



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY**

Compliance Review Unit  
State Personnel Board  
August 21, 2018

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

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

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

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

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

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

**EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the California Health Facilities Financing Authority (CHFFA) personnel practices in the areas of examinations, appointments, EEO, PSC’s, mandated training, compensation and pay, leave, and policy and processes<sup>1</sup>. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Mandated Training Complied with Statutory Requirements
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Were Not Provided to All Employees Whose Leave Balances Exceeded Established Limits
Leave	715 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 Appraisals Were Not Provided to All Employees

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

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

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance
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## **BACKGROUND**

The CHFFA's mission is to help eligible and creditworthy non-profit and public health facilities reduce their cost of capital, and promote important California health access, healthcare improvement and cost containment objectives by providing cost-effective tax-exempt bonds, low-cost loans, and direct grant programs.

Created in 1979, CHFFA is a public instrumentality of the State of California, authorized empowered by the provisions of the CHFFA Act for the purpose of providing financial assistance to eligible and creditworthy nonprofit and public health facilities through loans, grants and tax-exempt financings. The diverse nature of the facilities funded, from rural community-based organizations to large multi-hospital systems, reflects the changing health care needs of California.

CHFFA has 22 positions, which includes an Executive Director, one CEA, four managers, 12 analysts, three clericals, and one retired annuitant.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CHFFA examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup> when applicable. The primary objective of the review was to determine if CHFFA 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 CHFFA'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 CHFFA provided, which included examination

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

plans, examination bulletins, job analyses, and scoring results. The CHFFA did not conduct any permanent withhold actions during the compliance review period.

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

The CHFFA's appointments were also selected for review to ensure the CHFFA applied salary regulations accurately and correctly processed employee's compensation and pay. The CRU examined the documentation that the CHFFA provided, which included employee's employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. During the compliance review period, the CHFFA did not issue or authorize hiring above minimum (HAM) requests, bilingual pay, arduous pay, red circle rates, out of class pay, or any other monthly pay differential.

The review of the CHFFA's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The CHFFA's PSC's were also reviewed.<sup>3</sup> It was beyond the scope of the compliance review to make conclusions as to whether the CHFFA justifications for the contracts were legally sufficient. The review was limited to whether the CHFFA's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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<sup>3</sup>If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

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

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

The CRU reviewed the CHFFA's Leave Activity and Correction certification forms to verify that the CHFFA 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 CHFFA's unit in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CHFFA's employee's employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. The CHFFA did not track any temporary intermittent employees by actual time worked during the compliance review period.

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

The CHFFA declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CHFFA's written response on August 1, 2018, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Examinations**

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, §

18931.) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) the advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application in the office of the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934.) Generally, the final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, February 1, 2017, through January 31, 2018, the CHFFA conducted two examinations. The CRU reviewed all two examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Treasury Program Officer	Departmental Promotional	Qualification Appraisal Panel <sup>4</sup>	2/17/2017	27
Treasury Program Manager II	Departmental Promotional	Qualification Appraisal Panel	11/17/2017	16

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

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

<sup>4</sup> The qualification appraisal panel (QAP) interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.



the score received by rank. The CRU found no deficiencies in the examinations that the CHFFA conducted during the compliance review period.

**Appointments**

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual’s job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the period under review, February 1, 2017, through January 31, 2018, the CHFFA made 11 appointments. The CRU reviewed eight of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Associate Treasury Program Officer	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff services Manager I (Supervisor)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	3
Staff services Manager I (Supervisor)	Transfer	Permanent	Full Time	1

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

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

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

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

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

The CRU found no deficiencies in the appointments that the CHFFA initiated during the compliance review period. Accordingly, the CRU found that the CHFFA's appointments processes and procedures utilized during the compliance review period-satisfied civil service laws and board rules.

### **Equal Employment Opportunity**

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents and data. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation from the regular chain of command, as well as regular and unencumbered access to the head of the organization.

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

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

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CHFFA EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Director of the CHFFA. In addition, the CHFFA has an established DAC, which reports to the Director on issues affecting persons with disabilities. The CHFFA also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff. Accordingly, the CHFFA EEO program complied with civil service laws and board rules.

**Personal Services Contracts**

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

contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC's, a state agency is required to notify 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, February 1, 2017, through January 31, 2018, the CHFFA had three PSC's that were in effect. The CRU reviewed all three contracts, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Gilbert Associates, Incorporate.	Audit Services	6/1/16 – 12/31/18	\$55,500	Yes
Macias, Gini & O'Connell	Financial Analysis	7/1/15 - 6/30/18	\$150,000	Yes
Orrick, Herrington & Sutcliffe	Legal Services	7/1/15 – 6/30/18	\$60,000	Yes

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

When an agency executes a personal services contract under Government Code section 19130, subdivision (b), the department must document a written justification that includes specific and detailed factual information that demonstrates how the contract meets one or more conditions specified in Government Code section 19131, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60.)

