



COMPLIANCE REVIEW REPORT

DEPARTMENT OF CONSUMER AFFAIRS

Compliance Review Unit
State Personnel Board
May 14, 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 Department of Consumer Affairs (DCA) 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
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed and Were Not Timely
Appointments	Unlawful Appointment Investigation Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contract
Mandated Training	Ethics Training Was Not Provided for All Filers
Mandated Training	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Area	Finding
Compensation and Pay	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Application of Laws, Rules, and CalHR Policies and Guidelines for Red Circle Rate Pay
Compensation and Pay	Incorrect Authorization of Bilingual Pay
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Department Did Not Properly Monitor Time Worked for All Positive Paid Employees
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed
Leave	Leave Reduction Plans Were Not Developed for Employees Whose Leave Balances Exceeded Established Limits
Leave	Incorrect Application of State Service and Leave Transactions
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Were Not Provided to All Employees

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

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

BACKGROUND

The DCA protects California consumers by providing a safe and fair marketplace through oversight, enforcement, and licensure. The DCA consists of 37 boards and bureaus which regulate over 3.9 million licenses in more than 250 various professions and occupations. The DCA's regulatory boards and bureaus protect, educate, and empower California consumers by investigating complaints and disciplining license holders who violate practice requirements. The DCA employs approximately 4,161 employees department-wide and has approximately 100 field offices throughout the state of California.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the DCA's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if the DCA 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 DCA'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 DCA provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the DCA's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the DCA'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 DCA 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 CRU also reviewed the DCA's policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations.

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

The DCA's appointments were also selected for review to ensure the DCA applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the DCA 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, red circle rate requests, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the DCA did not issue or authorize arduous pay

The review of the DCA'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 DCA's PSC's were also reviewed.² It was beyond the scope of the compliance review to make conclusions as to whether the DCA's justifications for the contracts were legally sufficient. The review was limited to whether the DCA's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

²If 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 CRU reviewed the DCA's Leave Activity and Correction Certification forms to verify that the DCA 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 DCA's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the DCA's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the DCA employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of DCA 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 DCA's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the DCA's policies and processes adhered to procedural requirements.

On April 7, 2020, an exit conference was held with the DCA to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DCA's written response on April 28, 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, March 1, 2019, through August 31, 2019, the DCA conducted 31 examinations. The CRU reviewed six of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Chief of Enforcement for Medical Board of California	CEA	Statement of Qualifications (SOQ) ³	4/8/19	11
Enforcement Representative I, Contractors State License Board (Non-Peace Officer)	Open	Written ⁴	Continuous	56
Enforcement Representative II, Contractors State License Board (CSLB)	Departmental Promotional	Education and Experience ⁵	Continuous	14
Enforcement Representative II, CSLB	Departmental Promotional	Training and Experience ⁶	Continuous	13

³ 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.

⁴ 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.

⁵ In an Education and Experience examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

⁶ 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.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Examiner In Barbering	Open	SOQ	Continuous	19
Supervising Nursing Education Consultant	Open	Education and Experience	Continuous	2

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

The CRU reviewed two departmental promotional and four open examinations which the DCA administered in order to create eligible lists from which to make appointments. The DCA published and distributed examination bulletins containing the required information for all examinations. Applications received by the DCA 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 DCA conducted during the compliance review period.

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond, or fails to establish that s/he meets the minimum qualification(s), the candidate’s name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing, and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate’s subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State

agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the period under review, March 1, 2019, through August 31, 2019, the DCA conducted eight permanent withhold actions. The CRU reviewed four of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Accounting Officer (Specialist)	4PB4101	11/27/18	3/25/19	Failed to Meet Minimum Qualifications
Associate Government Program Analyst	9PB04	4/20/18	4/20/19	Failed to Meet Minimum Qualifications
Management Services Technician	4PB42	12/19/18	3/14/19	Failed to Meet Minimum Qualifications
Special Investigator	1PB03	4/10/19	8/8/19	Failed to Meet Minimum Qualifications

FINDING NO. 2 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules

The CRU found no deficiencies in the permanent withhold actions undertaken by the department 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).)

For the purposes of temporary appointments, an employment list is considered not to exist where there is an open eligible list that has three or fewer names of persons willing to accept appointment and no other employment list for the classification is available. (Cal. Code Regs., tit. 2, § 265.) In such a situation, an appointing power may make a temporary appointment in accordance with section 265.1 (*ibid.*) A Temporary Authorization Utilization (TAU) appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII.) 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.)

During the period under review, March 1, 2019, through August 31, 2019, the DCA made 577 appointments. The CRU reviewed 59 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	2
Administrative Assistant	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Athletic Inspector	Certification List	Permanent	Intermittent	1
Attorney III	Certification List	Limited Term	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Business Services Officer I (Specialist)	Certification List	Permanent	Full Time	2
Consumer Services Representative	Certification List	Permanent	Full Time	1
Enforcement Representative I, CSLB (Non-Peace Officer)	Certification List	Permanent	Full Time	1
Flammability Research Test Engineer	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Limited Term	Full Time	1
Inspector Board of Pharmacy	Certification List	Permanent	Full Time	1
Investigator	Certification List	Permanent	Full Time	4

