



COMPLIANCE REVIEW REPORT

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

Compliance Review Unit
State Personnel Board
April 20, 2015

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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 four areas: examinations, appointments, equal employment opportunity (EEO), and personal services contracts (PSC's) to ensure compliance with civil service laws and board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews. The SPB conducts these reviews on a three-year cycle.

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of California State Teachers' Retirement System (CalSTRS) personnel practices in the areas of examinations, appointments, EEO, and PSC's from January 1, 2013, through September 30, 2013. The following table summarizes the compliance review findings.

Area	Finding	Severity
Examinations	Job Analyses Were Not Developed or Used for All the Civil Service Examinations Reviewed	Very Serious
Appointments	Appointments Complied with Civil Service Laws and Board Rules	In Compliance
Equal Employment Opportunity	Equal Employment Opportunity Officer Does Not Report to the Departmental Director	Very Serious

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

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

BACKGROUND

The CalSTRS is the largest educator-only pension fund in the world with an investment portfolio of \$189.1 billion in investment assets as of June 30, 2014. The CalSTRS administers a hybrid retirement system, consisting of traditional defined benefit, cash balance and voluntary defined contribution plans, as well as disability and survivor benefits. For over 100 years, the CalSTRS has served California's public school educators and their families, who today number over 868,000 from the state's 1,600 school districts, county offices of education, and community college districts. The CalSTRS collects annual contribution revenues of \$6 billion and disburses more than \$11 billion each year in benefit payments to members and beneficiaries.

The Teachers' Retirement Board (TRB) has the sole and exclusive fiduciary responsibility over the assets of the retirement system. The TRB also has the sole and exclusive responsibility to administer the system in a manner that will assure the prompt delivery of benefits and related services to the members and their beneficiaries. The assets of the retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants and their beneficiaries, and defraying reasonable expenses of administering the system. Importantly, the CalSTRS collects employee, local educational agency, and state contributions involving several programs; invests and accounts for those funds, and determines and pays out benefit payments to its members. The CalSTRS' mission is to secure the financial future and sustain the trust of California's educators. The CalSTRS is headquartered in West Sacramento with member service centers located in Glendale, Santa Clara, and Irvine. As of June 30, 2014, the CalSTRS employs approximately 1,000 staff statewide.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing CalSTRS' examinations, appointments, EEO program, and PSC's from January 1, 2013, through September 30, 2013. The primary objective of the review was to determine if CalSTRS' 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 CalSTRS 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 CalSTRS provided, which included examination plans, examination bulletins, job analyses (JAs), scoring results lists, notice of personnel action forms, vacancy posting advertisements, application screening criteria, hiring interview rating criteria, certification lists, probation reports, transfer movement worksheets, employment history records, correspondence, and probation reports.

The review of the CalSTRS EEO program included examining written EEO policies and procedures; the EEO officer's role, duties, and reporting relationship; the internal discrimination complaint process; the upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC). The CRU also interviewed appropriate the CalSTRS' staff.

CalSTRS PSC's were also randomly selected to ensure that various types of contracted services and contract amounts were reviewed. The CalSTRS contracted for legal services, consulting services, graphic design services, and various personal services.¹ It was beyond the scope of the compliance review to make conclusions as to whether the CalSTRS justifications for the contracts were legally sufficient. The review was limited to whether the CalSTRS practices, policies, and procedures relative to PSC's complied with applicable statutory law and board regulations.

On March 2, 2015, an exit conference was held with the CalSTRS to explain and discuss the CRU's initial findings and recommendations. The CalSTRS was given until March 16, 2015, to submit a written response to the CRU's draft report. On March 13, 2015, the CRU received and carefully reviewed the response, which is attached to this final compliance review report.

