



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA PUBLIC UTILITIES COMMISSION**

Compliance Review Unit  
State Personnel Board  
May 11, 2017

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## INTRODUCTION

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

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

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

## EXECUTIVE SUMMARY

The CRU conducted a routine compliance review California Public Utilities Commission (CPUC) personnel practices in the areas of examinations, appointments, EEO, and PSC's from June 1, 2015 to May 31, 2016, and mandated training from May 1, 2014 to May 31, 2016. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Examinations Complied with Civil Service Laws and Board Rules	In Compliance
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed	Serious
Equal Employment Opportunity	Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period	Very Serious

Area	Finding	Severity
Equal Employment Opportunity	Equal Employment Opportunity Officer Did Not Monitor the Composition of Oral Panels in Departmental Exams	Very Serious
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements	In Compliance
Mandated Training	Supervisory Training Was Not Provided for All Supervisors	Very Serious
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors	Very Serious
Mandated Training	Ethics Training Was Not Provided for All Filers	Very Serious

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

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

## **BACKGROUND**

The CPUC betters the lives of all Californians through their recognized leadership in innovative communications, energy, transportation, and water policies and regulation.

The CPUC regulates privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies. The CPUC serves the public interest by protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure at reasonable rates, with a commitment to environmental enhancement and a healthy California economy. The CPUC regulates utility services, stimulates innovation, and promotes competitive markets, where possible. As of July 1, 2016, the CPUC employs approximately 1,108 staff statewide.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CPUC examinations, appointments, EEO program, and PSC's, from June 1, 2015 to May 31, 2016, and mandated training from May 1, 2014 to May 31, 2016. The primary objective of the review was to determine if the CPUC personnel practices, policies, and procedures

complied with state civil service laws and board regulations, and to recommend corrective action where deficiencies were identified.

A cross-section of the CPUC examinations and appointments were selected for review to ensure that samples of various examinations and appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CPUC provided, which included examination plans, examination bulletins, job analyses, 511b's, scoring results, notice of personnel action (NOPA) forms, vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The review of the CPUC 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).

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

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

On March 24, 2017, an exit conference was held with the CPUC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CPUC written response on April 18, 2017, which is attached to this final compliance review report.

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

## FINDINGS AND RECOMMENDATIONS

### Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931.) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) the advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application in the office of the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934.) Generally, the final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, the CPUC conducted 25 examinations. The CRU reviewed 13 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Assistant Chief Administrative Law Judge	Open	Written <sup>2</sup> & Qualification Appraisal Panel (QAP) <sup>3</sup>	6/9/2016	10
Assistant Chief Public Utilities Counsel	Departmental Promotion	QAP	2/3/2016	22

<sup>2</sup> A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

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

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Transportation Operations Supervisor	Open	Written	continuous	105
Career Executive Assignment (CEA) A Deputy Director, SED	CEA	Statement of Qualifications (SOQ) <sup>4</sup>	3/30/2016	25
CEA B – Deputy Director, Energy Division	CEA	SOQ	6/2/2016	9
CEA B - Deputy Executive Director	CEA	SOQ	5/25/2016	3
CEA B - Director, Consumer Protection and Enforcement Division	CEA	SOQ	2/16/2016	19
CEA B - Director, CSID	CEA	SOQ	12/7/2015	13
Program Manager, PUC	Open	Training and Experience (T&E) <sup>5</sup>	2/19/2016	19
Public Utilities Regulatory Analyst II	Open	Written & QAP	continuous	59
Public Utilities Regulatory Analyst V	Open	Written & QAP	continuous	67
Senior Transportation Operations Supervisor	Open	Written & QAP	continuous	77
Senior Utilities Engineer (Supervisor)	Open	T&E	5/12/2016	2

<sup>4</sup> In a statement of qualifications (SOQ's) examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

<sup>5</sup> The training and experience (T&E) examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

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

The CRU reviewed one departmental promotional, five CEA, and seven open examinations, which the CPUC administered in order to create eligible lists from which to make appointments. The CPUC published and distributed examination bulletins containing the required information for all examinations. Applications received by the CPUC were accepted prior to the final filing date and were thereafter properly assessed to determine whether applicants met the minimum qualifications for admittance to the examinations. The CPUC notified applicants as to whether they qualified to take the examination, and those applicants who met the minimum qualifications were also notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. Competitors were then notified of their final scores.