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Information Technology Specialist I	Certification List	Permanent	Full Time	1
Mangement Services Technician	Certification List	Permanent	Full Time	1
Office Technician (General)	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Limited Term	Full Time	1
Program Representative I, DCA	Certification List	Permanent	Full Time	2
Program Representative III (Supervisor), DCA	Certification List	Permanent	Full Time	1
Program Technician II	Certification List	Permanent	Full Time	2
Research Data Analyst II	Certification List	Permanent	Full Time	1
Special Investigator	Certification List	Limited Term	Full Time	1
Special Investigator	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Limited Term	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Limited Term	Full Time	1
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Assistant Examination Proctor	Temporary	Temporary	Intermittent	2
Examination Proctor	Temporary	Temporary	Intermittent	4
Consumer Services Representative	Training and Development	Permanent	Full Time	2
Enforcement Representative I, CSLB	Transfer	Permanent	Full Time	1
Information Technology Specialist I	Transfer	Permanent	Full Time	1
Information Technology Supervisor II	Transfer	Permanent	Full Time	1
Inspector II, DCA	Transfer	Permanent	Full Time	1
Office Services Supervisor II	Transfer	Permanent	Full Time	1
Office Services Supervisor II	Transfer	Permanent	Full Time	1
Program Technician II	Transfer	Permanent	Full Time	1
Program Technician III	Transfer	Permanent	Full Time	1
Research Data Analyst II	Transfer	Permanent	Full Time	1
Research Data Supervisor I	Transfer	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Staff Services Analyst (General)	Transfer	Permanent	Full Time	5

FINDING NO. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed and Were Not Timely

Summary: The DCA did not provide 3 probationary reports of performance for 3 of the 59 appointments reviewed by the CRU. In addition, the DCA did not provide seven probationary reports of performance in a timely manner, as reflected in the tables below.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Associate Governmental Program Analyst	Certification List	1	1
Consumer Services Representative (CSLB)	Certification List	1	1
Program Technician II (Board of Registered Nursing - BRN)	Certification List	1	1

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Associate Governmental Program Analyst (Bureau of Cannabis Control)	Certification List	1	1
Flammability Research Test Engineer (Bureau of Household Goods and Services - BHGS)	Certification List	1	1
Special Investigator (BHGS)	Certification List	1	1
Inspector II, DCA (Barbering and Cosmetology Board - BCB)	Transfer	1	1
Information Technology Supervisor II (Bureau of Automotive Repair - BAR)	Transfer	1	1
Program Technician II (Veterinary Medical Board)	Transfer	1	1

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Staff Services Analyst (Speech Language Pathology/Hearing Aids Dispensers Audiology)	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; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (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 DCA states that managers and supervisors don’t always provide probation reports, and when they do, they aren’t always timely. It will continue to instruct managers and supervisors to complete reports in a timely manner.

Corrective Action: Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with the probationary requirements of Government Code section 19171 and 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.

Unlawful Appointment Investigations

Departments that entered into an Unlawful Appointment Investigation Delegation Agreement between their executive management and the CalHR have the authority to manage their own unlawful appointment investigations. The Delegation Agreement defines the reporting requirements, responsibilities, obligations, and expectations of the department in this process. The delegation agreement mandates that departments maintain up-to-date records on each unlawful appointment investigation including, at a minimum: the specific facts surrounding the appointment in question, a description of the circumstances which may have resulted in the unlawful appointment, copies of relevant appointment documents, and any documentation which may demonstrate that the agency and employee acted in good faith when the appointment was offered and accepted. Departments must also maintain a tracking system to monitor its unlawful appointments.

During the period under review, March 1, 2019, through August 31, 2019, the DCA conducted one unlawful appointment investigation. The CRU reviewed this unlawful appointment investigation, which is listed below:

Classification	Date Investigation Initiated	Date Investigation Concluded
Office Technician (Typing)	1/3/19	4/15/19

FINDING NO. 4 – Unlawful Appointment Investigation Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The DCA’s unlawful appointment investigation was found to comply with the rules set forth in the signed Delegation Agreement with the CalHR.

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).)

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. 5 – 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 DCA'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 Executive Director of the DCA. The DCA 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, March 1, 2019, through August 31, 2019, the DCA had 402 PSC’s that were in effect. The CRU reviewed 20 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified ?	Union Notification?
American Recycling International, Inc.	Recycling Services	7/1/19 - 6/30/22	\$51,459,408	Yes	Yes
Cal Interpreting and Translation, Inc.	Interpreting Services	5/15/17 - 5/14/19	\$249,999	Yes	No
California Deposition Reporters, Inc.	Reporting Sevices	3/15/19 - 6/30/20	\$59,500	Yes	Yes
Datafied	Digital Scanning Services	7/1/17 - 6/30/20	\$130,777.20	Yes	Yes
Elavon, Inc.	Credit Card Services	5/31/19 - 5/31/21	\$7,220,000	Yes	No
FedEx Corporate Services	Delivery Services	7/1/19 - 6/30/20	\$49,900	Yes	Yes
Foundation for California Community College	Manage Smog Check Referee Program	7/1/19 - 6/30/22	\$28,004,495	Yes	No

