CALIFORNIA STATE PERSONNEL BOARD

COMPLIANCE REVIEW REPORT

CALIFORNIA DEPARTMENT OF EDUCATION

Compliance Review Unit
State Personnel Board
June 29, 2020

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INTRODUCTION

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California Department of Education's (CDE) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Those That Were Provided Were Untimely[1]
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Ethics Training Was Not Provided for All Filers[2]
Mandated Training	Leadership and Development Training Was Not Provided for All Supervisors, Managers, and CEAs[3]
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors[4]
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

[1] Repeat finding. December 13, 2016, the CDE's Compliance Review report identified missing probation reports in 11 of 76 appointment files reviewed.
[2] Repeat finding. December 13, 2016, report identified 25 of 536 existing filers did not receive ethics training, and 6 of 189 new filers did not receive ethics training within 6 months of appointment.
[3] Repeat finding. December 13, 2016, report identified 9 of 62 new supervisors who did not receive supervisory training within twelve months of appointment.
[4] Repeat finding. December 13, 2016, report identified sexual harassment prevention training was not provided to 6 of 62 new supervisors within 6 months of appointment; and 1 of 309 existing supervisors every 2 years.

Area	Finding
Compensation and Pay	Exceptions to Salary Rules Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Application of Laws, Rules, and CalHR Policies and Guidelines for Red Circle Rate Pay
Compensation and Pay	Incorrect Authorization of Bilingual Pay
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Department Did Not Properly Monitor Time Worked for All Positive Paid Employees
Leave	Administrative Time Off Was Not Properly Documented
Leave	Incorrectly Posted Leave Usage and/or Leave Credit
Leave	Leave Reduction Plans Were Not Developed for Employees Whose Leave Balances Exceeded Established Limits
Leave	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

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

- Red = Very Serious
- Orange = Serious
- Yellow = Technical
- Green = In Compliance

BACKGROUND

The CDE oversees the state's diverse and dynamic public school system, which is responsible for the education of more than seven million children and young adults in more than 9,000 schools. The CDE and the State Superintendent of Public Instruction are responsible for enforcing education law and regulations, and for continuing to reform and improve public elementary school programs, secondary school programs, adult education, some preschool programs, and childcare programs. The CDE's mission is to provide a world-class education for all students, from early childhood to adulthood. The CDE serves our state by innovating and collaborating with educators, schools, parents, and community partners preparing students to live, work, and thrive in a highly connected world. The CDE employs approximately 2,500.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CDE's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes[5]. The primary objective of the review was to determine if the CDE's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the CDE's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the CDE provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CDE's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CDE's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CDE provided, which included Notice of

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

Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CDE did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CDE did not make any additional appointments during the compliance review period.

The CDE's appointments were also selected for review to ensure the CDE applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CDE provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: hiring above minimum (HAM) requests, red circle rate requests, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the CDE did not issue or authorize arduous pay.

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

The CDE's PSC's were also reviewed.[6] It was beyond the scope of the compliance review to make conclusions as to whether the CDE's justifications for the contracts were legally sufficient. The review was limited to whether the CDE's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

The CRU also identified the CDE's employees whose current annual leave, or vacation leave credits, exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave

[6]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.

balances have a leave reduction plan in place. Additionally, the CRU asked the CDE to provide a copy of their leave reduction policy.

The CRU reviewed the CDE's Leave Activity and Correction Certification forms to verify that the CDE created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected a small cross-section of the CDE's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CDE's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the CDE employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of the CDE positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

An exit conference was not held with the CDE to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CDE's written response on June 4, 2020, 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, subd. (a).) 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 with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) 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, April 1, 2019, through December 31, 2019, the CDE conducted 104 examinations. The CRU reviewed 23 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Assistant Field Representative, School Administration	Departmental Open	Training and Experience (T&E)[7]	6/20/19	2
Associate Editor of Publications	Departmental Open	T&E	8/22/19	9
Child Development Consultant	Departmental Open	T&E	6/20/19	9
Child Nutrition Consultant	Departmental Open	T&E	6/20/19	4
Child Nutrition Supervisor II	Departmental Open	T&E	6/20/19	1
Counselor, School for the Blind	Departmental Open	T&E	6/14/19	2
Education Administrator I	Departmental Open	T&E	4/19/19	7
Education Administrator II	Departmental Open	T&E	6/20/19	11

[7] The Training and Experience 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.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Education Fiscal Services Consultant	Departmental Open	T&E	6/20/19	4
Education Programs Assistant	Departmental Open	T&E	4/19/19	9
Education Research and Evaluation Administrator I	Departmental Open	T&E	6/20/19	2
Education Research and Evaluation Assistant	Departmental Open	T&E	6/20/19	5
Education Research and Evaluation Consultant	Departmental Open	T&E	6/20/19	5
Field Representative, School Administration (Specialist)	Departmental Open	T&E	6/20/19	6
Night Attendant, School for the Blind	Departmental Open	T&E	6/14/19	2
Nutrition Education Assistant	Departmental Open	T&E	6/20/19	1
School Health Education Consultant	Departmental Open	T&E	7/15/19	1
Supervising Counselor, School for the Deaf	Departmental Open	T&E	6/14/19	3
Teaching Assistant, School for the Blind	Departmental Open	T&E	6/14/19	1
Transportation Programs Consultant	Departmental Open	T&E	6/20/19	1

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) A, Associate Director, Nutrition Services Division	CEA	Statement of Qualifications (SOQ)[8]	10/7/19	9
CEA B, Director, Government Affairs Division	CEA	SOQ	6/10/19	7
CEA B, Director School Fiscal Services Division	CEA	SOQ	12/10/19	4

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

The CRU reviewed 20 departmental open examinations and 3 CEA examinations, which the CDE administered in order to create eligible lists from which to make appointments. The CDE published and distributed examination bulletins containing the required information for all examinations. Applications received by the CDE were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the CDE conducted during the compliance review period.

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the

[8] In a Statement of Qualifications 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.

qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond, or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing, and shall notify the candidate of his or her appeal rights. *(Ibid.)* A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate's subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. *(Ibid.)*

During the period under review, April 1, 2019, through December 31, 2019, the CDE conducted one permanent withhold action. The CRU reviewed the permanent withhold action, which is listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Associate Governmental Program Analyst	9PB04	11/9/18	11/9/19	Did Not Meet Minimum Qualifications