¹If 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 CalSTRS conducted five examinations. The CRU reviewed all of these examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Business Service Officer I & II (Supervisory)	Promotional	Qualifications Appraisal Panel (QAP) ²	3/22/2013	14
Legal Assistant	Promotional	QAP	2/26/2013	8

² 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 Applications
Pension Program Representative	Open	Written ³	Continuous	244
Portfolio Manager	Open	Supplemental Application ⁴	Continuous	22
Senior Pension Program Representative	Promotional	Training and Experience Evaluation ⁵	5/16/2013	15

FINDING NO. 1 – Job Analyses Were Not Developed or Used for All the Civil Service Examinations Reviewed

Summary: A JA is required for each civil service examination. The CalSTRS provided JAs for the Business Service Officer I & II (Supervisory), Portfolio Manager, and the Senior Pension Program Representative. However, the CalSTRS did not provide JAs for the Legal Assistant and Pension Program Representative civil service examinations.

Classification	List Active Date	List Expiration Date	No. of Eligibles
Legal Assistant	2/26/13	2/26/17	8
Pension Program Representative	7/15/13	7/15/14	244

The examination list has not expired for the following classification:

- (1) Legal Assistant

³ 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.

⁴ In a Supplemental Application examination, applicants are not required to present themselves in person at a predetermined time and place. Supplemental applications are in addition to the regular application and must be completed in order to remain in the examination.

⁵ The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values, which are totaled by the online system or a department exam analyst, and then assigned a percentage score.

Criteria: The Merit Selection Manual (MSM), which is incorporated in California Code of Regulations, title 2, section 50, mandates the development and use of a job analysis for the examination process. A "[j]ob analysis shall serve as the primary basis for demonstrating and documenting the job-relatedness of examination processes conducted for the establishment of eligible lists within the State's civil service." (MSM (Oct. 2003), § 2200, p. 2.) The MSM requires that JAs adhere to the legal and professional standards outlined in the JA section of the MSM, and that certain elements must be included in the JA studies. (*Ibid.*) Those requirements include the following: (1) that the JA be performed for the job for which the subsequent selection procedure is developed and used; (2) the methodology utilized be described and documented; (3) the job analytic data be collected from a variety of current sources; (4) job tasks be specified in terms of importance or criticality, and their frequency of performance; (5) and job tasks must be sufficiently detailed to derive the requisite knowledge, skills, abilities (KSAs), and personal characteristics that are required to perform the essential tasks and functions of the job classification. (MSM, § 2200, pp. 2-3.)

Severity: Very Serious. The examinations may not have been job-related or legally defensible.

Cause: The CalSTRS states that due to a staff oversight, a JA was not conducted prior to the administration of the Legal Assistant exam. The CalSTRS was unable to locate the JAs for the Pension Program Representative, but believe that a JA was conducted while CalSTRS resided in a former building. During the move, the CalSTRS believe the JA may have inadvertently been misplaced.

Action: To correct this deficiency, the CalSTRS must abolish the examination list that has not expired. In addition, prior to administering any future examinations CalSTRS must create and develop each examination based upon a JA that meets the requirements of the MSM. CalSTRS must submit to the CRU a written corrective action plan within 60 days that describes the steps that will be taken to ensure JAs are developed for any new examinations conducted. Furthermore, the CRU finds that the appointments made from the examinations that were administered

without a JA were made in good faith, were not the fault of the appointed employees, and do not merit being voided.

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 CalSTRS made 396 appointments. The CRU reviewed 101 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Associate Pension Program Analyst	Certification List	Permanent	Full Time	9
Associate Personnel Analyst	Certification List	Permanent	Full Time	2
Executive Secretary	Certification List	Permanent	Full Time	1
Executive Secretary I	Certification List	Permanent	Full Time	4
Graphic Designer I	Certification List	Permanent	Full Time	1
Information Systems Technician	Certification List	Limited Term	Intermittent	3
Investment Officer II, CalSTRS	Certification List	Permanent	Full Time	4
Office Technician	Certification List	Permanent	Full Time	2
Office Technician	Certification List	Limited Term	Full Time	1
Pension Program Analyst	Certification List	Permanent	Full Time	9
Pension Program Representative	Certification List	Permanent	Full Time	1
Research Analyst I	Certification List	Permanent	Full Time	1
Senior Information Systems Analyst	Certification List	Permanent	Full Time	3