The CRU found no deficiencies in the examinations that the CPUC conducted during the compliance review period. Accordingly, the CPUC fulfilled its responsibilities to administer those examinations in compliance with civil service laws and board rules.

**Appointments**

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

During the compliance review period, the CPUC made 225 appointments. The CRU reviewed 40 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Associate Governmental Program Analyst	List Appointment	Permanent	Fulltime	4



Classification	Appointment Type	Tenure	Time Base	No. of Appts
Associate Information Systems Analyst (Specialist)	List Appointment	Permanent	Fulltime	2
Consumer Services Supervisor	List Appointment	Permanent	Fulltime	2
Program Manager	List Appointment	Permanent	Fulltime	2
Senior Utilities Engineer (Specialist)	List Appointment	Permanent	Fulltime	2
Public Utilities Counsel II	List Appointment	Permanent	Fulltime	1
Public Utilities Financial Examiner IV	List Appointment	Permanent	Fulltime	2
Public Utilities Regulatory Analyst II	List Appointment	Permanent	Fulltime	2
Senior Utilities Engineer (Specialist)	List Appointment	Permanent	Fulltime	2
Staff Services Analyst (General)	List Appointment	Permanent	Fulltime	2
Transportation Analyst	List Appointment	Permanent	Fulltime	3
Accountant Trainee	Mandatory Reinstatement	Permanent	Fulltime	1
Executive Secretary I	Mandatory Reinstatement	Permanent	Fulltime	1
Public Utilities Regulatory Analyst II	Mandatory Reinstatement	Permanent	Fulltime	2
Public Utilities Regulatory Analyst IV	Mandatory Reinstatement	Permanent	Fulltime	3
Public Utilities Regulatory Analyst V	Mandatory Reinstatement	Permanent	Fulltime	2
Staff Services Manager I	Training and Development	Permanent	Fulltime	1
Hearing Reporter	Transfer	Permanent	Fulltime	2
Public Utilities Regulatory Analyst I	Transfer	Permanent	Fulltime	1
Staff Services Analyst (General)	Transfer	Permanent	Fulltime	2
Transportation Analyst	Transfer	Permanent	Fulltime	1

For each of the 24 list appointments, the CPUC properly advertised the job vacancies, sent out contact letters, screened applications, interviewed candidates, and cleared the certification lists for SROA and reemployment, and conducted background and reference checks as appropriate.

The CRU reviewed nine mandatory reinstatement appointments. 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 CPUC complied with the rules and laws governing mandatory reinstatements.

The CRU reviewed six CPUC appointments made via transfer and one appointment made via permissive reinstatement. 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 CPUC verified the eligibility of each candidate to their appointed class.

However, the CPUC did not provide probation reports for all appointments as described in finding two.

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

**Summary:** The CPUC did not prepare, complete, and/or retain 17 probationary reports of performance for 10 of the 40 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	No. of Appointments Missing Prob. Reports	No. of Uncompleted Prob. Reports
Associate Governmental Program Analyst	List Appointment	3	7
Associate Information Systems Analyst (Specialist)	List Appointment	1	1
Hearing Reporter Public Utilities Commission	Transfer	2	4

Classification	Appointment Type	No. of Appointments Missing Prob. Reports	No. of Uncompleted Prob. Reports
Program Manager	List Appointment	1	1
Public Utilities Regulatory Analyst I	Transfer	1	1
Senior Utilities Engineer (Specialist)	List Appointment	1	1
Transportation Analyst	List Appointment	1	2
Total		10	17