FINDING NO. 2 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules

The CRU found no deficiencies in the permanent withhold action undertaken by the department during the compliance review period.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. *(Ibid.)* Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that

same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. *(Ibid.)* This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, March 1, 2019, through November 30, 2019, the CDE made 279 appointments. The CRU reviewed 53 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant I (Specialist)	Certification List	Permanent	Full Time	1
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	1
Accounting Administrator II	Certification List	Permanent	Full Time	1
Accounting Analyst	Certification List	Permanent	Full Time	1
Accounting Officer (Specialist)	Certification List	Limited Term	Full Time	1
Associate Editor of Publications	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Management Auditor	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Child Development Consultant	Certification List	Permanent	Full Time	2
Child Nutrition Assistant	Certification List	Permanent	Full Time	2
Education Administrator I	Certification List	Permanent	Full Time	1
Education Administrator II	Certification List	Permanent	Full Time	1
Education Fiscal Services Assistant	Certification List	Permanent	Full Time	1
Education Programs Assistant	Certification List	Permanent	Full Time	1
Education Programs Consultant	Certification List	Permanent	Full Time	1
Education Research & Evaluation Consultant	Certification List	Permanent	Full Time	1
Executive Secretary	Certification List	Permanent	Full Time	1
Heavy Truck Driver	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Limited Term	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Information Technology Specialist III	Certification List	Permanent	Full Time	1
Information Technology Supervisor II	Certification List	Permanent	Full Time	1
Nutrition Education Administrator	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Personnel Specialist	Certification List	Permanent	Full Time	1
Research Data Specialist I	Certification List	Permanent	Full Time	1
Research Data Specialist II	Certification List	Permanent	Full Time	1
Senior Legal Typist	Certification List	Permanent	Full Time	1
Senior Personnel Specialist	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Management Auditor	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	2
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Warehouse Worker	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	LEAP	Temporary	Full Time	1
Associate Editor of Publications	Training and Development	Permanent	Full Time	1
Education Fiscal Services Assistant	Training and Development	Permanent	Full Time	1
Education Programs Assistant	Training and Development	Permanent	Full Time	2
Associate Budget Analyst	Transfer	Permanent	Full Time	1
Education Administrator I	Transfer	Permanent	Full Time	1
Education Fiscal Services Assistant	Transfer	Permanent	Full Time	1
Education Programs Assistant	Transfer	Permanent	Full Time	1
Education Programs Consultant	Transfer	Permanent	Full Time	1
Education Research and Evaluation Consultant	Transfer	Permanent	Full Time	1
Executive Assistant	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	1
Research Data Analyst II	Transfer	Permanent	Full Time	1
Staff Services Analyst	Transfer	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Training Officer I	Transfer	Permanent	Full Time	1

FINDING NO. 3 – Probationary Evaluations Were Not Provided for all Appointments Reviewed and Those That Were Reviewed Were Untimely

Summary: The CDE did not provide 17 probationary reports of performance for 14 of the 53 appointments reviewed by the CRU. In addition, the CDE did not provide 3 probationary reports of performance in a timely manner, as reflected in the table below. This is the second consecutive time this has been a finding for the CDE.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Accountant I (Specialist)	Certification List	1	2
Associate Management Auditor	Certification List	1	1
Child Development Consultant	Certification List	1	1
Child Nutrition Consultant	Certification List	1	1
Education Fiscal Services Consultant	Certification List	1	1
Education Programs Assistant	Certification List	1	1
Education Programs Consultant	Certification List	1	1
Executive Assistant	Certification List	1	1
Information Technology Supervisor II	Certification List	1	2
Personnel Specialist	Certification List	1	1
Research Data Specialist II	Certification List	1	1

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Staff Services Manager I	Certification List	1	1
Associate Budget Analyst	Transfer	1	2
Education Fiscal Services Assistant	Transfer	1	1

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Accounting Administrator II	Certification List	1	1
Education Administrator I	Certification List	1	1
Research Data Specialist I	Certification List	1	1

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. *(Ibid.)* The Board's record retention rules require that appointing powers retain all probationary reports for five years

from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

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 CDE states that their Human Resources Division (HRD) makes a good faith effort to inform management of the requirements on probationary evaluations. Management is informed during the supervisory training modules, and are provided the forms and due dates of probationary evaluations of their employees. The failure to comply has been an on-going concern for HRD which will be addressed in the corrective action response.

Corrective Action: Within 90 days of the date of this report, the CDE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with the probationary requirements of Government Code section 19172 and California Code of Regulations, title 2, section 599.795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*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, subd. (a).)

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

FINDING NO. 4 – Equal Employment Opportunity Program Complied with All 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 CDE'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 Director of the CDE. The CDE also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

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 Regs., 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, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

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

During the period under review, April 1, 2019, through December 31, 2019, the CDE had 363 PSC's that were in effect. The CRU reviewed 33 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
3fold Communications, LLC	Outreach Services	5/20/19 - 6/30/19	$9,550	Yes	Yes
Action Door Repair Corporation	Preventative Maintenance and Repair	7/1/19 - 6/30/20	$25,164	Yes	Yes
Alarmco Security Systems, Inc.	Alarm Monitoring and Maintenance Services	7/1/17 - 6/30/20	$21,310	Yes	Yes
Allied Waste Services of North America, LLC DBA Republic Services of Sacramento	Waste Disposal Services	7/1/17 - 6/30/20	$10,674	Yes	Yes
Allworld Language Consultants, Inc.	Interpreting Services	7/1/19 - 6/30/20	$14,500	Yes	Yes
Alsco Inc.	Uniform Rental and Laundering Services	6/1/19 - 5/31/20	$2,958.27	Yes	Yes
American Institutes for Research	Professional Development Project	7/1/17 - 6/30/19	$3,297,551 .89	Yes	Yes
April Lindbergh	Track and Field Assistant Coach	2/11/19 - 5/27/19	$2,500	Yes	Yes
Butte County Superintendent of Schools	Consulting Services	10/1/18 - 6/30/19	$1,000,841	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
C.A. Reding Company, Inc.	Copier Maintenance	3/1/19 - 2/29/20	$6,640	Yes	Yes
Cedric Reader	Assistant Baseball Coach	2/4/19 - 5/27/19	$2,000	Yes	Yes
County of Los Angeles Department of Public Health Environmental Health	Food Service Health Inspection	6/14/19 - 9/13/19	$47,580	Yes	Yes
Cynthia A. Cavazos	Consulting Services	8/19/19 - 6/30/20	$4,875	Yes	Yes
Diamond Environmental Services, LP	Portable Restroom Services	7/1/19 - 6/30/21	$9,269.10	Yes	Yes
Excel Interpreting, LLC	Interpreting Services	2/1/19 - 1/31/20	$35,125	Yes	Yes
Firecode Safety Equipment, Inc.	Fire Extinguisher Service and Training	12/1/19 - 6/30/20	$782.45	Yes	Yes
Greenesport Association	Referee Services	12/10/18 - 6/30/19	$4,999.99	Yes	Yes
HCI Sprinkler, Inc.	Fire Alarm Maintenance and Repair	1/1/19 - 12/31/19	$11,740.65	Yes	Yes
Inter-Con Security Systems, Inc.	Security Guard Services	2/1/19 - 7/31/19	$54,213.12	Yes	Yes
J Snell and Company, Inc.	Preventative Maintenance	1/1/19 - 12/31/21	$4,498	Yes	Yes
John Von Flue	State Budget Review Committee	12/4/19 - 12/31/19	$6,500	Yes	Yes
Laurie Olsen	Training	8/15/19 - 1/1/20	$8,000	Yes	Yes
M.I.S. Refrigeration Corp.	Maintenance and Repair Services	7/1/19 - 6/30/20	$92,696	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Maximum Chiropractic and Occupational Health	Physical Examinations	3/1/19 - 6/30/21	$2,040	Yes	Yes
Metro Mailing Service, Inc.	Reprographic Services	7/1/19 - 6/30/20	$30,000	Yes	Yes
Quality Lift and Equipment, Inc.	Forklift Maintenance	7/1/19 - 6/30/20	$42,950	Yes	Yes
State Educational Technology Directors Association	State Educational Technology Directors Association Membership	7/1/19 - 6/30/21	$13,250	Yes	No
States Recovery Systems, Inc.	Debt Collection Services	7/1/17 - 6/30/19	$60,000	Yes	Yes
T-Base Communications USA, Inc.	Math and Science Transcription	12/15/18 - 12/14/19	$500,000	Yes	Yes
The Write Connection	Occupational Therapy	10/1/18 - 9/30/19	$60,130	Yes	Yes
Video Streaming Services, LLC	Board Room Recording and Webcasting	7/1/18 - 6/30/19	$306,235	Yes	Yes
WestEd	Consulting Services	2/1/19 - 12/31/19	$4,898,000	Yes	Yes
Yamaha Golf Cars of California, Inc.	Golf Cart Maintenance	9/1/19 - 8/31/20	$27,140	Yes	Yes