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Senior Pension Program Representative	Certification List	Permanent	Full Time	2
Staff Services Analyst	Certification List	Permanent	Full Time	9
Stock Clerk	Certification List	Permanent	Full Time	1
Systems Software Specialist II	Certification List	Permanent	Full Time	3
Career Executive Assignment (CEA) II - Director of Human Resources	Information List	CEA	Full Time	1
CEA IV Director of Technology Services	Information List	CEA	Full Time	1
CEA IV – Director of Business Renew	Information List	CEA	Full Time	1
CEA V – Chief Operating Officer	Information List	CEA	Full Time	1
Administrative Assistant	Permissive Reinstatement	Permanent	Full Time	1
State Management Auditor	Retired Annuitant	Limited Term	Intermittent	1
Seasonal Clerk	Temporary Authorized Utilization (TAU)	Limited Term	Intermittent	6
Accounting Analyst	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	2
Associate Pension Program Analyst	Transfer	Permanent	Full Time	1
Data Processing Manager III	Transfer	Permanent	Full Time	1
Investment Officer I, CalSTRS	Transfer	Permanent	Full Time	3
Investment Officer II, CalSTRS	Transfer	Permanent	Full Time	1
Office Technician	Transfer	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Pension Program Analyst	Transfer	Permanent	Full Time	10
Pension Program Manager II	Transfer	Permanent	Full Time	3
Pension Program Representative	Transfer	Permanent	Full Time	1
Personnel Specialist	Transfer	Permanent	Full Time	2
Research Analyst II	Transfer	Permanent	Full Time	1
Staff Services Analyst	Transfer	Permanent	Full Time	1
System Actuary	Transfer	Permanent	Full Time	1
System Software Specialist II	Transfer	Permanent	Full Time	4

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

The CalSTRS measured each applicant’s ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 54 list appointments, the CalSTRS ordered a certification list of candidates ranked competitively. After properly clearing the certification list including SROA⁶, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification list. Accordingly, these appointments complied with civil service laws and board rules.

The CalSTRS made appointments to 33 positions via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made, if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Reg., tit. 2, § 425.) The CalSTRS verified the eligibility of each candidate to their appointed class, and thus complied with civil service laws and board regarding transfers.

⁶ The State Restriction of Appointments (SROA) Program is intended to prevent the layoff and separation of skilled and experienced employees from State service. The SROA Program assists in placing affected employees by temporarily restricting the methods of appointment available to appointing powers. Employees on SROA lists are granted preferential consideration over all other types of appointments except appointments from reemployment lists and mandatory reinstatements.

The CalSTRS made four appointments to CEA positions via information list. CEAs are appointments to a "high administrative and policy influencing position within the state civil service in which the incumbent's primary responsibility is the managing of a major function or the rendering of management advice to top-level administrative authority." (Gov. Code, § 18547.) Eligibility for such an appointment "shall be established as a result of competitive examination of persons with permanent status in the civil service who meet minimum qualifications" as specified. (Gov. Code, § 19889.3.)

The CalSTRS made one appointment via permissive reinstatement. An appointing power may, in his or her discretion, reinstate any person having probationary or permanent status who was separated from his or her position by: (1) resignation; (2) service retirement; (3) termination from limited-term, temporary, career executive assignment, or exempt appointment; (4) absence without leave, as defined; or (5) without a break in continuity of state service to accept another civil service or exempt appointment. (Gov. Code, § 19140.)

The CalSTRS made six appointments via TAU. Generally, when no employment list exists from which a position may be filled, an appointing power may fill the position by temporary appointment. (Gov. Code, § 19058.) If fewer than three names of persons willing to accept an appointment are on the open eligible list for the class to which a position belongs and no other employment list for such class is available, a temporary appointment may be allowed. (Cal. Code Regs., tit. 2, § 265) A TAU appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII, § 5.) In addition, when a temporary appointment is made to a permanent position, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment. (Gov. Code, § 19058.)