Vendor	Services	Contract Dates	Contract Amount	Justification Identified ?	Union Notification?
Global Blue	Network Services	7/25/19 - 7/24/20	\$219,180	Yes	Yes
International Plastic Cards, Inc.	Plastic License Card Services	7/1/19 - 6/30/21	\$158,035	Yes	Yes
KP Public Affairs	Marketing Services	1/4/19 - 6/30/21	\$1,700,000	Yes	Yes
LCS Technologies, Inc	Data Architect Services	7/16/19 - 7/15/21	\$488,800	Yes	Yes
National Association of State Boards of Geology	Examination Services	7/1/19 - 6/30/22	\$469,650	Yes	Yes
National Interstate Council of State Boards of Cosmetology	Examination Services	7/1/19 - 6/30/21	\$1,080,000	Yes	Yes
National Interstate Council of State Boards of Cosmetology	Examination Services	7/1/19 - 6/30/21	\$1,207,000	Yes	Yes
OnCore Consulting	Consulting Services	5/1/19 - 10/31/24	\$8,210,391	Yes	Yes
Pick Your Part Auto Wrecking	Auto Dismantling Services	7/1/19 - 6/30/22	\$53,798,472	Yes	Yes
Pick-N-Pull Auto Dismantlers	Auto Dismantling Services	7/1/19 - 6/30/22	\$72,900,828	Yes	Yes
Prometric, Inc.	Examination Services	7/1/18 - 6/30/21	\$1,295,705.42	Yes	Yes
Thomas V. Ennis Consulting	Consulting Services	7/1/19 - 6/30/20	\$180,500	Yes	Yes

FINDING NO. 6 – Unions Were Not Notified of Personal Services Contract

Summary: The DCA did not notify unions prior to entering into 3 of 20 PSC's.

Criteria: The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent

state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

Severity: Serious. Unions must be notified of impending PSC's in order to ensure they are aware contracts are being proposed for work that their members could perform.

Cause: The DCA states that the cause for this finding is that its Business Services Office was unable to produce the documentation demonstrating written notice was sent due to staffing changes.

Corrective Action: It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the work to be contracted prior to executing the PSC. The PSC's reviewed during this compliance review involved transcription and training services, functions that various rank-and-file civil service classifications perform. Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response

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 DCA's mandated training program that was in effect during the compliance review period, September 1, 2017 through August 31, 2019.

FINDING NO. 7 – Ethics Training Was Not Provided for All Filers

Summary: The DCA did not provide ethics training to 670 of 939 existing filers. In addition, the DCA did not provide ethics training to 191 of 263 new filers within 6 months of their appointment.

Criteria: New filers must be provided ethics training within six months of appointment. Existing filers must be trained at least once during

each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).)

Severity: Very Serious. The department does not ensure that its filers are aware of prohibitions related to their official position and influence.

Cause: The DCA states that the cause for this finding is either failure on the part of the employee to take the course or failure to forward the certificate to DCA's training office.

Corrective Action: Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that all filers are provided ethics training within the time periods prescribed. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 8 – Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs

Summary: The DCA did not provide basic supervisory training to 28 of 55 new supervisors within 12 months of appointment; did not provide manager training to 1 new manager within 12 twelve months of appointment; did not provide CEA training to 1 new CEA within 12 months of appointment; and did not provide biennial leadership training to 190 of 293 existing supervisors, managers, and/or CEAs.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. Upon completion of the initial training, supervisory employees shall receive a minimum 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subds. (b) and (c).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive

a minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (d).)

Upon initial appointment of an employee to a CEA position, each employee must receive 20 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (e).) [only include this language when manager, CEA, and biennial training reviewed.]

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

Cause: The DCA states that the cause for this finding is either failure on the part of the employee to take the course or failure to forward the certificate to DCA's training office.

Corrective Action: Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors are provided supervisory training within twelve months of appointment. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 9 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The DCA did not provide sexual harassment prevention training to 34 of 118 new supervisors within 6 months of their appointment. In addition, the DCA did not provide sexual harassment prevention training to 89 of 349 existing supervisors every 2 years.

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

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

Cause: The DCA states that the cause for this finding is either failure on the part of the employee to take the course or failure to forward the certificate of completion DCA's training office.

Corrective Action: Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that supervisors are provided sexual harassment prevention training within the time periods prescribed. 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 rate⁷ 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.

⁷ "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).

During the period under review, March 1, 2019, through August 31, 2019, the DCA made 577 appointments. The CRU reviewed 41 of those appointments to determine if the DCA applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accountant Trainee	Certification List	Permanent	Full Time	\$3,665
Administrative Assistant	Certification List	Permanent	Full Time	\$5,058
Assistant Examination Proctor	Certification List	Temporary	Intermittent	\$2,186
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$4,975
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$4,975
Attorney III	Certification List	Limited Term	Full Time	\$9,210
Attorney III	Certification List	Permanent	Full Time	\$10,054
Consumer Services Representative	Certification List	Permanent	Full Time	\$3,863
Enforcement Representative I, CSLB (Non-Peace Officer)	Certification List	Permanent	Full Time	\$4,386
Examination Proctor	Certification List	Temporary	Intermittent	\$2,563
Examination Proctor	Certification List	Temporary	Intermittent	\$2,563
Flammability Research Test Engineer	Certification List	Permanent	Full Time	\$7,951
Investigator	Certification List	Permanent	Full Time	\$7,462
Investigator	Certification List	Permanent	Full Time	\$6,671
Investigator	Certification List	Permanent	Full Time	\$7,462
Investigator	Certification List	Permanent	Full Time	\$4,635
Information Technology Specialist I	Certification List	Permanent	Full Time	\$6,571
Management Services Technician	Certification List	Permanent	Full Time	\$3,298
Office Technician (General)	Certification List	Permanent	Full Time	\$3,087
Office Technician (Typing)	Certification List	Limited Term	Full Time	\$3,038
Program Representative I, DCA	Certification List	Permanent	Full Time	\$4,695
Program Representative I, DCA	Certification List	Permanent	Full Time	\$5,102