FINDING NO. 5 – Unions Were Not Notified of Personal Services Contract

Summary: The CDE did not notify unions prior to entering into 1 of the 33 PSC's.

Criteria: The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

Severity: Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for work that their members could perform.

Cause: The CDE states it was an oversight that one contract was executed without union notification. To address this, the CDE's Contracts Office has developed a checklist for staff use to ensure that all documentation is included in the contract file, including union notification.

Corrective Action: It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the work to be contracted prior to executing the PSC. Within 90 days of the date of this report, the CDE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

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

Additionally, the training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it

is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

Within 12 months of the initial appointment of an employee to a management or Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid*.) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biennial 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 CDE's mandated training program that was in effect during the compliance review period, January 1, 2018, through December 31, 2019.

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

Summary: During the period under review, the CRU reviewed 149 of CDE's 1,044 existing filers. The CDE did not provide ethics training to 86 of 149 existing filers. In addition, the CDE did not provide ethics training to 20 of 45 new filers within 6 months of their appointment. This is the second consecutive time this has been a finding for the CDE.

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

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

Cause: The CDE acknowledges that not all CDE filers completed ethics training within the prescribed time frames. The CDE states that they will audit the process by which employees are notified that training is required.

Corrective Action: Within 90 days of this report, the CDE must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 7 – Leadership and Development Training Was Not Provided for All Supervisors, Managers, and CEAs

Summary: The CDE did not provide supervisory training to 24 of 25 new supervisors within 12 months of appointment[9].

Additionally, the CDE did not provide manager training to 1 of 3 new managers within 12 twelve months of appointment; did not provide CEA training to 2 of 2 new CEAs within 12 months of appointment; and did not provide biennial leadership training to 171 of 189 existing supervisors, managers, and/or CEAs. This is the second consecutive time this has been a finding for the CDE.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. Upon completion of the initial training, supervisory employees shall receive a minimum 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subds. (b) and (c.).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within

[9] As of January 1, 2019, the only trainers who can deliver supervisory training (80 Hour) and the new-to-role training for CEAs, Managers, and Executives is either CalHR or a department that has an MOU with CalHR. CDE subsequently entered into a contract with CalHR to ensure mandated supervisor training is provided in a timely manner going forward.

12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (d).)

Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (e).)

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

Cause: The CDE states that they notify all new supervisors, managers, and CEAs of the mandated trainings. The CDE places the responsibility upon the employee and their supervisor to complete the training.

Corrective Action: Within 90 days of the date of this report, the CDE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors, managers, and CEAs are provided leadership and development training within twelve months of appointment, and that thereafter, they receive a minimum of 20 hours of leadership training biennially, as required by Government Code section 19995.4. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 8 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The CDE did not provide sexual harassment prevention training to 34 of 47 new supervisors within 6 months of their appointment. In addition, the CDE did not provide sexual harassment prevention training to 165 of 175 existing supervisors every 2 years. This is the second consecutive time this has been a finding for the CDE.

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 that all new and existing 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 CDE states that despite sending all supervisors notice of their required attendance for sexual harassment prevention training, many supervisors did not attend their in-person sexual harassment prevention training class. In response to this issue, the CDE has converted their sexual harassment training module to an online format to allow for more participation.

Corrective Action: Within 90 days of the date of this report, the CDE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that supervisors are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate[10] upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special

[10] "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, March 1, 2019, through November 30, 2019, the CDE made 53 appointments. The CRU reviewed 26 of those appointments to determine if the CDE applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator I (Supervisor)	Certification List	Permanent	Full Time	$7,110
Accounting Administrator II	Certification List	Permanent	Full Time	$7,719
Accounting Analyst	Certification List	Permanent	Full Time	$4,496
Accounting Officer (Specialist)	Certification List	Limited Term	Full Time	$3,848
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	$4,975
Associate Management Auditor	Certification List	Permanent	Full Time	$5,406
Child Development Consultant	Certification List	Permanent	Full Time	$6,699
Child Development Consultant	Certification List	Permanent	Full Time	$6,699
Child Nutrition Assistant	Certification List	Permanent	Full Time	$5,797
Education Administrator I	Certification List	Permanent	Full Time	$7,867
Education Programs Assistant	Certification List	Permanent	Full Time	$6,096
Education Research & Evaluation Consultant	Certification List	Permanent	Full Time	$6,472
Executive Secretary	Certification List	Permanent	Full Time	$4,091
Heavy Truck Driver	Certification List	Permanent	Full Time	$3,766
Information Technology Specialist III	Certification List	Permanent	Full Time	$9,869
Information Technology Supervisor II	Certification List	Permanent	Full Time	$8,694

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Personnel Specialist	Certification List	Permanent	Full Time	$3,016
Research Data Specialist I	Certification List	Permanent	Full Time	$6,327
Senior Personnel Specialist	Certification List	Permanent	Full Time	$5,277
Staff Services Analyst (General)	Certification List	Permanent	Full Time	$4,136
Staff Services Manager I	Certification List	Permanent	Full Time	$6,768
Warehouse Worker	Certification List	Permanent	Full Time	$3,285
Education Programs Consultant	Transfer	Permanent	Full Time	$8,143
Education Research and Evaluation Consultant	Transfer	Permanent	Full Time	$8,051
Research Data Analyst II	Transfer	Permanent	Full Time	$5,759
Staff Services Analyst (General)	Transfer	Permanent	Full Time	$4,469

FINDING NO. 9 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the salary determinations that were reviewed. The CDE appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Exceptions to Salary

California Code of Regulations sections 599.674 and 599.676 allow employees to receive a salary rate up to one step (5%) above the salary rate they last received. In those instances when these rules do not provide employees with the equivalent rate last received (1) upon transfer to a deep class or (2) in their former class, then under the authority of Government Code section 19836, an exception to these salary rules can be made. Exceptions to these rules should be applied uniformly for all employees. (Classification and Pay Guide Section 285.)