**Criteria:** A new probationary period is not required when an employee is appointed by reinstatement with a right of return. (Cal. Code Regs., tit. 2, § 322, subd. (d)(2).) However, the service of a probationary period is required when an employee enters state civil service by permanent appointment from an employment list. (Cal. Code Regs., tit. 2, § 322, subd. (a).) In addition, unless waived by the appointing power, a new probationary period is required when an employee is appointed to a position under the following circumstances: (1) without a break in service in the same class in which the employee has completed the probationary period, but under a different appointing power; and (2) without a break in service to a class with substantially the same or lower level of duties and responsibilities and salary range as a class in which the employee has completed the probationary period. (Cal. Code Regs., tit. 2, § 322, subd. (c)(1) & (2).)

During the probationary period, the appointing power is required to evaluate the work and efficiency of a probationer at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Gov. Code, § 19172; Cal. Code Regs., tit. 2, § 599.795.) The appointing power must prepare a written appraisal of performance each one-third of the probationary period. (Cal. Code Regs., tit. 2, § 599.795.)

**Severity:** Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully

perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

**Cause:** The CPUC states that their Human Relations (HR) office had relied on a notification system to HR liaisons, which was not always successful.

**Action:** It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the CPUC submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Government Code section 19172.

### **Equal Employment Opportunity**

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

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

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, §

19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

The CRU reviewed the CPUC EEO program that was in effect during the compliance review period.

**FINDING NO. 3 – Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period**

**Summary:** The CPUC provided evidence that 26 discrimination complaints were filed during the compliance review period. The complaint investigation for two of the complaints exceeded 90 days and the CPUC failed to provide communication to the complainants regarding the status of the complaints.

**Criteria:** The appointing power must issue a written decision to the complainant within 90 days of the complaint being filed. (Cal. Code Regs., tit. 2, § 64.4, subd. (a).) If the appointing power is unable to issue its decision within the prescribed time period, the appointing power must inform the complainant in writing of the reasons for the delay. (*Ibid.*)

**Severity:** Very Serious. Employees were not informed of the reasons for delays in decisions for complaints. Employees may feel their concerns are not being taken seriously, which can leave the agency open to liability and low employee morale.

**Cause:** The CPUC states that limited staffing has resulted in a few investigations taking longer than 90 days. Additionally, this requirement was unknown to the EEO Officer until a training session in September of 2016.

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

64.4, subdivision (a). Copies of any relevant documentation should be included with the plan.

**FINDING NO. 4 – Equal Employment Opportunity Officer Did Not Monitor the Composition of Oral Panels in Departmental Exams**

- Summary:** The CPUC EEO Officer did not monitor the composition of the oral panels for departmental exams.
- Criteria:** The EEO Officer at each department must monitor the composition of oral panels in departmental examinations (Gov. Code, section 19795, subd. (a).)
- Severity:** Very Serious. Requiring the EEO Officer to monitor oral panels is intended to ensure protection against discrimination in the hiring process.
- Cause:** The CPUC states that it did not have a process/procedure in place wherein the EEO Officer monitored the composition of oral panels in departmental examinations.
- Action:** It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the CPUC submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirements of Government Code, section 19795, subd. (a).

**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 compliance review period, the CPUC had eight PSC's that were in effect and subject to the Department of General Services (DGS) approval. The CRU reviewed eight of those contracts, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Better Climate Research	Legal Consultant	8/1/2015-6/1/2018	\$224,500.00	Yes
Itron, Inc	Service, Maintenance	8/17/2015-8/16/2018	\$2,328,224.00	Yes
Synapse Energy Economics	Legal Consultant	8/11/2014-6/30/2017	\$364,000.00	Yes
Kema, Inc	Funds, Executing Evaluation	9/15/2013-12/31/2017	\$25,058,327.00	Yes
P. Wood Associates	Legal Consultant	5/25/2015-5/24/2016	\$558,200.00	Yes
Xerox	Legal Consultant	12/11/2011-5/31/2017	\$70,240,186.31	Yes
Libert Cassidy Whitmore	Legal Consultant	2/28/2014-2/28/2019	\$900,000.00	Yes
Northstar Consulting Group, Inc	Legal Consultant	3/31/2016-3/31/2018	\$1,599,400.00	Yes