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Program Representative III (Supervisor), DCA	Certification List	Permanent	Full Time	\$7,305
Program Technician II	Certification List	Permanent	Full Time	\$3,042
Program Technician II	Certification List	Permanent	Full Time	\$3,042
Special Investigator	Certification List	Limited Term	Full Time	\$6,574
Special Investigator	Certification List	Permanent	Full Time	\$6,539
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$4,281
Staff Services Manager I	Certification List	Limited Term	Full Time	\$6,124
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,574
Staff Services Manager II (Supervisory)	Certification List	Limited Term	Full Time	\$7,573
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$7,719
Enforcement Representative I, CSLB	Transfer	Permanent	Full Time	\$5,980
Information Technology Specialist I	Transfer	Permanent	Full Time	\$8,570
Information Technology Supervisor II	Transfer	Permanent	Full Time	\$8,955
Office Services Supervisor II	Transfer	Permanent	Full Time	\$3,884
Program Technician III	Transfer	Permanent	Full Time	\$4,263
Research Data Analyst II	Transfer	Permanent	Full Time	\$5,223
Research Data Supervisor I	Transfer	Permanent	Full Time	\$6,213
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$4,130
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$4,281

FINDING NO. 10 - 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 DCA 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.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, March 1, 2019, through August 31, 2019, the DCA employees made 37 alternate range movements within a classification. The CRU reviewed 14 of those alternate range movements to determine if the DCA applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Air Quality Engineer I	A	B	Full Time	\$6,100
Enforcement Representative I, CSLB (Non-Peace Officer)	A	B	Full Time	\$5,648
Enforcement Representative I, CSLB (Non-Peace Officer)	A	B	Full Time	\$4,835
Enforcement Representative I, CSLB (Non-Peace Officer)	A	B	Full Time	\$5,474
Information Technology Specialist I	B	C	Full Time	\$7,920
Information Technology Specialist I	B	C	Full Time	\$7,920
Information Technology Specialist I	B	C	Full Time	\$7,917
Information Technology Specialist I	B	C	Full Time	\$7,011
Investigator	A	B	Full Time	\$5,282
Personnel Specialist	A	B	Full Time	\$3,523
Special Investigator	B	C	Full Time	\$6,169
Staff Services Analyst (General)	B	C	Full Time	\$4,136
Staff Services Analyst (General)	B	C	Full Time	\$4,136
Staff Services Analyst (General)	A	B	Full Time	\$3,801

FINDING NO. 11 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Summary: The CRU found the following error in the DCA’s determination of employee compensation:

Classification	Description of Finding	Criteria
Information Technology Specialist I	Incorrect salary determination resulting in an underpayment.	Cal. Code Regs., tit. 2, § 599.675

Criteria: Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)

Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. In one circumstance, the DCA failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules not in accordance with CalHR’s policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The DCA states that the cause of the incorrect compensation rate was due to a miscalculation by Transactions staff.

Corrective Action: Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The DCA must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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.*)

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.⁸ (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.*)

⁸ 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.

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, March 1, 2019, through August 31, 2019, the DCA authorized 22 HAM requests. The CRU reviewed seven of those authorized HAM requests to determine if the DCA correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates’ extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Information Technology Specialist I	Certification List	New to State	\$6,179 - \$8,280	\$8,570
Information Technology Specialist I	Certification List	New to State	\$6,179 - \$8,280	\$7,866
Inspector, Board of Pharmacy	Certification List	New to State	\$7,056 - \$9,258	\$9,258
Investigator	Certification List	New to State	\$5,789 - \$7,462	\$7,462
Investigator	Certification List	New to State	\$5,789 - \$7,462	\$7,462
Nursing Education Consultant	Certification List	New to State	\$6,472 - \$8,101	\$7,900
Program Technician II	Certification List	New to State	\$3,148 - \$3,945	\$3,945

FINDING NO. 12 – Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

Red Circle Rates

A red circle rate is a rate of pay authorized for an individual above the maximum salary for his or her class. (Gov. Code, § 19837.) Departments may authorize a red circle rate

in the following circumstances: management initiated change⁹, lessening of abilities¹⁰, downward reclassification,¹¹ split-off,¹² allocation standard changes,¹³ or changes in salary setting methods.¹⁴ (*Ibid.*)

If a salary reduction is the result of split-off, changes in allocation standards, changes in salary setting methods, or a downward reclassification initiated by SPB or CalHR staff determination, the affected employee may receive a red circle rate regardless of the employee's state service total. The employee may retain it until the maximum salary of his or her class equals or exceeds the red circle rate. (Classification and Pay Guide Section 260.)

If an employee is moved to a position in a lower class because of management-initiated changes, he or she may receive a red circle rate provided he or she has a minimum of ten years' state service¹⁵ and has performed the duties of the higher class satisfactorily¹⁶. The length of the red circle rate resulting from a management-initiated change is based on the affected employee's length of state service. The red circle rate ends when the maximum salary of the class equals or exceeds the red circle rate or at the expiration of eligibility. (*Ibid.*)

An employee whose position is blanketed into the state civil service from another public jurisdiction may receive a red circle rate regardless of the length of service in the other jurisdiction. (Cal. Code Regs., tit. 2, § 275.) The employee may retain the red circle rate until the maximum salary of the class to which the employee's position is allocated equals or exceeds the red circle rate.