For those affected employees incurring salary loss upon transfer to a deep class, CalHR recommends placing the employee on a T&D Assignment for a period of time sufficient to meet the higher alternate range criteria. Upon successful completion of the T&D assignment, the employee may be transferred to the transferable range, and then moved to the next higher alternate range effective the same day. If this does not provide the employee their current salary, departments may process an exception so the employee does not incur a salary loss. (*Ibid.*)

According to, "All departments have delegated authority to approve an exception to the salary rules under the following circumstances: when there is a salary loss upon transfer to a deep class; when there is a reappointment or reinstatement without a break in service."

During the period under review, March 1, 2019, through November 30, 2019, the CDE authorized one salary exception request. The CRU reviewed the authorized salary exception request, listed below, to determine if the CDE correctly verified, approved and documented the salary exception authorization process:

Classification	Prior Classification	T&D Assignment? (Y/N)	Approved Salary
Staff Services Analyst (General)	Executive Assistant	Yes	$4,817

FINDING NO. 10 – Exceptions to Salary Rules Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found that the exception to salary determination the CDE made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

<u>Alternate Range Movement Salary Determination (within same classification)</u>

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria.

(CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, March 1, 2019, through November 30, 2019, the CDE made 12 alternate range movements within a classification. The CRU reviewed 8 of those alternate range movements to determine if the CDE applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Education Fiscal Services Assistant	Range A	Range B	Full Time	$6,351
Education Programs Assistant	Range A	Range B	Full Time	$6,408
Education Programs Assistant	Range A	Range B	Full Time	$6,633
Education Research and Evaluation Assistant	Range A	Range B	Full Time	$6,259
Staff Services Analyst	Range A	Range B	Full Time	$3,571
Staff Services Analyst	Range B	Range C	Full Time	$4,281
Staff Services Analyst	Range B	Range C	Full Time	$4,692
Staff Services Analyst	Range B	Range C	Full Time	$4,692

FINDING NO. 11 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU determined that the alternate range movements the CDE made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above-the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. *(Ibid.)* Delegated HAM authority does not apply to current state employees. *(Ibid.)*

Extraordinary qualifications may provide expertise in a particular area of a department's program. *(Ibid.)* This expertise should be well beyond the minimum qualifications of the class. *(Ibid.)* Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. *(Ibid.)* The scope and depth of such experience should be more significant than its length. *(Ibid.)* The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. *(Ibid.)* The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. *(Ibid.)* Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. *(Ibid.)*

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling without further legislative action.[11] (Gov. Code § 19836 subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. *(Ibid.)* A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. *(Ibid.)* Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. *(Ibid.)*

Appointing authorities may request/approve HAMs for former exempt employees appointed to a civil service class. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be competitive with the employee's salary in the exempt appointment. *(Ibid.)* For example, an employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. *(Ibid.)*

[11] Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

During the period under review, March 1, 2019, through November 30, 2019, the CDE authorized 20 HAM requests. The CRU reviewed 10 of those authorized HAM requests to determine if the CDE correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Attorney III	Certification List	New to State	$9,463 – $12,140	$11,815
Attorney III	Certification List	New to State	$9,463 – $12,140	$11,815
Child Nutrition Consultant	Certification List	New to State	$4,931 – $6,474	$6,041
Child Nutrition Consultant	Certification List	New to State	$5,030 – $6,603	$6,583
Education Programs Assistant	Certification List	New to State	A: $4,878 – $6,103 B: $5,890 – $7,372	$7,372
Education Programs Consultant	Certification List	New to State	$6,472 – $8,101	$7,500
Education Programs Consultant	Certification List	New to State	$6,472 – $8,101	$7,709
Education Programs Consultant	Certification List	New to State	$6,699 – $8,385	$8,000
Information Technology Specialist I	Certification List	New to State	A: $5,118 – $6,859 B: $5,628 – $7,543 C: $6,179 – $8,280	$7,511
Information Technology Specialist I	Certification List	New to State	A: $5,297 – $7,099 B: $5,825 – $7,807 C: $6,395 – $8,570	$7,920

FINDING NO. 12 – Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

Red Circle Rates

A red circle rate is a rate of pay authorized for an individual above the maximum salary for his or her class. (Gov. Code, § 19837.) Departments may authorize a red circle rate in the following circumstances: management initiated change[12], lessening of abilities[13], downward reclassification,[14] split-off,[15] allocation standard changes,[16] or changes in salary setting methods.[17] (*Ibid.*)

If a salary reduction is the result of split-off, changes in allocation standards, changes in salary setting methods, or a downward reclassification initiated by SPB or CalHR staff determination, the affected employee may receive a red circle rate regardless of the employee's state service total. The employee may retain it until the maximum salary of his or her class equals or exceeds the red circle rate. (Classification and Pay Guide Section 260.)

If an employee is moved to a position in a lower class because of management-initiated changes, he or she may receive a red circle rate provided he or she has a minimum of ten years' state service[18] and has performed the duties of the higher class satisfactorily[19]. The length of the red circle rate resulting from a management-initiated change is based on the affected employee's length of state service. The red circle rate ends when the maximum salary of the class equals or exceeds the red circle rate or at the expiration of eligibility. (*Ibid.*)

An employee whose position is blanketed into the state civil service from another public jurisdiction may receive a red circle rate regardless of the length of service in the other

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[12] Any major change in the type of classes, organizational structure, and/or staffing levels in a program.
[13] Refers to an employee who, after many years of satisfactory service, no longer possess the ability to perform the duties and responsibilities of his/her position.
[14] Downward reclassification is when, as a result of SPB action or a CalHR (or its predecessor, the Department of Personnel Administration) staff determination, an incumbent's position is moved to a lower class without the duties being changed.
[15] Split off is when one class is split into two or more classes, one of which is at a lower salary level than the original class.
[16] Allocation standards for two or more classes may change to the degree that a position originally allocated to one class may be reallocated to a class with a lower salary without a change in duties.
[17] Revised valuation standards applied in setting the salary for a class may result in reducing the salary of a class.
[18] As calculated by the State Service and Seniority Unit at CalHR. An employee with nine years' state service qualifies if the employee had been laid off or had been on a leave of absence for one or more years to reduce the effect of a layoff (CCR § 599.608).
[19] The latter requirement is normally satisfied by the successful completion of a probationary period, unless there is compelling evidence to suggest otherwise.

jurisdiction. (Cal. Code Regs., tit. 2, § 275.) The employee may retain the red circle rate until the maximum salary of the class to which the employee's position is allocated equals or exceeds the red circle rate.

Additionally, a red circle rate may be authorized for a former CEA appointee who is reinstating to a civil service classification, a CEA with no prior civil service in a promotional exam and is being appointed from a list without a break in service, or a CEA appointee who is being reduced to a lower CEA salary rate (Classification and Pay Guide Section 440). An employee who has ten years of service, one year of which is under a career executive assignment, shall receive a red circle rate in unless the termination was voluntary or based on unsatisfactory performance. (Cal. Code of Regs., tit. 2, § 599.993.) If the termination was voluntary and performance was satisfactory, a red circle rate is permissive. *(Ibid.)* This rate is based on the CEA salary rate received at the time of the termination. Government Code section 13332.05 limits the funding of the red circle rate to no more than 90 calendar days following termination of a CEA appointment.

