



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA STATE LIBRARY**

Compliance Review Unit  
State Personnel Board  
August 5, 2020

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## **INTRODUCTION**

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

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

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

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

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

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

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

### **EXECUTIVE SUMMARY**

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

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Timely <sup>1</sup>
Equal Employment Opportunity	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	Personal Services Contract Complied with Procedural Requirements
Mandated Training	Ethics Training Was Not Provided for All Filers
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

<sup>1</sup> Repeat finding. CSL's November 30, 2016, compliance review report identified that CSL did not prepare, complete, and/or retain eight required probationary reports of performance.

Area	Finding
Policy	Department Does Not Maintain a Current Written Nepotism Policy
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:

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

### **BACKGROUND**

The mission of the CSL is to empower the people of the nation's most diverse and populous state by:

- Providing credible information services to all Californians, especially those in state government and the Legislature, libraries, academia, and persons with disabilities;
- Leading and establishing partnerships with California libraries through funding, program development, and support; and,
- Preserving and providing access to California's unique history to enrich the lives of current and future generations.

The CSL is made up of the Administrative Services Bureau, the California Research Bureau, State Library Services, the Information Technology Bureau, and Library Development Services. These bureaus ensure that the CSL is the central reference and research library for state government and the Legislature, and provides non-partisan research to the Legislature and the Governor. The CSL collects, preserves, generates and disseminates information ranging from California's priceless historical items to today's online texts. The CSL also advises, consults with, and provides technical assistance to California's public libraries, all while directing state and federal funds to support local public libraries, and statewide library programs and services.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CSL's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup>. The primary objective of the review was to determine if the CSL's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the CSL'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 CSL provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CSL did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the CSL's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CSL provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CSL did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CSL did not make any additional appointments during the compliance review period.

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

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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.

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

The CSL'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 CSL's justifications for the contracts were legally sufficient. The review was limited to whether the CSL's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

The CRU reviewed the CSL's Leave Activity and Correction Certification forms to verify that the CSL 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 CSL's units in order to ensure they maintained accurate and timely leave accounting records. During the compliance review period, the CSL did not have any employees with non-qualifying pay period transactions.

Additionally, the CRU reviewed a selection of the CSL employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CSL positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

Moreover, the CRU reviewed the CSL's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the CSL's policies and processes adhered to 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 CSL declined to have an exit conference. The CRU received and carefully reviewed the CSL's written response on July 27, 2020, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Examinations**

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, February 1, 2019, through October 30, 2019, the CSL conducted eight examinations. The CRU reviewed six of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Librarian	Open	Statement of Qualifications (SOQ) <sup>4</sup>	Continuous	15

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

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Library Programs Consultant	Open	SOQ	Continuous	4
Library Technical Assistant II	Open	SOQ	Continuous	2
Principal Librarian	Open	SOQ	Continuous	0
Senior Librarian	Open	SOQ	Continuous	7
Supervising Librarian	Open	SOQ	Continuous	3

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

The CRU reviewed six open examinations which the CSL administered in order to create eligible lists from which to make appointments. The CSL published and distributed examination bulletins containing the required information for all examinations. Applications received by the CSL were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the CSL 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.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section

does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, February 1, 2019, through October 30, 2019, the CSL made 20 appointments. The CRU reviewed those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Digital Composition Specialist I	Certification List	Permanent	Full Time	1
Document Preservation Technician	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Librarian	Certification List	Permanent	Full Time	2
Library Technical Assistant I	Certification List	Permanent	Full Time	2
Principal Librarian	Certification List	Permanent	Full Time	1
Senior Librarian	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	2
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Associate Personnel Analyst	Retired Annuitant	Retired	Intermittent	1
Associate Budget Analyst	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Associate Personnel Analyst	Transfer	Permanent	Full Time	1
Information Technology Associate	Transfer	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Transfer	Permanent	Full Time	1

**FINDING NO. 2 – Probationary Evaluations Were Not Timely**

**Summary:** The CSL did not provide, in a timely manner, 9 probationary reports of performance for 5 of the 20 appointments reviewed by the CRU,

as reflected in the table below. This is the second consecutive time this has been a finding for CSL.

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Associate Governmental Program Analyst	Certification List	1	2
Library Technical Assistant I	Certification List	1	3
Principle Librarian	Certification List	1	1
Associate Budget Analyst	Transfer	1	2
Staff Services Manager II (Supervisory)	Transfer	1	1

**Criteria:** The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

**Severity:** Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

**Cause:** The CSL states that although their Human Resources Services Office sends multiple reminders to the managers and supervisors via email of the probationary due dates, management did not submit them timely in all instances.