Additionally, a red circle rate may be authorized for a former CEA appointee who is reinstating to a civil service classification, a CEA with no prior civil service in a

⁹ Any major change in the type of classes, organizational structure, and/or staffing levels in a program.

¹⁰ Refers to an employee who, after many years of satisfactory service, no longer possess the ability to perform the duties and responsibilities of his/her position.

¹¹ Downward reclassification is when, as a result of SPB action or a CalHR staff determination, an incumbent's position is moved to a lower class without the duties being changed.

¹² Split off is when one class is split into two or more classes, one of which is at a lower salary level than the original class.

¹³ Allocation standards for two or more classes may change to the degree that a position originally allocated to one class may be reallocated to a class with a lower salary without a change in duties.

¹⁴ Revised valuation standards applied in setting the salary for a class may result in reducing the salary of a class.

¹⁵ As calculated by the State Service and Seniority Unit at CalHR. An employee with nine years' state service qualifies if the employee had been laid off or had been on a leave of absence for one or more years to reduce the effect of a layoff (Cal. Code Regs., tit. 2, § 599.608).

¹⁶ The latter requirement is normally satisfied by the successful completion of a probationary period, unless there is compelling evidence to suggest otherwise.

promotional exam and is being appointed from a list without a break in service, or a CEA appointee who is being reduced to a lower CEA salary rate (Classification and Pay Guide Section 440). An employee who has ten years of service, one year of which is under a career executive assignment, shall receive a red circle rate in unless the termination was voluntary or based on unsatisfactory performance. (Cal. Code of Regs., tit. 2, § 599.993.) If the termination was voluntary and performance was satisfactory, a red circle rate is permissive. (*Ibid.*) This rate is based on the CEA salary rate received at the time of the termination. Government Code section 13332.05 limits the funding of the red circle rate to no more than 90 calendar days following termination of a CEA appointment.

As of April 1, 2005, departments have delegated authority to approve red circle rates for general civil service employees and CEA positions for up to 90 days. Current Bargaining Unit agreements also provide guidelines and rules on red circle rates that may supersede applicable laws, codes, rules and/or CalHR policies and guidelines.

During the period under review, December 1, 2018, through May 31, 2019, the DCA authorized two red circle requests. The CRU reviewed both of those red circle requests, listed below, to determine if the DCA correctly verified, approved and documented the red circle authorization process:

Classification	Prior Classification	Red Circle Rate	Reason for Red Circle Rate
Staff Services Manager III	CEA	\$876	Management Initiated Change
Staff Services Manager II (Supervisory)	CEA	\$2,745	Management Initiated Change

FINDING NO. 13 – Incorrect Application of Laws, Rules, and CalHR Policies and Guidelines for Red Circle Rate Pay

Summary: The CRU found the following error in the DCA authorization of employee’s red circle rate pay:

Classification	Description of Finding	Criteria
Staff Services Manager II (Supervisory)	The DCA did not confirm the employee’s prior CEA salary at time of termination and therefore authorized an incorrect red circle rate that resulted in the employee being undercompensated.	Cal. Code Regs., tit. 2, § 599.993; CalHR Class and Pay Guide Section 440; Government Code section 19837

Severity: Very Serious. The DCA failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

Cause: The DCA states that the cause for this error was that OHR did not verify that the salary rate determined and provided by another department was correct. OHR applied the provided salary amount when they keyed the employee's return to DCA which resulted in the employee being undercompensated.

Corrective Action: Within 90 days of the date of this report, the DCA 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 599.993; CalHR Class and Pay Guide Section 440; and Government Code section 19837. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, December 1, 2018 through May 31, 2019, the DCA issued bilingual pay to 97 employees. The CRU reviewed 22 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Associate Governmental Program Analyst	R01	Full-Time	2
Cosmetology Examiner I	R01	Intermittent	1
Enforcement Representative II, CSLB (Non-Peace Officer)	R07	Full-Time	1
Information Officer II	S01	Full-Time	1
Investigator	R07	Full-Time	2
Management Services Technician	R01	Full-Time	3
Office Assistant (Typing)	R01	Full-Time	1
Office Technician (Typing)	R04	Full-Time	2
Program Representative I, DCA	R07	Full-Time	2
Program Technician II	R04	Full-Time	2
Staff Services Analyst (General)	R01	Full-Time	3
Supervising Investigator I, DCA	S07	Full-Time	1
Television Specialist	R01	Full-Time	1

FINDING NO. 14 – Incorrect Authorization of Bilingual Pay

Summary: The CRU found 12 errors in the DCA's authorization of bilingual pay:

Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	The DCA failed to supply supporting documentation (Bilingual Pay Authorization Form STD.897) demonstrating the need for bilingual services.	Pay Differential 14
Cosmetology Examiner I	The DCA failed to supply supporting documentation (Bilingual Pay Authorization Form STD.897) demonstrating the need for bilingual services.	Pay Differential 14
Investigator	The DCA failed to supply supporting documentation (Bilingual Pay Authorization Form STD.897) demonstrating the need for bilingual services.	Pay Differential 14
Management Services Technician	The DCA failed to supply supporting documentation (Bilingual Pay Authorization	Pay Differential 14