As of April 1, 2005, departments have delegated authority to approve red circle rates for general civil service employees and CEA positions for up to 90 days. Current Bargaining Unit agreements also provide guidelines and rules on red circle rates that may supersede applicable laws, codes, rules and/or CalHR policies and guidelines.

During the period under review, March 1, 2019, through November 30, 2019, the CDE authorized one red circle request. The CRU reviewed the red circle request, listed below, to determine if the CDE correctly verified, approved and documented the red circle authorization process:

Classification	Prior Classification	Red Circle Rate	Reason for Red Circle Rate
Education Administrator I	Director, Local Agency Systems Support Office (Exempt)	$2,196	Termination of Exempt Appointment

FINDING NO. 13 – Incorrect Application of Laws, Rules, and CalHR Policies and Guidelines for Red Circle Rate Pay

Summary: The CRU found the following error in the CDE's authorization of the employee's red circle rate pay:

Classification	Description of Findings	Criteria
Education Administrator I	The department authorized the red circle rate based on the employee being terminated from an exempt appointment and returning to a permanent civil service class. Termination from an exempt appointment does not meet the definition of red circle rate terms cited in the C&P Guide. This resulted in the employee being overcompensated.	CalHR Classification and Pay Guide Sections 250 and 260

Criteria: An employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. (CalHR Classification and Pay Guide Section 260.)

Severity: Very Serious. The CDE failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

Cause: The CDE states that they misinterpreted the laws, rules, and policies around the application of red circle rate pay.

Corrective Action: Within 90 days of the date of this report, the CDE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Red Circle Rate pay laws, rules, and policies. Additionally, the CDE must create accounts receivables to collect the overpayments. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent

conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, March 1, 2019, through November 30, 2019, the CDE issued bilingual pay to 15 employees. The CRU reviewed 10 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Associate Governmental Program Analyst	R01	Full Time	2
Bilingual/Migrant Education Consultant	R21	Full Time	1
Career Executive Assignment	M01	Full Time	1
Education Programs Assistant	R21	Full Time	1
Education Programs Consultant	R21	Full Time	3
Office Technician (Typing)	R04	Full Time	1
School Health Education Consultant	R21	Full Time	1

FINDING NO. 14 – Incorrect Authorization of Bilingual Pay

Summary: The CRU found two errors in the CDE's authorization of bilingual pay:

Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Bilingual/Migrant Education Consultant	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14

Criteria: For any state agency, a "qualified" bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved

testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296 subd. (a) (3).) An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

Severity: Very Serious. Failure to comply with the state civil service pay plan by incorrectly applying compensation rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay.

Cause: The CDE acknowledges that the two employees identified did not have duty statements that accurately reflected the percentage of time using bilingual skills. The CDE will ensure the duty statements are corrected.

Corrective Action: Within 90 days of the date of this report, the CDE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 7296 and Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, March 1, 2019, through November 30, 2019, the CDE issued pay differentials[20] to three employees. The CRU reviewed the three pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Departmental Construction and Maintenance Supervisor	433	2%
Departmental Construction and Maintenance Supervisor	433	3%
Senior Architect	433	2%

FINDING NO. 15 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Out-of-Class Assignments and Pay

For excluded[21] and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher

[20] For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.
[21] "Excluded employee" means an employee as defined in section 3527, subd. (b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Classification and Pay Guide Section 375.)

During the period under review, March 1, 2019, through November 30, 2019, the CDE issued OOC pay to six employees. The CRU reviewed four of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Education Administrator I	S21	CEA, A	9/16/19 - 1/30/20
Education Research and Evaluation Consultant	R21	Education Administrator I	7/31/19 – 8/29/19
Education Research and Evaluation Consultant	R21	Education Administrator I	7/31/19 – 8/29/19
Information Technology Specialist I	R01	Education Administrator I	8/30/19 – 9/30/19

FINDING NO. 16 – Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the OOC pay assignments that the CDE authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days[22] worked and paid absences, [23] is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. *(Ibid.)* The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. *(Ibid.)* The employee shall serve no longer than 189 days in a 12 consecutive month period. *(Ibid.)* A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. *(Ibid.)*

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year.

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[22] For example, two hours or ten hours counts as one day.
[23] For example, vacation, sick leave, compensating time off, etc.

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

At the time of the review, the CDE had 60 positive paid employees whose hours were tracked. The CRU reviewed 30 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
Associate Governmental Program Analyst	Permanent	1/1/2019 – 12/31/19	1,488 hours
Associate Governmental Program Analyst	Permanent	1/1/2019 – 12/31/19	1,489 hours
Associate Governmental Program Analyst	Permanent	1/1/2019 – 12/31/19	1,485 hours
Associate Governmental Program Analyst	Permanent	1/1/2019 – 12/31/19	1,536.35 hours
Child Nutrition Consultant	Permanent	1/1/2019 – 12/31/19	1,102.75 hours
Office Technician (Typing)	Permanent	1/1/2019 – 12/31/19	129.5 hours
Office Technician (Typing)	Permanent	1/1/2019 – 12/31/19	1,500 hours
Office Technician (Typing)	Permanent	1/1/2019 – 12/31/19	1,501.5 hours
Office Technician (Typing)	Permanent	1/1/2019 – 12/31/19	1,382 hours
Staff Services Analyst (General)	Permanent	1/1/2019 – 12/31/19	1,496.5 hours
Associate Governmental Program Analyst	Retired Annuitant	07/1/18 – 06/30/19	561.75 hours
Associate Governmental Program Analyst	Retired Annuitant	07/1/18 – 06/30/19	494 hours
Associate Management Auditor	Retired Annuitant	07/1/18 – 06/30/19	385.25 hours
Education Fiscal Services Administrator	Retired Annuitant	07/1/18 – 06/30/19	459 hours
Education Fiscal Services Consultant	Retired Annuitant	07/1/18 – 06/30/19	647.5 hours
Education Programs Consultant	Retired Annuitant	07/1/18 – 06/30/19	941 hours

Classification	Tenure	Time Frame	Time Worked
Education Programs Consultant	Retired Annuitant	07/1/18 – 06/30/19	406.25 hours
Heavy Truck Driver	Retired Annuitant	07/1/18 – 06/30/19	660.25 hours
Office Technician (Typing)	Retired Annuitant	07/1/18 – 06/30/19	272 hours
Office Technician (Typing)	Retired Annuitant	07/1/18 – 06/30/19	968.5 hours
Graduate Student Assistant	Temporary	8/1/18 – 7/30/19	1,523 hours
Student Assistant	Temporary	3/1/18 – 2/28/19	1,339 hours
Student Assistant	Temporary	5/31/18 – 5/30/19	1,241 hours
Student Assistant	Temporary	9/1/18 – 8/29/19	1,560 hours
Student Assistant	Temporary	11/1/18 – 10/30/19	1,533.25 hours
Student Assistant	Temporary	5/31/18 – 5/30/19	1,280 hours
Student Assistant	Temporary	11/30/18 – 11/30/19	1,358 hours
Student Assistant	Temporary	5/31/18 – 5/30/19	1,439.5 hours
Student Assistant	Temporary	5/1/18 – 4/30/19	1,399 hours
Youth Aid	Temporary	5/31/18 – 5/30/19	155.5 hours

FINDING NO. 17 – Department Did Not Properly Monitor Time Worked for All Positive Paid Employees

Summary: The CDE did not consistently monitor the actual number of hours worked in order to ensure that two permanent intermittent positive paid employees did not exceed the 1,500-hour limitation in any calendar year.