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

### **Equal Employment Opportunity**

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like the CSL, the EEO Officer may be the Personnel Officer.

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 All Civil Service Laws and Board Rules**

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CSL’s EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the State Librarian of the CSL. The CSL also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

**Personal Services Contracts**

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

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

During the period under review, February 1, 2019, through October 30, 2019, the CSL had one PSC that was in effect. The CRU reviewed the PSC, which is listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
CivicMakers	Design Training	2/1/19 – 12/31/20	\$49,999	Yes	Yes

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

The total dollar amount of the PSC reviewed was \$49,999. It was beyond the scope of the review to make conclusions as to whether CSL’s justification for the contract was legally sufficient. The CSL provided specific and detailed factual information in the written justification as to how the contract met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, CSL complied with proper notification to the organization that represented state employees who perform the type or work contracted. Accordingly, the CSL’s PSC 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), & 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 CEA position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biennial basis. (*Ibid.*)

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

The CRU reviewed the CSL's mandated training program that was in effect during the compliance review period, November 1, 2017, through October 30, 2019. The CSL's supervisory training and sexual harassment prevention training were found to be in compliance, while the CSL's ethics training was found to be out of compliance.

#### **FINDING NO. 5 – Ethics Training Was Not Provided for All Filers**

**Summary:** The CSL provided new filers ethics training within 6 months of their appointment, however, the CSL did not provide ethics training to 9 of 38 existing filers within proscribed timeframes.

**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:** To CSL states that despite providing existing filers with ethics training requirements upon date of hire or renewal, not all filers completed the training in a timely manner due to lack of effective tracking processes.

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

## **Compensation and Pay**

### **Salary Determination**

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

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, February 1, 2019, through October 30, 2019, the CSL made 20 appointments. The CRU reviewed five of those appointments to determine if the CSL applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

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<sup>5</sup> "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Digital Composition Specialist I	Certification List	Permanent	Full-Time	\$3,649
Senior Librarian	Certification List	Permanent	Full-Time	\$6,234
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full-Time	\$6,722
Associate Governmental Program Analyst	Transfer	Permanent	Full-Time	\$5,704
Information Technician Associate	Transfer	Permanent	Full-Time	\$7,108

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

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

Hiring Above Minimum Requests

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

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

to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling without further legislative action.<sup>6</sup> (Gov. Code § 19836 subd. (b).)

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

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

During the period under review, February 1, 2019, through October 30, 2019, the CSL authorized one HAM request. The CRU reviewed the authorized HAM request to determine if the CSL correctly applied Government Code section 19836 and appropriately verified, approved and documented the candidate’s extraordinary qualifications which is listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Librarian	Certification List	New to State	\$4,743 - \$5,937	\$5,229

<sup>6</sup> Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

**FINDING NO. 7 – Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

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

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

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

During the period under review, February 1, 2019, through October 30, 2019, the CSL issued bilingual pay to one employee. The CRU reviewed the bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines. The classification is listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Associate Governmental Program Analyst	R01	Full Time	1

**FINDING NO. 8 – Bilingual Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found that the bilingual pay authorized to the employee during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

## Leave

### Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days<sup>7</sup> worked and paid absences,<sup>8</sup> is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1,500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Generally, permanent intermittent employees may work up to 1,500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2,000 hours in any calendar year.

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<sup>7</sup> For example, two hours or ten hours counts as one day.

<sup>8</sup> For example, vacation, sick leave, compensating time off, etc.

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

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

Classification	Time Base	Time Frame	Time Worked
Associate Personnel Analyst	Intermittent	7/1/18 – 6/30/19	860 Hours
Library Technical Assistant I	Intermittent	7/1/18 – 6/30/19	776 Hours
Student Assistant	Intermittent	9/1/19 – 11/30/19	310 Hours

**FINDING NO. 9 – Positive Paid Employees Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CSL provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

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

During the period under review, August 1, 2018, through July 31, 2019, the CSL placed three employees on ATO. The CRU reviewed these ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	10/8/18	1 Day
Deputy State Librarian	5/21/19 – 6/4/19	15 Days
Librarian	11/6/18	1 Day

**FINDING NO. 10 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CSL provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

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

During the period under review, May 1, 2019, through July 31, 2019, the CSL reported 20 units comprised of 119 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
May 2019	100	17	17	0
May 2019	106	7	7	0
May 2019	300	6	6	0
June 2019	100	17	17	0
June 2019	106	7	7	0
June 2019	300	6	6	0
July 2019	100	18	18	0
July 2019	106	7	7	0
July 2019	300	7	7	0

**FINDING NO. 11 – 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 CSL kept complete and accurate time and attendance records for each employee and officer 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.