The total dollar amount of all the PSC's reviewed was \$265,500. It was beyond the scope of the review to make conclusions as to whether CHFFA justifications for the contract were legally sufficient. For all PSC's reviewed, the CHFFA provided specific and detailed factual information in the written justifications as to how each of the seven contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the CHFFA PSC's complied with civil service laws and board rules.

**Mandated Training**

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she

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

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

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

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

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

In reviewing the CHFFA's mandated training program that was in effect during the compliance review period, the CRU determined the following:

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

The CHFFA provided ethics training to its two new filers within six months of appointment and semiannual ethics training to its three existing filers during the two-year calendar year period commencing in 2016. The CHFFA also provided supervisory training to its one new supervisor within 12 months of appointment. In addition, the CHFFA provided sexual harassment prevention training to its two new supervisors within six months of appointment, and sexual harassment prevention training to its four existing supervisors every two years. Thus, the CHFFA complied with mandated training requirements within statutory timelines.

**Compensation and Pay**

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR (Cal. Code Reg., tit. 2, § 599.666). Several salary rules dictate how departments calculate and determine an employee’s salary rate<sup>5</sup> upon appointment depending on the appointment type, and the employee’s state employment pay history and tenure.

During the period under review, February 1, 2017, through January 31, 2018, the CHFFA made 11 appointments. The CRU reviewed eight of those appointments to determine if the CHFFA applied salary regulations accurately and correctly processed employees’ compensation transactions. These appointments are listed below:

Classification	Appointment Type	Tenure	Appointment Type	Salary (Monthly Rate)
Associate Treasury Program Officer	Certification List	Permanent	Full Time	\$4,784
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$3,220
Staff services Manager I (Supervisor)	Certification List	Permanent	Full Time	\$6,287
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full Time	\$4,784
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$4,784
Associate Governmental	Transfer	Permanent	Full Time	\$5,988

Classification	Appointment Type	Tenure	Appointment Type	Salary (Monthly Rate)
Program Analyst				
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,539
Staff Services Manager I	Transfer	Permanent	Full Time	\$7,068

**FINDING NO. 6 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found no deficiencies in the eight salary determinations that were reviewed. The CHFFA 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.

**Leave**

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 Reg., tit. 2, § 599.665).

Additionally, in accordance with CalHR Online Manual Section 2101, departments must create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. Accurate and timely attendance reporting is required of all departments and is subject to audit.

During the period under review, August 1, 2017, through October 31, 2017, the CHFFA reported one unit comprised of 15 active employees during the August 2017 pay period, 17 active employees during the September 2017 pay period, and 18 active employees during the October 2017 pay period. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
August 2017	324	15	15	0
September 2017	324	17	17	0
October 2017	324	18	18	0

**FINDING NO. 7– Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CHFFA kept complete and accurate time and attendance records for each employee employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

Leave Reduction Efforts

Departments must comply with the regulations and CalHR policies that require a leave plan for every employee with vacation or annual leave hours over the maximum amount permitted (Cal. Code Regs., tit. 2, § 599.742.1 and applicable Bargaining Unit Agreements). Bargaining Unit Agreements and California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. For instance, according to California Code of Regulations, title 2, section 599.737, if a represented employee does not use all of the vacation to which he or she is entitled in a calendar year, “the employee may accumulate the unused portion, provided that on January 1st of a calendar year, the employee shall not have more than” the established limit as stipulated by the applicable bargaining unit agreement<sup>6</sup>. Likewise, if an excluded employee does not use all of the vacation to which he or she is entitled in a calendar year, the “employee may accumulate the unused portion of vacation credit, provided that on January 1st of a calendar year, the excluded employee shall not have more than 80 vacation days” (Cal. Code Regs., tit. 2, § 599.738).

In accordance with CalHR Online Manual Section 2124, departments must create a leave reduction policy for their organization and monitor employees’ leave to ensure compliance

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<sup>6</sup> For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.



with the departmental leave policy; and ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place.

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

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Associate Governmental Program Analyst	R01	1,477	No
Deputy Executive Director, Career Executive Assignment (CEA), Range B	M01	1,999	No
Executive Director	E99	464	No
<b>Total Hours</b>		<b>3,940</b>	

**FINDING NO. 8 – Leave Reduction Plans Were Not Provided to All Employees Whose Leave Balances Exceeded Established Limits**

**Summary:** The CHFFA provided a leave reduction policy included in their department’s online Administrative Manual. Additionally, the CHFFA disseminated an April 18, 2017, memorandum demonstrating that they encourage their employees to participate in the leave buy-back program in an effort to reduce “over the cap” leave balances. However, the CHFFA did not provide leave reduction plans for the three employees reviewed whose leave balances significantly exceeded established limits.