Additionally, the CDE did not consistently track and monitor one retired annuitant's total hours worked, allowing the employee to work over the 960-hour limitation in any fiscal year.

Lastly, the CDE did not consistently monitor the actual number of days and/or hours worked of three student assistants to ensure their worked time did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period.

Specifically, the following employees exceeded the established limitations:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Associate Governmental Program Analyst	Permanent	1/1/19 – 12/31/19	1,536.35 hours	36.35 hours
Office Technician (Typing)	Permanent	1/1/19 – 12/31/19	1,501.5 hours	1.5 hours
Office Technician (Typing)	Retired Annuitant	7/1/18 – 6/30/19	968.5 hours	8.5 hours
Graduate Student Assistant	Temporary	8/1/18 – 7/30/19	1,523 hours	23 hours
Student Assistant	Temporary	9/1/18 – 8/29/19	1,560 hours	60 hours
Student Assistant	Temporary	11/1/18 – 10/30/19	1533.25 hours	33.25 hours

Criteria: A permanent intermittent employee may work up to 1,500 hours in any calendar year. The number of hours and schedule of work shall be determined based upon the operational needs of each department. (Applicable Bargaining Unit Agreements.)

According to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June) without reinstatement, loss or interruption of benefits for all state employers.

If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary

appointments that cannot be extended for any reason. (Cal Const., art VII § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1 subd. (b).) Another controlling factor limits the maximum work time for student, youth, and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Severity: Serious. The number of days or hours an individual may work in a permanent intermittent appointment is limited in the state civil service. To ensure permanent intermittent appointments are not made on a full-time basis, a maximum of 1,500 hours has been placed on the number of hours which a permanent intermittent employee may work any calendar year.

Existing law allows a person retired from state service to be rehired by the State as a retired annuitant. However, retired annuitants shall not work more than 960 hours each fiscal year without reinstatement, loss or interruption of benefits for all state employers.

The number of days or hours an individual may work in a temporary appointment is limited in the state civil service. TAU appointments are distinguished from other appointments as they can be made in the absence of an appropriate employment list. Intermittent appointments are not to be used to fill full-time or part-time positions. Such use would constitute illegal circumvention of these eligible lists.

Cause: The CDE acknowledges that they did not consistently monitor the actual numbers of hours worked for all positive paid employees.

Corrective Action: Within 90 days of the date of this report, the CDE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 21224, California Code of Regulations, title 2, section 599.665, and applicable Bargaining Unit agreement(s). Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. *(Ibid.)* ATO can also be granted when employees need time off for reasons such as blood or organ donation; extreme weather preventing safe travel to work; states of emergency; voting; and when employees need time off to attend special events. *(Ibid.)*

During the period under review, October 1, 2018, through September 30, 2019, the CDE placed 224 employees on ATO. The CRU reviewed 34 of these ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	6/12/19	2 hours
Associate Governmental Program Analyst	6/10/19	4 hours
Associate Governmental Program Analyst	1/25/19	4 hours
Associate Governmental Program Analyst	9/6/19	1.5 hours
Associate Governmental Program Analyst	10/31/18 - 11/13/18	5 hours
Associate Governmental Program Analyst	3/22/19	4 hours
Associate Governmental Program Analyst	10/25/18	4 hours
Associate Governmental Program Analyst	10/1/18	2 hours
Associate Governmental Program Analyst	12/24/18	4 hours
Associate Governmental Program Analyst	3/29/19	4 hours
Associate Governmental Program Analyst	10/8/18 - 10/25/18	2 hours
Associate Governmental Program Analyst	5/17/19	4 hours
Associate Personnel Analyst	6/12/19	3 hours

Classification	Time Frame	Amount of Time on ATO
Career Executive Assignment	4/25/19	4 hours
Career Executive Assignment	2/13/19 - 2/28/19	64 hours
Child Nutrition Consultant	9/2019	4 hours
Education Administrator I	4/26/19 - 4/29/19	8 hours
Education Programs Consultant	11/9/18 - 11/16/18	40 hours
Education Programs Consultant	12/24/18	4 hours
Education Programs Consultant	5/21/19	3 hours
Information Technology Associate	10/10/18	4 hours
Information Technology Associate	2/1/19	4 hours
Information Technology Specialist I	2/15/19	4 hours
Nutrition Education Assistant	5/6/19	2 hours
Office Assistant (Typing)	5/14/19 - 5/20/19	33 hours
Office Technician (Typing)	5/7/19	3.5 hours
Office Technician (Typing)	3/1/19	4 hours
Office Technician (Typing)	2/5/19	4 hours
Office Technician (Typing)	12/5/18 - 12/21/18	15 hours
Research Data Analyst II	12/24/18	4 hours
Research Data Specialist II	6/7/19	4 hours
Staff Services Analyst (General)	3/21/19	1 hour
Staff Services Analyst (General)	2/5/19 - 2/7/19	5.5 hours
Staff Services Manager II (Supervisory)	4/5/19	3 hours

FINDING NO. 18 – Administrative Time Off Was Not Properly Documented

Summary: The CDE did not grant ATO in conformity with the established policies and procedures. Of the 34 ATO authorizations reviewed by the CRU, 31 were found to be out of compliance for failing to document approval for the ATO for the specific dates it was used. Additionally, a timesheet was not provided for 1 of the 34 ATO authorizations.

Criteria: Appointing authorities are authorized to approve ATO for up to five (5) working days. (Gov. Code, § 19991.10.) Furthermore, they "have delegated authority to approve up to 30 calendar days." (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the CalHR. *(Ibid.)* In most cases, if approved, the extension will be for an additional 30 calendar days. *(Ibid.)* The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. *(Ibid.)*

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. *(Ibid.)* ATO may not be used and will not be granted for an indefinite period. *(Ibid.)* If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. *(Ibid.)*

Regardless of the length of ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. *(Ibid.)*

Severity: Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

Cause: The CDE states that they use their authority to grant ATO for their school volunteerism program. The CDE further states that the use of

ATO is tracked by submission of the approved school volunteerism application by the employee and approval of the timesheet by the supervisor.