**Policy and Processes**

Nepotism

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

committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

**FINDING NO. 12 – Department Does Not Maintain a Current Written Nepotism Policy**

**Summary:** The CSL does not maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees.

**Criteria:** It is the policy of the State of California to recruit, hire and assign all employees on the basis of fitness and merit in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204). All department policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring, and assigning employees on the basis of merit. (*Ibid.*)

**Severity:** Very Serious. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. Departments must take proactive steps to ensure that the recruitment, hiring, and assigning of all employees is done on the basis of merit and fitness in accordance with civil service statutes. Maintaining a current written nepotism policy, and its dissemination to all staff, is the cornerstone for achieving these outcomes.

**Cause:** The CSL states that they do not have a current nepotism policy due to staff turnover.

**Corrective Action:** Within 90 days of the date of this report, the CSL must submit to the SPB a written corrective action response which includes an updated nepotism policy which contains requirements outlined in Human Resources Manual section 1204, and documentation demonstrating that it has been distributed to all staff.

Workers’ Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers’ compensation law. (Cal. Code Regs., tit. 8, § 9880 subd. (a).) This notice shall

include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880 subds. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401 subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers' compensation coverage is not mandatory for volunteers as it is for employees. (*Ibid.*) This is specific to the legally uninsured state departments participating in the Master Agreement. (*Ibid.*) Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*)

**FINDING NO. 13 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

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

Performance Appraisals

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

The CRU selected 30 permanent CSL employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Accounting Adminisator I (Supervisory)	4/30/18
Accounting Officer Specialist	9/18/19
Associate Governmental Program Analyst	4/2/18
Associate Governmental Program Analyst	8/11/19
Associate Governmental Program Analyst	1/19/17
Audio-Visual Assistant	10/1/19
Digital Composition Specialist I	8/6/19
Digital Composition Specialist II	6/30/17
Librarian	6/19/18
Librarian	9/30/18
Librarian	5/31/17
Librarian	6/4/19
Library Program Administrator	8/31/19
Library Program Consultant	5/1/18
Library Technician Assistant	7/22/18
Museum Curator III	11/30/18
Office Assistant (General)	1/2/19
Office Technician (Typing)	9/1/17
Research Data Specialist I	6/19/18
Research Data Specialist II	6/5/18
Research Data Specialist II	12/31/18
Staff Services Analyst (General)	1/25/17
Staff Services Manager I	5/14/19
Staff Services Manager II (Supervisory)	4/13/18

**FINDING NO. 14 – Performance Appraisals Were Not Provided to All Employees**

**Summary:** The CSL did not provide annual performance appraisals to any of the 24 employees reviewed after the completion of the employees' probationary period.

**Criteria:** Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power,

shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

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

**Cause:** The CSL acknowledges that performance appraisals were not provided to the 24 employees reviewed due to staff turnover.

**Corrective Action:** Within 90 days of the date of this report CSL must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### **DEPARTMENTAL RESPONSE**

The CSL's response is attached as Attachment 1.

### **SPB REPLY**

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



M E M O R A N D U M

Date: July 27, 2020

To: Compliance Review Unit, State Personnel Board



From: Virginia Perry, Personnel Officer  
Human Resources Services Office

Subject: Compliance Review Report – California State Library Response

The California State Library, Human Resources Services Office is in receipt of the State Personnel Board's (SPB) draft Compliance Review Report received on July 6, 2020. The State Library appreciates the time and effort the State Personnel Board Compliance Review Unit took to review documentation for statewide consistency and to limit liability in keeping with the merit principles and best practices.

The State Library provides the following information regarding the specific findings from the report:

**Finding No. 2 – Probationary Evaluations Were Not Timely:**

The draft Compliance Review Report found that 9 probationary reports of performance for 5 of the 20 appointments reviewed during the audit did not have timely probationary reports of performance.

**Cause:** Although the State Library's Human Resources Services Office sends multiple reminders to the managers and supervisors via email of the probationary due dates, management didn't submit them timely in all instances.

**Response:** The State Library recognizes the importance of the probationary period and the need to provide its employees with continuous feedback and to ensure that the individuals selected can successfully perform the full scope of their job duties. Upon appointment of an employee, the human resources services office emails the hiring manager with copies of the three probationary reports, prefilled with the employees' information at the top, including due dates. The human resources services office sends a reminder email to the manager 30 days in advance of the due date of the probationary report, including a copy of the probationary report. If the completed probationary report

is not completed timely, the human resources services office sends follow up emails cc'ing the second level supervisor. The State Library recognizes that managers and supervisors are responsible for providing timely probationary reports to their employees as the final stage of the selection process.

