCC	Departmental Open	T&E	Continuous	38
Specialist in Academic Planning and Development, CCC	Departmental Open	T&E	Continuous	19
Specialist in Academic Planning and Development, CCC	Departmental Open	T&E	12/10/2015	38
Specialist in Fiscal Planning and Administration, CCC	Departmental Open	T&E	Continuous	38
Specialist in Fiscal Planning and Administration, CCC	Departmental Open	T&E	Continuous	9
Specialist in General Vocational Education	Departmental Open	T&E	Continuous	16
Specialist in Information System & Analyst	Departmental Open	T&E	12/10/2015	38
Specialist in Information Systems and Analysis, CCC	Departmental Open	T&E	Continuous	38
Specialist in Information Systems and Analysis, CCC	Departmental Open	T&E	Continuous	4

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

The CRU reviewed 18 examinations the CCCCOC administered to create eligible lists from which to make appointments. The CCCCOC published and distributed examination bulletins containing the required information for all examinations. Applications received 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 CCCCOC 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 CCCCCO examinations reviewed during the compliance review period. Accordingly, the CCCCCO 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 CCCCCO made 33 appointments. The CRU reviewed 20 of those 33 appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Specialist in Fiscal Planning and Administration, California Community Colleges	Certification List	Permanent	Full Time	1
Specialist in General Vocational Education California Community Colleges	Certification List	Permanent	Full Time	1
Information Officer I (Specialist)	Certification List	Permanent	Full Time	1



Research Program Specialist II	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Administrator, Vocational Education	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Director, Vocational Education, California Community Colleges	Certification List	Permanent	Full Time	1
Graphic Designer III	Certification List	Permanent	Full Time	1
Community College Program Assistant II	Mandatory Reinstatement	Permanent	Full Time	1
Systems Software Specialist III (Technical)	Mandatory Reinstatement	Permanent	Full Time	1
Specialist, Student Services and Special Programs	Retired Annuitant	Limited Term	Intermittent	1
Community College Program Assistant II	Retired Annuitant	Limited Term	Intermittent	1
Associate Governmental Program Analyst	Training and Development	Limited Term	Full Time	1
Attorney III	Transfer	Permanent	Full Time	1
Specialist in Student Services Planning and Development, CCC	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1

**FINDING NO. 2 – Appointments Complied with Civil Service Laws and Board Rules**

The CCCCCO measured each applicant’s ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 12 list appointments reviewed, the CCCCCO ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the

selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed three CCCCCO appointments made to positions 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 CCCCCO verified the eligibility of each candidate to their appointed class.

For appointments that are mandatory reinstatements, a state agency or department 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.) However, the following conditions must apply: the employee accepted the appointment without a break in continuity of service and the reinstatement is requested within 10 working days after the effective date of the termination. (*Ibid.*) The two employee appointments reviewed who were appointed as mandatory reinstatements accepted their appointments without a break in the continuity of his/her state service and requested reinstatement within 10 working days after the effective date of the termination of the other position.

The CRU reviewed two retired annuitant appointments. The individuals submitted their applications and were eligible to be hired as retired annuitants, not to exceed 960 hours in a fiscal year.

Eligibility for training and development assignments are limited to employees who (1) have permanent status in their class, or (2) who have probationary status and who previously have had permanent status and who, since such permanent status, have had no break in service due to a permanent separation. The CRU reviewed one training and development appointment, and determined it to be in compliance with applicable civil service laws and board rules (Gov. Code, § 438, subd. (a)(b)).

The CRU found no deficiencies in the CCCCCO appointments reviewed during the compliance review period. Accordingly, the CRU found that the CCCCCO appointments satisfied civil service laws and board rules.

## **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 CCCCCO EEO program that was in effect during the compliance review period.

### **FINDING NO. 3 – A Disability Advisory Committee Has Not Been Established**

**Summary:** The CCCCCO did not have an established DAC.

Although the department provided a draft of DAC bylaws and stated that they are planning to implement the DAC, there was no active DAC in place at the time of the compliance review.

**Criteria:** 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).)

**Severity:** Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a DAC may limit an agency's ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.

**Cause:** The CCCCCO states that because of staff turnover, the DAC program was neglected. Provisions are currently in place to implement the program.

**Action:** The CCCCCO must continue to take appropriate steps to ensure the establishment of a DAC, comprised of members who have disabilities or who have an interest in disability issues. The CCCCCO must submit to the CRU a written report of compliance, including the DAC roster, agenda, and meeting minutes, no later than 60 days from the date of the SPB Executive Officer's approval of these findings and recommendations.