Corrective Action: Within 90 days of the date of this report, the CDE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19991.10 and Human Resources Manual Section 2121. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. *(Ibid.)* If an employee's attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. *(Ibid.)* Attendance records shall be corrected by the pay period following the pay period in which the error occurred. *(Ibid.)* Accurate and timely attendance reporting is required of all departments and is subject to audit. *(Ibid.)*

During the period under review, July 1, 2019, through September 30, 2019, the CDE reported 34 units comprised of 1,395 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
July 2019	140	25	22	0
July 2019	192	41	38	0

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
August 2019	206	50	50	0
August 2019	663	122	122	0

FINDING NO. 19 – Incorrectly Posted Leave Usage and/or Leave Credit

Summary: The CDE did not correctly enter three timesheets into the Leave Accounting System (LAS) during the August 2019 pay period. Specifically, one employee used dock, which was not keyed into LAS; one employee's absent without leave was not keyed into LAS; and one employee's vacation leave credits were incorrectly deducted in LAS.

Criteria: Departments shall create a monthly internal audit process to verify that all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) If an employee's attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. *(Ibid.)* Attendance records shall be corrected by the pay period following the pay period in which the error occurred. *(Ibid.)*

Severity: Very serious. Errors in posting leave usage and/or leave credits puts the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, the risk of liability related to recovering inappropriately credited leave hours and funds, and/or the increase of the state's pension payments.

Cause: The CDE acknowledges that they did not correctly enter all timesheets into LAS during the August 2019 pay period.

Corrective Action: Within 90 days of the date of this report, the CDE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Human Resources Manual Section 2101. Copies of relevant

documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave Reduction Efforts

Departments must create a leave reduction policy for their organization and monitor employees' leave to ensure compliance with the departmental leave policy; and ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. (Human Resources Manual Section 2124.)

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, the employee may accumulate the unused portion."[24] (Cal. Code Regs., tit. 2, § 599.737.) If it appears an excluded employee will have a vacation or annual leave balance that will be above the maximum amount[25] as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation, ensuring employees maintain the capacity to optimally perform their jobs. (Cal. Code Regs., tit. 2, § 599.742.1.) For excluded employees, the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. *(Ibid.)* To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work- life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2019, 118 CDE employees exceeded the established limits of vacation or annual leave. The CRU reviewed 40 of those employees' leave reduction plans to

[24] For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 06 there is no established limit and for Bargaining Unit 05 the established limit is 816 hours.
[25] Excluded employees shall not accumulate more than 80 days.

ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Accounting Administrator I (Supervisor)	S01	159.26	Yes
Agricultural Education Consultant	R21	688	No
Associate Governmental Program Analyst	R01	41	Yes
Associate Governmental Program Analyst	R01	350	Yes
Associate Governmental Program Analyst	R01	70	No
Associate Governmental Program Analyst	R01	1070.5	No
Associate Governmental Program Analyst	R01	141.75	Yes
Associate Governmental Program Analyst	R01	126.7	No
Associate Personnel Analyst	R01	84.25	Yes
Career Executive Assignment	M01	85.5	Yes
Career Executive Assignment	M01	138.5	No
Child Nutrition Consultant	R19	791	Yes
Child Nutrition Consultant	R19	222	No
Child Nutrition Supervisor I	S19	1009.5	Yes
Deputy Superintendent	E99	239.5	No
Deputy Superintendent, Teaching and Learning Support Branch	E99	230	Yes
Education Administrator I	S21	756	No
Education Administrator I	S21	509	No
Education Administrator I	E48	190	No
Education Fiscal Services Consultant	R21	64.5	Yes
Education Fiscal Services Consultant	R21	84.97	No
Education Programs Consultant	R21	272	No
Education Programs Consultant	R21	104.5	Yes
Education Programs Consultant	R21	613	No
Education Programs Consultant	R21	1419.75	Yes
Education Programs Consultant	R21	94	Yes

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Education Research and Evaluation Consultant	R21	237.25	No
Education Research and Evaluation Consultant	R21	471.25	Yes
Labor Relations Specialist	E98	48.5	No
Nutrition Education Consultant	R21	25.5	Yes
Research Data Specialist II	R01	348	No
Staff Services Manager I	S01	458	Yes
Staff Services Manager I	S01	516.75	Yes
Staff Services Manager I	S01	223	Yes
Staff Services Manager I	S01	85	Yes
Staff Services Manager II (Supervisory)	S01	166	Yes
Staff Services Manager II (Supervisory)	S01	51.5	No
Staff Services Manager III	M01	42	Yes
Supervising Management Auditor	M01	323	Yes
Supervising Transportation Programs Consultant, Department of Education	S21	342	No
Total		12,892.93	

FINDING NO. 20 – Leave Reduction Plans Were Not Developed for Employees Whose Leave Balances Exceeded Established Limits

Summary: The CDE did not provide leave reduction plans for 18 of 40 employees reviewed whose leave balances significantly exceeded established limits.

Criteria: It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. (Human Resources Manual Section 2124.) Therefore, appointing authorities and state managers and supervisors must create a leave reduction policy for the organization and monitor employees' leave to ensure compliance with the departmental leave policy. Employees who have significant "over-the-cap" leave balances must have a leave reduction plan in place and be actively reducing hours. *(Ibid.)*

Severity: Technical. California state employees have accumulated significant leave hours creating an unfunded liability for departmental budgets. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.

Cause: The CDE state that their HRD annually notifies all employees with excessive leave balances to develop a leave reduction plan with their supervisor. The CDE places the responsibility upon the employee and their supervisor to comply.

Corrective Action: Within 90 days of the date of this report, the CDE must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

State Service

The state recognizes two different types of absences while an employee is on pay status; paid or unpaid. The unpaid absences can affect whether a pay period is considered to be a qualifying or non-qualifying pay period for state service and leave accruals.

An employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.[26] (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

[26] Except as provided in California Code of Regulations, title 2, sections 599.609 and 599.776.1, subd. (b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs. tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs. tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. *(Ibid.)* On the first day following a qualifying monthly pay period, excluded employees[27] shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

Permanent intermittent employees also earn leave credits on the pay period following the accumulated accrual of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period, are not counted or accumulated towards leave credits.

During the period under review, March 1, 2019, through November 30, 2019, the CDE had 7 employees with non-qualifying pay period transactions. The CRU reviewed four transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	2
Qualifying Pay Period	Full Time	2

FINDING NO. 21 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU determined that the CDE ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

[27] As identified in Government Code sections 19858.3, subd. (a), 19858.3, subd. (b), or 19858.3, subd. (c) or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subd. (c) or California Code of Regulations, title 2, section 599.752 subd. (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. *(Ibid.)* Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. *(Ibid.)* Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. *(Ibid.)* All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. *(Ibid.)*

FINDING NO. 22 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the policy was disseminated to all staff and emphasized the CDE's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CDE's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

Workers' Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880 subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880 subds. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401 subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.)

Workers' compensation coverage is not mandatory for volunteers as it is for employees. *(Ibid.)* This is specific to the legally uninsured state departments participating in the Master Agreement. *(Ibid.)* Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. *(Ibid.)*

In this case, the CDE did not employ volunteers during the compliance review period.