**FINDING NO. 5 – Personal Services Contracts Complied with Procedural Requirements**

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

The total dollar amount of all the PSC's reviewed was \$101,272,837.31. It was beyond the scope of the review to make conclusions as to whether the CPUC justifications for the contract were legally sufficient. For all PSC's reviewed, the CPUC provided specific and detailed factual information in the written justifications as to how each of the nine contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the CPUC 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 California Department of Human Resources (CalHR). (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & (c), & 19995.4, subd. (b).) The training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

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



employee must be provided a minimum of 20 hours of leadership training on a biannual basis. (*Ibid.*)

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

The CRU reviewed the CPUC's mandated training program that was in effect during the compliance review period.

#### **FINDING NO. 6 – Supervisory Training Was Not Provided for All Supervisors**

**Summary:** The CPUC did not provide basic supervisory training to 10 of 14 new supervisors within twelve months of appointment.

**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 biannually. (Gov. Code, § 19995.4, subd. (b) and (c).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biannually. (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 biannually. (Gov. Code, § 19995.4, subd. (e).)

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

**Cause:** The CPUC states that it had not coordinated and executed a contract for training services for Fall 2016.

**Action:** The CPUC must take appropriate steps to ensure that new supervisors are provided supervisory training within twelve months of hire. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CPUC must establish a plan to ensure compliance with supervisory training mandates and submit to the SPB a corrective action plan.

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

**Summary:** The CPUC did not provide sexual harassment prevention training to four of 14 new supervisors within six months of their appointment. In addition, the CPUC did not provide sexual harassment prevention training to 17 of 20 existing supervisors every two years.

**Criteria:** New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subd. (a).) Each department must provide its supervisors two hours of sexual harassment prevention training every two years.

**Severity:** Very Serious. The department does not ensure its new supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

**Cause:** The CPUC states that HR did not have a tracking and monitoring system in place to ensure all required personnel attended the training.

**Action:** The CPUC must take appropriate steps to ensure that its supervisors are provided sexual harassment prevention training within the time periods prescribed. It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CPUC must establish a plan to ensure compliance with sexual harassment prevention training mandates and submit to the SPB a corrective action plan.

**FINDING NO. 8 – Ethics Training Was Not Provided for All Filers**

**Summary:** The CPUC did not provide ethics training to six of 23 existing filers. In addition, the CPUC did not provide ethics training to four of six new filers within six months of their appointment.

**Criteria:** New filers must be provided ethics training within six months of appointment. Existing filers must be trained 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 CPUC states that HR did not adequately track required training classes to ensure employees meet the ethics compliance requirements.

**Action:** The CPUC must take appropriate steps to ensure that filers are provided ethics training within the time periods prescribed.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the CPUC must establish a plan to ensure compliance with ethics training mandates and submit to the SPB a corrective action plan.

## **DEPARTMENTAL RESPONSE**

The CPUC response is attached as Attachment 1.

## **SPB REPLY**

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

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

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



April 7, 2017

State Personnel Board  
Policy and Compliance Review Division  
801 Capitol Mall  
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**SUBJECT: Response to the State Personnel Board Draft Report "COMPLIANCE REVIEW REPORT"**

Dear Mr. Ford,

The California Public Utilities Commission (CPUC) provides the following response to the March 2017, draft audit report from the State Personnel Board entitled, "Compliance Review Report, California Public Utilities Commission." Our goal is to make necessary changes to policies, process, practices and procedures to address all of the audit report recommendations and to bring our practices into conformity with state procedures, requirements, and norms. We take the audit recommendations very seriously and intend to comply with the recommendations as outlined below:

**Finding No. 2 – Probationary Evaluations Were Not Provided for All Appointments Reviewed**

*The CPUC did not prepare, complete, and/or retain 17 probationary reports of performance for 10 of the 40 appointments reviewed by the CRU as reflected by the table documented in the report.*

**Cause:** The CPUC Human Relations (HR) Office had relied on a notification system to HR Liaisons within Divisions which was not always successful.