Classification	Description of Findings	Criteria
	Form STD.897) demonstrating the need for bilingual services.	
Management Services Technician	The DCA failed to supply supporting documentation (Bilingual Pay Authorization Form STD.897) demonstrating the need for bilingual services.	Pay Differential 14
Management Services Technician	The DCA failed to supply supporting documentation (Bilingual Pay Authorization Form STD.897) demonstrating the need for bilingual services.	Pay Differential 14
Office Assistant (Typing)	The DCA failed to supply supporting documentation (Bilingual Pay Authorization Form STD.897) demonstrating the need for bilingual services.	Pay Differential 14
Office Technician (Typing)	The DCA failed to supply supporting documentation (Bilingual Pay Authorization Form STD.897) demonstrating the need for bilingual services.	Pay Differential 14
Office Technician (Typing)	The DCA failed to supply supporting documentation (Bilingual Pay Authorization Form STD.897) demonstrating the need for bilingual services.	Pay Differential 14
Program Representative I, DCA	The DCA failed to supply supporting documentation (Duty Statement) demonstrating the need for bilingual services.	Pay Differential 14
Program Technician II	The DCA failed to supply supporting documentation (Bilingual Pay Authorization Form STD.897) demonstrating the need for bilingual services.	Pay Differential 14
Program Technician II	The DCA failed to supply supporting documentation (Bilingual Pay Authorization Form STD.897) demonstrating the need for bilingual services.	Pay Differential 14

Criteria:

For any state agency, a “qualified” bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296 subd. (a)(3).) An

individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

Severity: Very Serious. Failure to comply with the state civil service pay plan by incorrectly applying compensation rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay.

Cause: The DCA states that the cause for this error was that OHR did not retain proper supporting documentation (Bilingual Pay Authorization form, STD 897) demonstrating the need for bilingual services. OHR also failed to ensure one duty statement demonstrated the need for bilingual services.

Corrective Action: Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response..

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the

pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, December 1, 2018, through May 31, 2019, the DCA issued pay differentials¹⁷ to 398 employees. The CRU reviewed 30 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Air Quality Engineer I	245	3.00%
Inspector Board of Pharmacy	269	\$2,000
Inspector Board of Pharmacy	269	\$2,000
Inspector Board of Pharmacy	269	\$2,000
Investigator	244	\$125
Investigator	244	\$125
Investigator	244	\$125
Investigator	245	4.00%
Investigator	244	\$125
Investigator	244	\$100
Investigator	245	3.00%
Investigator	244	\$100
Investigator	418	7.44%
Investigator	244	\$125
Investigator	244	\$125
Investigator	418	7.44%
Investigator	244	\$125
Investigator	244	\$125
Investigator	244	\$125
Program Technician II	125	\$100
Program Technician II	125	\$100
Program Technician II	125	\$100
Program Technician III	125	\$100
Program Technician III	125	\$100
Supervising Inspector Board of Pharmacy	269	\$2,000
Supervising Inspector Board of Pharmacy	269	\$2,000

¹⁷ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Supervising Investigator I, DCA	244	\$125
Supervising Investigator I, DCA	245	3.00%
Supervising Investigator I, DCA	244	\$125
Supervising Investigator I, DCA	245	8.00%

FINDING NO. 15 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the pay differentials that the DCA authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments and Pay

For excluded¹⁸ and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Classification and Pay Guide Section 375.)

During the period under review, December 1, 2018, through May 31, 2019, the DCA issued OOC pay to 16 employees. The CRU reviewed seven of these OOC

¹⁸ “Excluded employee” means an employee as defined in section 3527, subd. (b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Personnel Analyst	R01	Staff Services Manager I	12/1/18 – 3/31/19
Associate Personnel Analyst	R01	Staff Services Manager I	12/1/18 – 2/28/19
Graphic Designer III	R14	Information Officer II	3/1/19 – 4/30/19
Investigator	R07	Supervising Investigator I, DCA	5/1/19 – 5/31/19
Investigator	R07	Supervising Investigator I, DCA	12/1/18 – 12/31/18
Supervising Investigator I, DCA	S07	Supervising Investigator II, DCA	12/1/18 – 12/31/18
Supervising Investigator I, DCA	S07	Supervising Investigator II, DCA	1/1/19 – 2/28/19

FINDING NO. 16 – Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the OOC pay assignments that the DCA authorized during the compliance review period. OOC pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a 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

days¹⁹ worked and paid absences,²⁰ 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.

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 DCA had 368 positive paid employees whose hours were tracked. The CRU reviewed 27 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

¹⁹ For example, two hours or ten hours counts as one day.

²⁰ For example, vacation, sick leave, compensating time off, etc.