**Criteria:** It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation. (Cal. Code Regs., tit. 2, § 599.742.1), ensuring employees maintain the capacity to optimally perform their jobs. 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 for reasons other than those listed in sections 599.737 and 599.738 of these regulations 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. (Cal. Code Regs., tit. 2, § 599.742.)

According to CalHR Online Manual Section 2124, "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. 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; and; ensure employees who have significant 'over-the-cap' leave balances have a leave reduction plan in place and are actively reducing hours".

**Severity:** Technical. California state employees have accumulated significant leave hours over the last several years. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately. Furthermore, when employees separate from state service, departments are obligated to cash-out accrued leave credits at their current salary rates, which in most cases are higher than when most of the leave credits were earned. These payouts amount to millions of dollars each year, and represent an unfunded liability that must be paid from current-year funds. This puts a strain on departmental budgets as they must keep vital positions vacant, redirect from other funding sources, and/or request additional funds.

**Cause:** The STO/CHFFA currently has a published policy that addresses leave balances that are in excess of the established limits. However, there has not been an enforcement mechanism established to address these excess balances.

**Action:** It is recommended that within 90 days of the Executive Officer's approval of the findings and recommendations, the STO provide copies of documentation to show that it has implemented the corrective action plan it has provided in the departmental response.

## State Service

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<sup>7</sup> (Cal. Code Regs., tit. 2, § 599.608).

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).

For each additional qualifying monthly pay period as defined in section 599.608, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. 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. Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated (Cal. Code Regs., tit. 2, § 599.739). On the first day following a qualifying monthly pay period, excluded employees<sup>8</sup> shall be allowed credit for annual leave with pay (Cal. Code Regs., tit. 2, § 599.752).

Permanent Intermittent employees earn vacation according to the preceding schedule for each increment of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period are not counted or accumulated.

During the period under review, November 1, 2016, through October 31, 2017, the CHFFA processed one 715-transaction<sup>9</sup>. The CRU reviewed the 715 transaction to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

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<sup>7</sup> Except as provided in sections 599.609 and 599.776.1(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.

<sup>8</sup> As identified in Government Code sections 19858.3(a), 19858.3(b), or 19858.3(c) as it applies to employees excluded from the definition of state employee under section Government Code 3513(c), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

<sup>9</sup> 715 transaction code is used for: temporary leaves of 30 calendar days or less (per SPB Rule 361) resulting in a non-qualifying pay period; used for qualifying a pay period while on NDI; used for qualifying a pay period while employee is on dock and furlough.

Type of 715 Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	1

**FINDING NO. 9 – 715 Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU determined that the CHFFA ensured employee 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.

**Policy and Processes**

Nepotism

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

**FINDING NO. 10 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

After reviewing the CHFFA’s nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the CHFFA’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CHFFA’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 as outlined in CalHR’s Online Manual Section 1204.

## Workers' Compensation

Pursuant to California Code of Regulations, title 8, section 9880, employers shall provide to every new employee 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. This notice shall also contain a form that the employee can use to pre-designate their personal physician or medical group as defined by Labor Code section 4600. Additionally, employers shall also provide a claim form and notice of potential eligibility to their employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness (Labor Code, § 5401).

According to Labor Code section 3363.5, public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. Workers' compensation coverage is not mandatory for volunteers as it is for employees. This is specific to the legally uninsured state departments participating in the Master Agreement. Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (SCIF) office to discuss the status of volunteers (PML, "Workers' Compensation Coverage for Volunteers," 2015-009). Those departments that have volunteers should have notified or updated their existing notification to the SCIF by April 1, 2015, whether or not they have decided to extend workers' compensation coverage to volunteers. In this case, the CHFFA did not employ volunteers during the compliance review period.

### **FINDING NO. 11 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

After reviewing the CHFFA's workers' compensation process that was in effect during the compliance review period, the CRU verified that the CHFFA provides notice to their employees to inform them of their rights and responsibilities under CA workers' compensation law. Furthermore, the CRU verified that when the CHFFA received workers' compensation claims, the CHFFA properly provided claim forms within one working day of notice or knowledge of injury.

## Performance Appraisals

According to Government Code section 19992.2, departments 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 five permanent CHFFA employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines.

**FINDING NO. 12 – Performance Appraisals Were Not Provided to Employees**

**Summary:** The CHFFA did not provide performance appraisals to two of five employees reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period.