**Corrective Action:** HR will begin a monthly notification and tracking process to all Division Directors, Managers, Supervisors and Liaisons to ensure probation reports are done timely.

**Finding No. 3 – Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period**

*The CPUC provided evidence that 26 discrimination complaints were filed during the compliance review period. The complaint investigation for two of the complaints exceeded 90 days and the CPUC failed to provide communication to the complainants regarding the status of the complaints.*

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**Cause:** Limited staffing has resulted in a few investigations taking longer than 90 days. Additionally, this requirement was unknown to the EEO officer until a training session in September of 2016.

**Corrective Action:** The EEO office has developed a notification letter to be used if an investigation is going to take longer than 90 days. The letter includes the required information and is now part of the EEO office template file and has been used on two recent occasions. Additionally, a tickler system has been developed to alert the EEO officer when complaints are nearing the 90 day threshold. Finally, the EEO office is evaluating other resources, such as retired annuitants from Boomerang, as assistance conducting investigations is needed.

**Finding No. 4 – Equal Employment Opportunity Officer Did Not Monitor the Composition of Oral Panels in Departmental Exams**

*The CPUC EEO Officer did not monitor the composition of the oral panels for departmental exams.*

**Cause:** CPUC previously did not have a process/procedure in place wherein the EEO Officer monitored the composition of oral panels in departmental examinations.

**Correction Action:** CPUC has a corrective action plan for ensuring compliance in meeting the requirements. For every departmental exam to be administered, Testing Unit will complete a spreadsheet of the required information and notify EEO, via email, of the composition of the oral panels for review and monitoring.

**Finding No. 6 – Supervisory Training Was Not Provided for All Supervisors**

*The CPUC did not provide basic supervisory training to 10 of 14 new supervisors within twelve months of appointment.*

**Cause:** The CPUC had not coordinated and executed a contract for training services for Fall 2016.

**Corrective Action:** The CPUC will begin contract planning for training services far enough ahead to guarantee training services have been put into place. In addition, we are working to revise supervisory training records with this information to provide more accurate training completion execution and reporting in the future. Since the SPB report was filed in December 2016 by CPUC, beginning February 2017 and March 2017, 25+ supervisory and managerial staff fulfilled their training objective completing both Parts 1 and 2.

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

*The CPUC did not provide sexual harassment prevention training to 4 of 14 new supervisors within six months of their appointment. In addition, the CPUC did not provide sexual harassment prevention training to 17 of 20 existing supervisors every two years.*

**Cause:** HR did not have a tracking and monitoring system in place to ensure all required personnel attended the training.

**Corrective Action:** CPUC's sexual harassment prevention training provision was last provided to all supervisory and exempt staff on these dates: 7/7/2015, 7/8/2015, 7/21/2015, 7/22/2015, 7/31/2015, 9/28/2015. The CPUC training office recognizes that not all required personnel attended. We will continue to require attendance for all staff, including those who may have been on periods of extended leave. In addition, we will provide counseling memos to supervisory and exempt staff who fail to take required training unless explained by a health or other critical factor, which will be noted on our records.

**Finding No. 8 - Ethics Training Was Not Provided for All Filers**

*The CPUC did not provide ethics training to 14 of 29 existing filers.*

**Cause:** CPUC HR does not adequately track required training classes to ensure employees meet the ethics compliance requirements

**Corrective Action:** The CPUC is working to revise the tracking of training records to ensure compliance with all training requirements. We will initiate follow-up procedures to employees and their supervisors for failing to attend required courses.

Sincerely,



Timothy J. Sullivan  
Executive Director