

**BOARD RESOLUTION ADOPTING THE COMPLIANCE REVIEW REPORT AND
FINDINGS BY THE SPB COMPLIANCE REVIEW DIVISION OF
THE COMMISSION ON STATE MANDATES**

WHEREAS, the State Personnel Board (SPB or Board) at its duly noticed meeting of November 7, 2013, carefully reviewed and considered the attached Compliance Review Report of the Commission on State Mandates submitted by SPB's Compliance Review Division.

WHEREAS, the Report was prepared following a baseline review of the Commission on State Mandates' personnel practices. It details the background, scope, and methodology of the review, and the findings and recommendations.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby adopts the Report, including all findings and recommendations contained therein. A true copy of the Report shall be attached to this Board Resolution and the adoption of the Board Resolution shall be reflected in the record of the meeting and the Board's minutes.


SUZANNE M. AMBROSE
Executive Officer

COMPLIANCE REVIEW REPORT COMMISSION ON STATE MANDATES FINDINGS AND RECOMMENDATIONS OCTOBER 17, 2013

Appointments

By interagency agreement, the Commission on State Mandates (CSM) retains the Department of General Services (DGS)'s to process its personnel services, including examinations and appointments. During the compliance review period, from May 1, 2011 to October 30, 2012, the CSM made three appointments. One of those appointments was exempt from civil service status. The SPB reviewed the two civil service appointments, which are listed below:

Classification	Appointment Type	Tenure (Status)	Time Base
Attorney I	Certification List	Permanent	Full Time
Staff Services Manager (SSM) II (Managerial)	Certification List	Permanent	Full Time

FINDING NO. 1 – The CSM Properly Complied With Civil Service Laws and Board Rules for the Two Appointments Made During the Compliance Review Period

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.) Except as provided by law, appointments to vacant positions shall be made from employment lists. (*ibid.*) 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).)

For the Attorney I and SSM II (M) positions, the CSM ordered certification lists of candidates ranked competitively and properly cleared the SROA¹ lists. The CSM determined that the selected candidates were eligible as both candidates were reachable within the first three ranks of the respective certification lists. Prior to making the appointments, the CSM also interviewed each candidate to assess their skills and abilities to perform the duties of the job they were seeking.

The SPB found no deficiencies in the appointments made during the compliance review period. Accordingly, the CSM fulfilled its responsibilities to make appointments in compliance with civil service laws and Board rules.

Equal Employment Opportunity

The SPB reviewed the CSM's EEO policies, procedures, and programs that were in effect during the compliance review period. In addition, the SPB communicated with appropriate CSM staff.

FINDING NO. 2 – CSM Did Not Establish That Its Disability Advisory Committee (DAC) Advises the Head of CSM On Issues of Concern to Employees with Disabilities

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 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 CalHR 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.)

¹ 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.

These components of the CSM's EEO program comply with applicable civil service laws and rules. Nonetheless, a deficiency was found in the EEO program.

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).)

CSM and DGS partner to share a DAC. CSM employees are invited to attend meetings and serve on the DAC. CSM, however, did not provide any evidence that the DAC advises the head of CSM on issues of concern to employees with disabilities.

DEPARTMENTAL RESPONSE

The CSM was provided a copy of the initial report to review. A copy of the CSM's response is attached as Attachment 1.

SPB REPLY

Regarding Finding No. 2, the CSM concurs that the CSM must establish a separate Disability Advisory Committee (DAC). Therefore, the agency has taken steps to address the deficiency in its EEO program by establishing its own DAC.

Accordingly, it is recommended that within 60 days of the Board's Resolution adopting these findings and recommendations the CSM submit to the Board a written report of compliance that includes a copy of the invitations to employees to serve on the DAC, and formal committee bylaws. Further, that the DAC advises the head of CSM on issues of concern to employees with disabilities and include copies of any relevant documents.

The SPB appreciates the professionalism and cooperation of the CSM during this compliance review.

COMMISSION ON STATE MANDATES

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Sent via e-mail to Jim.Murray@spb.ca.gov

October 17, 2013

Jim Murray, Chief
Compliance Review Division
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Re: Response to Finding No. 2 in October 2, 2013 SPB Compliance Review Report

Dear Mr. Murray:

Thank you for the opportunity to respond to the findings and recommendations in the October 2, 2013 Compliance Review Report. The Commission on State Mandates (Commission) has taken the following steps to address the deficiency in its EEO program as identified in Finding No. 2.

The Commission has established its own Disability Advisory Committee (DAC) comprised of Commission employees. All 13 Commission employees were invited to serve on the DAC. The Commission's DAC will meet quarterly to discuss disability issues and will advise the Executive Director on issues of concern to employees with disabilities. Additionally, the Commission's management team has reviewed the material provided by the Statewide Disability Advisory Council on the CalHR website for guidance in maintaining an effective departmental DAC.

Please contact Jason Hone at (916) 323-3562 if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heather Halsey".

Heather Halsey
Executive Director