Classification	Time Base	Time Frame	Time Worked
Associate Governmental Program Analyst	Intermittent	1/1/2018-12/31/18	1500.25 Hours
Associate Governmental Program Analyst	Intermittent	7/1/17-6/1/18	957 Hours
Associate Governmental Program Analyst	Intermittent	7/1/17-6/1/18	960 Hours
Associate Management Auditor	Intermittent	7/1/17-6/1/18	960 Hours
Athletic Inspector	Intermittent	1/1/2018-12/31/18	1633 Hours
Cosmetology Examiner I	Intermittent	1/1/2018-12/31/18	1491.5 Hours
Examination Proctor	Intermittent	12/1/17-11/30/18	1381.5 Hours
Examination Proctor	Intermittent	3/1/18-2/28/19	1160 Hours
Examination Proctor	Intermittent	12/1/17-11/30/18	1290 Hours
Examination Proctor	Intermittent	2/1/18-1/31/19	1204.75 Hours
Office Assistant (General)	Intermittent	1/1/2018-12/31/18	1500 Hours
Office Assistant (Typing)	Intermittent	1/1/2018-12/31/18	1499 Hours
Office Technician (Typing)	Intermittent	1/1/2018-12/31/18	1396 Hours
Office Technician (Typing)	Intermittent	1/1/2018-12/31/18	1623.5 Hours
Program Technician	Intermittent	1/1/2018-12/31/18	1500 Hours
Seasonal Clerk	Intermittent	12/1/17-11/30/18	1509.5 Hours
Seasonal Clerk	Intermittent	8/1/18-7/31/19	1192.75 Hours
Special Investigator	Intermittent	7/1/17-6/1/18	954 Hours
Special Investigator	Intermittent	7/1/17-6/1/18	889 Hours
Staff Services Manager I	Intermittent	7/1/17-6/1/18	960 Hours
Student Assistant	Intermittent	6/1/18-5/31/19	1125.75 Hours
Student Assistant	Intermittent	8/1/18-7/31/19	1305 Hours
Student Assistant	Intermittent	4/1/18-5/31/19	1145 Hours
Student Assistant	Intermittent	7/1/18-6/30/19	1752.25 Hours
Supervising Investigator I, DCA	Intermittent	7/1/17-6/1/18	955 Hours

FINDING NO. 17 – Department Did Not Properly Monitor Time Worked for All Positive Paid Employees

Summary: The DCA did not consistently monitor the actual number of days and/or hours worked in order to ensure that positive paid employees did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period and/or in any calendar year.

Specifically, the following employees exceeded the 1,500-hour limitation:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Associate Governmental Program Analyst (Board of Behavioral Sciences)	Intermittent	1/1/2018-12/31/18	1500.25 Hours	0.25 hours
Athletic Inspector (Athletic Commission)	Permanent	1/1/2018-12/31/18	1633 Hours	133 hours
Office Technician (Typing) (CSLB)	Permanent	1/1/2018-12/31/18	1623.5 Hours	123.5 hours
Seasonal Clerk (CSLB)	Temporary	12/1/17-11/30/18	1509.5 Hours	9.5 hours
Student Assistant (CSLB)	Temporary	7/1/18-6/30/19	1752.25 Hours	252.25 hours

Criteria: A permanent intermittent employee may work up to 1,500 hours in any calendar year. The number of hours and schedule of work shall be determined based upon the operational needs of each department. (Applicable Bargaining Unit Agreements.)

If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary appointments that cannot be extended for any reason. (Cal Const., art VII § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1 subd. (b).) Another controlling factor limits the maximum work time for student, youth, and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Severity: Serious. The number of days or hours an individual may work in a permanent intermittent appointment and in a temporary appointment is limited in the state civil service. To ensure permanent intermittent appointments are not made on a full-time basis, a maximum of 1,500 hours has been placed on the number

of hours which a permanent intermittent employee may work any calendar year. TAU appointments are distinguished from other appointments as they can be made in the absence of an appropriate employment list. Intermittent appointments are not to be used to fill full-time or part-time positions. Such use would constitute illegal circumvention of these eligible lists

Cause: The DCA states that the cause of this error is due to clients not monitoring time worked for their positive paid employees or acquiring an extension, when applicable.

Corrective Action: Within 90 days of the date of this report, the DCA 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 265.1, subdivision (a). Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, June 1, 2018, through May 31, 2019, the DCA placed 290 employees on ATO. The CRU reviewed 30 of 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
Air Quality Engineer I	4/23/19	0.50 hour
Associate Governmental Program Analyst	6/25/18	5 hours
Associate Governmental Program Analyst	11/6/18-11/7/18	10 hours
Associate Governmental Program Analyst	4/23/19	1 hour

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	11/6/18	2 hours
Associate Governmental Program Analyst	1/28/19-2/1/19	20 hours
Associate Governmental Program Analyst	6/18/18-7/18/18	22 days
CEA	3/8/18-3/28/18	15 days
Consumer Services Representative	11/26/18	2.50 hours
Consumer Services Representative	6/25/18	3.50 hours
Enforcement Representative I	11/26/18	2.50 hours
Enforcement Representative I	11/2/18	1 day
Information Technology Associate	11/6/18	2 hours
Information Technology Specialist I	4/23/19	1 hour
Inspector, Board of Pharmacy	11/9/18-11/15/18	5 days
Investigator	12/17/18-12/26/18	50 hours
Investigator	3/8/19-3/15/19	6 days
Investigator	12/11/18-12/18/18	46.5 hours
Investigator	11/8/18-11/15/18	4 days
Management Services Technician	6/26/18	5 hours
Office Technician (Typing)	11/9/18	4.50 hours
Office Technician (Typing)	2/7/19-4/11/19	44 days
Program Representative I	3/27/19	1.50 hours
Program Representative I	3/27/19	1 hour
Program Technician II	4/23/19	1 hour
Research Data Analyst I	11/5/18	2 hours
Special Investigator	6/26/18	5 hours
Staff Services Analyst (General)	2/14/19 and 2/27/19	2 days
Staff Services Analyst (General)	4/23/19	0.50 hour
Staff Services Manager I	11/6/18	1 day

FINDING NO. 18 – 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 DCA 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, March 1, 2019, through May 21, 2019, the DCA reported 566 units comprised of 4,018 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	354	12	12	0
May 2019	110	187	187	0

FINDING NO. 19 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The DCA failed to provide completed Leave Activity and Correction Certification forms for both units reviewed during the May 2019 pay period.