### **Mandated Training**

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

Each department must provide its new supervisors supervisory training within twelve months of appointment. (Gov. Code, § 19995.4, subd. (b) and (c).) The training must be a minimum of 80 hours, 40 of which must be structured and given by a qualified

instructor. The other 40 hours may be done on the job by a higher-level supervisor or manager. (Gov. Code, § 19995.4, subd. (b).)

Additionally, each department must provide its supervisors two hours of sexual harassment 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).)

The CRU reviewed the CCCCCO mandated training program that was in effect during the compliance review period. While the CCCCCO ethics training was found to be in compliance, the 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 CCCCCO did not provide supervisory training to 17 of 27 new supervisors within twelve months of appointment.

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

**Severity:** Very Serious. The department does not ensure its new managers are properly trained. Without proper training, new supervisory employees may not properly carry out their supervisory roles, including managing employees.

**Cause:** The CCCCCO states that supervisors did not register for this training, nor did their managers ensure that the employees attend the mandated training within the required timeframe.

**Action:** The CCCCCO has submitted a corrective action plan for ensuring compliance in meeting the mandatory training requirements of Government Code section 19995.4, subd. (b) and (c); therefore, no further action is required at this time.

**FINDING NO. 5 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

- Summary:** The CCCCCO did not provide sexual harassment prevention training to 22 of 27 existing supervisors on a two-year basis. In addition, the CCCCCO did not provide sexual harassment prevention training to all three of its new supervisors within six months of appointment.
- Criteria:** Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided supervisory training within six months of appointment. (Gov. Code, § 12950.1, subd. (a).)
- Severity:** Very Serious. The department does not ensure its new supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.
- Cause:** The CCCCCO states that sexual harassment prevention training has not been given to managers within the past two years. In addition, new managers have not taken the training within six months of their start date.
- Action:** The CCCCCO has submitted a corrective action plan for ensuring compliance in meeting the mandatory training requirements of Government Code section 12950.1, subd. (a); therefore, no further action is required at this time.

**DEPARTMENTAL RESPONSE**

The CCCCCO's written response is attached as Attachment 1.

**SPB REPLY**

Based upon the CCCCCO written response, the CCCCCO will comply with the CRU recommendations and findings, and provide the CRU with a corrective action plan with the supporting documentation stated for Finding No. 3. The CCCCCO submitted

corrective action plans for Finding Nos. 4 and 5, therefore no further action is required for those findings.

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

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July 1, 2016

State Personnel Board  
Policy and Compliance Review Division  
801 Capitol Mall  
Sacramento, CA 95814

This letter is in response to the California State Personnel Board's (SPBs) compliance review draft of the California Community Colleges Chancellor's Office (CCCCO) personnel practices. The SPB draft report provided three findings, which require a response from CCCCCO. The following includes those findings, an explanation of why they occurred, and details to summarize corrective action plans.

Specific Findings and Responses:

**Finding NO. 1- A Disability Advisory Committee Has Not Been Established**

**Cause:** CCCCCO acknowledges and agrees with SPB's finding.

**Response:** The Chancellor's Office has created Disability Advisory Committee (DAC) bylaws and has submitted them to the Office of the General Counsel for review and approval. Once they are approved, the DAC committee will be established. The Chancellor's Office anticipates that the DAC will be implemented by August 2016. Please see the attached draft of the DAC bylaws.

**Finding NO. 2 – Supervisory Training Was Not Provided for All Supervisors**

**Cause:** CCCCCO acknowledges and agrees with this finding. Supervisors did not register for this training, nor did their managers ensure that the employees attend the mandated training within the required timeframe.

**Response:** In order to ensure that future non-compliance issues do not occur, the Human Resources Office (HRO) will enroll new supervisors and track course completion to ensure timeframes are met. If employees fail to attend training, the issue will be escalated to upper management and executive staff to address. In addition, the employee's manager will be reminded of the training requirement by the HRO. CCCCCO



is committed to enrolling all managers that have not completed the training within the next six months.

**Finding NO. 3 – Sexual Harassment Training Was Not Provided for All Supervisors**

**Cause:** CCCCCO acknowledges and agrees with this finding. Sexual Harassment prevention training has not been given to managers within the past two years. In addition, new managers have not taken the training within 6 months of their start date.

**Response:** CCCCCO has scheduled the Sexual Harassment Prevention training for July 12 and 13, 2016 for all the managers and supervisors. Once the training is completed on both days CCCCCO will be in compliance with this government code. In addition, the HRO office will establish a tracking system to ensure the required training is completed by the managers within the first six months of appointment and every two years after.

CCCCCO would like to thank the SPB Compliance Review team and appreciates the opportunity to respond to the report. CCCCCO will continue to educate and train our Divisions on the best hiring practices to ensure compliance with SPB's civil service merit system.

If you have any questions or need additional information, please contact me at 916.323.0165.

Sincerely,

  
Lynne Cervinka, Director  
Internal Operations Division