Classification	Date Performance Appraisal(s) due
Administrative Assistant II	12/14/2017
Staff Services analyst	11/1/2017

**Criteria:** Departments are required to “prepare performance reports and keep them on file as prescribed by department rule” (Gov. Code § 19992.2). Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

**Severity:** Serious. The department does not ensure that all employees are apprised of work performance issues and/or goals in a fair and systematic manner.

**Cause:** The CCFFA/STO failed to provide annual performance appraisals to two out of five employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

**Action:** It is recommended that within 60 days of the SPB’s Executive Officer’s approval of these findings and recommendations, the CHFFA/STO submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of California Code of Regulations, title 2, section 599.798. Copies of any relevant documentation should be included with the plan.

### **DEPARTMENTAL RESPONSE**

On behalf of CHFFA, the STO will immediately begin providing quarterly reports to the CHFFA management team in an effort to assist them with monitoring excess leave balances. Additionally, on a regular basis, CHFFA will: 1) require all supervisory staff to monitor their employee's vacation/annual leave balances for excess time; (2) encourage staff to use excess time in the pay period accrued when possible; and (3) will require the completion of an annual reduction plan for staff with excess leave balances.

### **SPB REPLY**

It is further recommended that the STO/CHFFA comply with the afore-stated recommendations and submit documentation to the CRU within 90 days that shows all corrective actions have been implemented.



## CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY

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chffa@treasurer.ca.gov  
www.treasurer.ca.gov/chffa

August 1, 2018

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

Dear Ms. Ambrose,

### Response to Compliance Review Report

The State Treasurer's Office (STO) provides personnel services for the CA Health Facilities Financing Authority (CHFFA). On behalf of CHFFA, the STO submits this letter in response to the State Personnel Board's (SPB) compliance review of the CHFFA's personnel practices for the period February 1, 2017 through January 31, 2018. CHFFA appreciates SPB's review and the opportunity to respond to its findings. Please reference the enclosed Attachment A for detailed responses.

CHFFA agrees with SPB's findings, and has taken or will take immediate steps to develop and submit a Corrective Action Plan within 60 days of the release of the report to address the deficiencies identified.

Thank you for the opportunity to respond to your draft report. If you have any questions, or require additional information, please do not hesitate to contact me at (916) 653-3382, or by email at [csneed@treasurer.ca.gov](mailto:csneed@treasurer.ca.gov).

Sincerely,

Christopher Sneed  
Chief of Management Services

Enclosure

cc: Rebecca Grajski, STO  
Ronald Washington, CHFFA  
Ruth Holton-Hodson, Deputy Treasurer

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SUMI SOUSA

EXECUTIVE DIRECTOR  
Ronald L. Washington



ATTACHMENT A

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**FINDING No. 1 - Examinations Complied with Civil Service Laws and Board Rules**

**Cause:**None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 2 - Appointments Complied with Civil Service Laws and Board Rules**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 3 - Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules**

**Cause:**None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 4 - Personal Services Contracts Complied with Procedural Requirements**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 5 - Mandated Training Complied with Statutory Requirements**

**Cause:**None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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ATTACHMENT A

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**FINDING No. 6 - Salary Determinations Complied with Civil Service Laws, Board Rules, and CaIHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 7 - Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review..

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**FINDING No. 8 -Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits**

**Cause:** The STO/CHFFA currently has a published policy that addresses leave balances that are in excess of the established limits. However, there has not been an enforcement mechanism established to address these excess balances.

**Department's Response:** On behalf of CHFFA, the STO will immediately begin providing quarterly reports to the CHFFA management team in an effort to assist them with monitoring excess leave balances. Additionally, on a regular basis, CHFFA will: (1) require all supervisory staff to monitor their employees' vacation/annual leave balances for excess time; (2) encourage staff to use excess time in the pay period accrued when possible; and (3) will require the completion of an annual reduction plan for staff with excess leave balances.

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ATTACHMENT A

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**FINDING No. 9 - 715 Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines.**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 10- Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines.**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 11- Worker's Compensation Process Complied with Civil Service Laws, Board Rules, and/or Calffi Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 12 - Performance Appraisals Were Not Provided to Employees**

**Cause:** CHFFA/STO failed to provide annual performance appraisals to two out of five employees at least once in each twelve calendar months after the completion of the employee's probationary period.

**Department's Response:** The CHFFA/STO had established policies and procedures related to the annual notification process to inform supervisors when their employees are due to receive their annual appraisal. However, under the previous policy we did not have an effective monitoring system. The CHFFA/ STO recently issued Policy Memo 18-01, dated January 3, 2018, which established a notification and tracking system to verify that all employees receive annual performance appraisals at least once every twelve months.

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