FINDING NO. 23 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the CDE provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRU verified that when the CDE received worker's compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must "prepare performance reports." Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee's probationary period.

The CRU selected 58 permanent CDE employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines[28]. These are listed below:

Classification	Number of Employees' Files Reviewed
Accounting Administrator I (Supervisor)	1
Associate Accounting Analyst	2
Associate Construction Analyst	1
Associate Governmental Program Analyst	11
Associate Management Auditor	1
Associate Personnel Analyst	1

[28] CDE's policy is to have all performance appraisals due the last day in February.

Classification	Number of Employees' Files Reviewed
Child Development Consultant	3
Child Nutrition Assistant	2
Child Nutrition Consultant	1
Education Administrator	1
Education Fiscal Services Consultant	1
Education Program Consultant	1
Education Program Consultant	11
Executive Assistant	1
Information Officer I (Specialist)	1
Information Technology Associate	3
Nutrition Education Assistant	1
Office Services Supervisor II	1
Office Technician (Typing)	7
Senior Accounting Officer (Specialist)	1
Staff Services Analyst (General)	1
Staff Services Manager I	3
Warehouse Worker	2

FINDING NO. 24 – Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

The CRU found no deficiencies in the performance appraisals selected for review. Accordingly, the CDE's performance appraisal policy and processes satisfied civil service laws, Board rules, policies and guidelines.

DEPARTMENTAL RESPONSE

The CDE's response is attached as Attachment 1.

SPB REPLY

Based upon the CDE's written response, the CDE will comply with the corrective actions specified in these report findings. Within 90 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified, must be submitted to the CRU.

CALIFORNIA DEPARTMENT OF EDUCATION

TONY THURMOND
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

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June 4, 2020

Suzanne M. Ambrose, Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, CA 95819

Dear Ms. Ambrose:

We have reviewed the Draft Compliance Review Report for the California Department of Education (CDE), prepared by the State Personnel Board's Compliance Review Team. The draft report summarized the CDE's personnel practices in the areas of examinations, appointments, EEO, personal services contracts, mandated training, compensation and pay, leave, and policy and processes.

Generally, we find the report to be thorough and an accurate summary of processes that existed during the time period reviewed. We take our responsibilities seriously and are committed to correcting all deficiencies noted in the report and strive to comply with mandated requirements by adjusting our processes.

Please find CDE's responses below:

Finding No. 3 – Probationary Evaluations Were Not Provided for all Appointments Reviewed and Those That Were Reviewed Were Untimely

Cause: The Human Resources Division (HRD) makes good faith efforts to inform management of the requirements on probationary evaluations. Management is informed during the supervisory training modules, and are provided the forms and due dates of probationary evaluations of their employees. The failure to comply has been an on-going concern for HRD which will be addressed in the Corrective Action response.

Finding No. 5 -- Unions Were Not Notified of Personal Services Contract

Cause: Of 33 contracts reviewed for the review period, one was found to be missing union notification prior to contract execution. To address this oversight, the Contracts Office has developed a checklist for staff use to ensure all documentation is included in the contract file, including union notification. The checklist was posted to the Contracts Office SharePoint site and announced for staff use on January 30, 2020.

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

Cause: The California Department of Education (CDE) acknowledges that not all CDE filers completed ethics training within the prescribed time frames and will audit the process by which employees are notified that training is required.

Finding No. 7 -- Leadership and Development Training was not provided for All Supervisors, Manager, and CEAs

Cause: CDE notifies all new supervisors, managers, and CEA's of the mandated trainings whether they are conducted by CalHR or in-house. It is incumbent upon the employee and their supervisor to complete the mandated training.

Finding No. 8 -- Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Cause: Beginning in January 2019, all state agencies are required to send new supervisory staff to CalHR for the required new supervisor training. As a result of the high demand for seats, not all new supervisors at the CDE were able to enroll in the training sessions. In addition to this new requirement, state agencies were not permitted to host their own new supervisor training without prior approval from CalHR unless otherwise approved.

The CDE hosts regular in-person sexual harassment training for supervisors. All supervisors were sent a meeting notice informing them of the required attendance. However, despite the follow-up, many supervisors do not attend their scheduled training session or any future sessions. In response to this issue, the sexual harassment training module has been converted to an online format to allow for more participation.

Please note, all supervisory staff (new and existing) were provided the Sexual Harassment Training Module between October 2019

and January 2020 for completion and are currently compliant with training requirements.

Finding No. 13 -- Incorrect Application of Laws, Rules, and CalHR Policies and Guidelines for Red Circle Rate Pay

Cause: CDE mis-interpreted the laws, rules, and policies around the application of the Red Circle rate pay.

Finding No. 14 -- Incorrect Authorization of Bilingual Pay

Cause: The Bilingual Pay Authorizations for the two employees identified were approved based on the information provided in the Bilingual Pay Authorization Requests, Bilingual Pay Audit Log Sheets, and evidence of passing bilingual fluency examinations. The information recorded by each employee on the Bilingual Pay Audit Log Sheet shows use of bilingual skills at least 10 percent of the time while on the job. The CDE acknowledges the duty statements did not accurately reflect the percentage of time actually using bilingual skills. The CDE will ensure the duty statements are corrected.

Finding No. 17 -- Department Did Not Properly Monitor Time Worked for All Positive Paid Employees

Cause: CDE acknowledges that it did not consistently monitor the actual number of hours worked in order to ensure positive paid employees did not exceed the 1,500-hour limitation for permanent intermittent or student assistants in any calendar year or 960-hour limitation for retired annuitants in a fiscal year.

Finding No. 18 -- Administrative Time Off Was Not Properly Documented

Cause: In good faith the CDE actively promotes volunteerism in schools for its employees. The school volunteerism program is posted on CDE's intranet with processes/procedures for employees to follow to participate. To be flexible with employee's time for this program the CDE uses its authority to grant ATO to match employees' use of leave credits or dock, on an hour-for-hour basis to a maximum of twenty (20) hours of ATO per calendar year per employee. The use of ATO is tracked by submission of the approved application by the employee and approval of the timesheet by the supervisor.

Finding No. 19 -- Incorrectly Posted Leave Usage and/or Leave Credit

Cause: CDE acknowledges that it did not correctly enter all timesheets into the Leave Accounting System (LAS) during the August 2019 pay period.

Finding No. 20 -- Leave Reduction Plans Were Not Developed for Employees Whose Leave Balances Exceeded Established Limits

Cause: In accordance with CalHR Manual Section 2123, the HRD annually notifies all employees that have excessive leave balances to develop a leave reduction plan with their supervisor and submit to HRD. The responsibility lies with the employee and supervisor to comply.

If you have any questions or would like to discuss further please contact Valarie Bliss, Director, Human Resources Division at (916) 319-0682 or email at vbliss@cde.ca.gov.

Sincerely,

Lisa Constancio, Deputy Superintendent
Operations and Administration Branch

cc: Stephanie Gregson, Chief Deputy Superintendent of Public Instruction
Kimberly Tarvin, Director, Audits and Investigations Division