**Finding No. 5 – Ethics Training Was Not Provided for All Filers:**

The draft Compliance Review Report found that 9 of the existing 38 filers did not complete ethics training.

**Cause:** The State Library acknowledges that despite providing existing filers with ethics training requirements upon date of hire or renewal dates, not all filers completed the training in a timely manner due to lack of effective tracking processes.

**Response:**

The State Library disagrees with the finding that states “the CSL did not provide ethics training to 9 of 38 filers.” and “The department does not ensure that its filers are aware of prohibitions related to their official position and influence.” The 9 existing filers were provided with and completed ethics training; however, it was not completed within the two consecutive years commencing on the first odd-numbered year after their initial ethics training, as listed below:

Classification	Appointment Date	Ethics Training Taken
Associate Governmental Program Analyst	10/3/2016	1/23/2019
Accounting Administrator I (Sup)	5/1/2016	11/27/2019
State Librarian	4/24/2014	11/26/2019
Supervising Librarian II	10/1/2007	2/12/019
Staff Services Manager II (Sup)	4/24/2016	8/3/2019
Research Data Specialist II	8/1/2012	4/30/2019
Principal Librarian	3/2/2016	12/1/2019
CEA	10/1/2013	3/1/2019
Deputy State Librarian	10/18/2016	1/28/2019

The State Library recognizes the importance of ensuring that all its filers are aware of prohibitions related to their official position and influence in compliance with Gov. Code § 11146.3, subd. (b). Upon appointment of an employee into a designated Conflict of Interest position, the human resources services office emails the employee to notify them of their responsibility to complete the training including a hyperlink, the due date and instructions for taking the training. The human resources services office sends a reminder email to the filer with a cc to their manager if the course is not completed timely.

The human resources services office has implemented changes to the reminder notification process, which allows for additional reminders of the requirement to complete the training. The human resources services office has begun sending emails to the filers in two month increments as a reminder to take the course. If the filer has not taken the course within 30 days of the due date, the human resources services office sends an email to the filer with a cc to their manager that they need to take the course within 30 days of the due date. If the course is not completed by the due date, the human resources services office forwards the email to the personnel officer who then sends the email string email to the Bureau Chief, on a bi-weekly basis, that the course has not been completed until the certification of completion is received.

### **Finding No. 12 – Department Does Not Maintain a Current Written Nepotism Policy**

The draft Compliance Review Report found that the State Library does not maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees.

**Cause:** The State Library does not have a current nepotism policy due to staff turnover.

**Response:** The State Library acknowledges that although it has a written nepotism policy, it is not current. Per the guidance provided in PML 2015-014 and the HR Manual section 1204 that “Many departments already have policy statements on nepotism. These departments *should* review their policies to determine if there is any need to update their statements or make them more specific to the needs of their organizations. Those departments without a nepotism policy *should* develop one.” The State Library is working on updating its outdated policies and creating an acknowledgement form to include staff signatures. The Nepotism Policy is in draft format and is pending executive and legal review.

### **Finding No. 14 – Performance Appraisals Were Not Provided to All Employees**

The draft Compliance Review Report found that the State Library did not provide annual performance appraisals to any of the 24 employees reviewed after completion of the employees’ probationary period.

**Cause:** The State Library acknowledges that performance appraisals were not provided to any of the 24 employees reviewed due to staff turnover.

**Response:** The State Library is currently undergoing a Library-wide project to update and revise the duty statements of staff where appropriate and plans to deliver training to the managers and supervisors on completing performance appraisals for staff.

In the 2018 – 2020 Strategic Plan, Goal 4 was “Equip Staff with the Resources, Processes and Professional Development to Succeed.” The Strategic Plan’s three month action item was to have all staff to have signed duty statements. The goal was to first provide training to the supervisors on how to create/update a duty statement and the training was delivered to all supervisors and managers by June 19, 2018.

Compliance Review Report – State Library Response

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The next set of actions was to work with supervisors and managers to update outdated duty statements and simultaneously develop a plan for conducting calendar years 2018 and 2019 performance evaluations for all library employees. One of the activities was to develop Performance Management Training and Performance Evaluation Training for supervisors and managers. These actions were not completed due to staffing. The goal is to finalize all of the duty statements for staff and develop and deliver training.

The State Library thanks the Board staff for bringing these deficiencies to its attention. Should you have any questions or need additional information, please contact me at (916) 651-8341.

Cc: Elizabeth Vierra, Chief  
Administrative Services Bureau