The CRU found no deficiencies in the appointments that the CalSTRS conducted during the compliance review period. Accordingly, the CRU found that all the appointments the CalSTRS made during the compliance review period satisfied civil service laws and board rules.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committing to equal employment opportunity; 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 CalSTRS EEO program that was in effect during the compliance review period. In addition, the CRU interviewed appropriate CalSTRS staff.

FINDING NO. 3 – The Equal Employment Opportunity Officer Does Not Report to the Departmental Director

Summary: The CalSTRS' EEO Officer reports to the Branch Chief of the Human Resources Division. No separate, direct reporting relationship with the Executive Officer of the CalSTRS has been created for EEO responsibilities.

Criteria: 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.)

Severity: Very Serious. The EEO Officer does not have direct access to the head of the organization, diminishing the significance of the EEO program.

Cause: The CalSTRS states that the EEO Officer's reporting relationship was not properly reflected on the organizational chart provided during the compliance review period.

Action: The CalSTRS has submitted to the CRU written report of compliance, including an updated organizational chart.

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.)

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.)

During the compliance review period, the CalSTRS had 61 PSC's that were in effect. Per Proposition 162, the TRB has plenary authority over all CalSTRS administrative areas including contracts. Therefore, none of CalSTRS PSC's are subject to the Department of General Services (DGS) approval, and thus not subject to CRU procedural review.

DEPARTMENTAL RESPONSE

The CalSTRS' response is attached as Attachment 1.

SPB REPLY

Based upon the CalSTRS' written response, the CalSTRS will comply with the CRU recommendations and findings. The CalSTRS has already submitted an updated organization chart and duty statement reflecting the EEO Officer's reporting relationship to the Executive Officer.

It is further recommended that the CalSTRS 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.



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March 13, 2015

Suzanne Ambrose
Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. Ambrose:

The purpose of this letter is to provide the State Personnel Board (SPB) with California State Teachers' Retirement System (CalSTRS) response on the findings in the SPB Compliance Review.

First Finding: Job Analyses Were Not Developed or Used for the Legal Assistant and Pension Program Representative Examinations Reviewed

Cause

In regards to finding No.1, CalSTRS agrees with the findings and agrees to abolish the Legal Assistant examination list. We were unable to locate the job analysis for the Pension Program Representative (PPR). However, we have since completed a job analysis for the entire Pension Program classification series, including the PPR. The job analysis validates the current classification specification and has been provided to SPB for consideration.

Action

CalSTRS will abolish the current Legal Assistant exam list. We will ensure that a job analysis is completed prior to the administration of an examination by providing staff with training on the Selection process; providing staff with the Selection Manual as a resource; and ensuring staff attend training on the job analysis process in alignment with the SPB methodology. Additional resources will be developed to support this effort.

Second Finding: The Equal Employment Opportunity Officer Does Not Report to the Departmental Director

Cause

CalSTRS acknowledges that the reporting relationship was not reflected on the org chart provided during the Compliance Review material request period. However, the Equal Employment Opportunity (EEO) Officer's current duty statement reflects the EEO Officer reporting to the Chief Executive Officer (CEO) on EEO related matters (duty statement attached).

Suzanne Ambrose

3/13/2015

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Action

The EEO Officer reports to the CEO of CalSTRS on EEO-related matters and the organizational chart has been updated to reflect this reporting relationship (chart attached). The EEO Officer has direct access to the CEO and consults with the CEO on all EEO-related complaints and resulting cases. The EEO Officer meets with the CEO regularly or as needed to discuss EEO matters and program effectiveness. For other matters such as Reasonable Accommodation, LEAP, Upward Mobility, Language Survey, Employee Assistance Program and day-to-day operation, the EEO Officer works under general direction of the Director of Human Resources.

Sincerely,



Melissa Norcia

Acting Director of Human Resources