Criteria: Departments are responsible for maintaining accurate and timely leave accounting records for their employees. (Cal. Code Regs., tit. 2, § 599.665.) Departments shall identify and record all errors found using a Leave Activity and Correction form. (Human Resources Manual Section 2101.) Furthermore, departments shall certify that all leave records for the unit/pay period identified on the certification form have been reviewed and all leave errors identified have been corrected. (*Ibid.*)

Severity: Technical. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. For post-audit purposes, the completion of Leave Activity and Correction Certification forms demonstrates compliance with CalHR policies and guidelines.

Cause: The DCA did not have a monthly leave auditing process which properly included the completion of the Leave Activity and Correction Certification forms for all DCA clients.

Corrective Action: Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that their monthly internal audit process is documented. The DCA must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave Reduction Efforts

Departments must create a leave reduction policy for their organization and monitor employees' leave to ensure compliance with the departmental leave policy; and ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. (Human Resources Manual Section 2124.)

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, the employee may accumulate the unused portion."²¹ (Cal. Code Regs., tit. 2, § 599.737.) If it appears an excluded employee will have a vacation or annual leave balance that will be above the maximum amount²² as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent

²¹ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 06 there is no established limit and for Bargaining Unit 05 the established limit is 816 hours.

²² Excluded employees shall not accumulate more than 80 days.

with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation, ensuring employees maintain the capacity to optimally perform their jobs. (Cal. Code Regs., tit. 2, § 599.742.1.) For excluded employees, the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*Ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work- life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

As of December 2018, 205 DCA employees exceeded the established limits of vacation or annual leave. The CRU reviewed 27 of those employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Accounting Administrator I (Supervisor)	S01	760	Yes
Associate Governmental Program Analyst	R01	374.25	Yes
CEA	M01	665	Yes
CEA	M01	1121.5	Yes
Chief, Bureau of Cannabis Control	E99	604	Yes
Chief, Bureau of Automotive Repair	E99	664.5	Yes
Deputy Director for Legal Affairs/DCA	E99	1197	No
Enforcement Representative II, CSLB	R07	458	Yes
Enforcement Supervisor I, CSLB (Non-Peace Officer)	S07	408	Yes
Enforcement Supervisor I, CSLB (Non-Peace Officer)	S07	1048.5	Yes
Enforcement Supervisor I, CSLB (Non-Peace Officer)	S07	2254	No
Enforcement Supervisor I, CSLB (Non-Peace Officer)	S07	1603.8	Yes

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Interim Executive Director, Medical Board of California/DCA	E99	2211.8	Yes
Executive Officer, Dental Hygiene Board of California	E99	475	No
Information Technology Associate	R01	794	No
Information Technology Manager I	M01	496.5	No
Information Technology Specialist I	R01	590	Yes
Information Technology Specialist I	R01	989.75	No
Information Technology Specialist I	R01	395	Yes
Staff Administrative Analyst – Accounting Systems	S01	706	Yes
Staff Services Analyst (General) – Occupational Therapy Board	R01	699	No
Staff Services Manager I	S01	714.25	Yes
Staff Services Manager I (BBS)	S01	403	No
Staff Services Manager II (Managerial)	M01	1364	Yes
Staff Services Manager II (Supervisory) – Bureau for Private Postsecondary Education – BPPE	S01	581.5	No
Staff Services Manager II (Supervisory) – BPPE	S01	762.5	No
Staff Services Manager II (Supervisory)	S01	616	Yes
Total		22,956.75	

FINDING NO. 20 – Leave Reduction Plans Were Not Developed for Employees Whose Leave Balances Exceeded Established Limits

Summary: Although the DCA made a reasonable effort to ensure that all employees over the maximum vacation or annual leave hours had leave reduction plans in place, the DCA did not provide leave reduction plans for 10 employees reviewed whose leave balances significantly exceeded established limits.

Criteria: It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. (Human Resources Manual Section 2124.) Therefore, appointing authorities and state managers and supervisors must create a leave reduction policy for the organization and monitor employees’

leave to ensure compliance with the departmental leave policy. Employees who have significant “over-the-cap” leave balances must have a leave reduction plan in place and be actively reducing hours. (*Ibid.*)

Severity: Technical. California state employees have accumulated significant leave hours creating an unfunded liability for departmental budgets. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.

Cause: The DCA states that the cause for this finding is failure on the part of the supervisor or manager to require their employee to prepare and submit a leave reduction plan when their leave balances exceed the established limits.

Corrective Action: Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

State Service

The state recognizes two different types of absences while an employee is on pay status; paid or unpaid. The unpaid absences can affect whether a pay period is considered to be a qualifying or non-qualifying pay period for state service and leave accruals.

An employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.²³

²³ Except as provided in California Code of Regulations, title 2, sections 599.609 and 599.776.1, subd. (b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

(Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs. tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs. tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees²⁴ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

Permanent intermittent employees also earn leave credits on the pay period following the accumulated accrual of 160 hours worked. Hours worked in excess of 160 hours in a monthly pay period, are not counted or accumulated towards leave credits.

During the period under review, December 1, 2018, through May 31, 2019, the DCA had 35 employees with non-qualifying pay period transactions. The CRU reviewed 14 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time Base	Number Reviewed
Non-Qualifying Pay Period	Full Time	6
Qualifying Pay Period	Full Time	8

FINDING NO. 21 – Incorrect Application of State Service and Leave Transactions

²⁴ As identified in Government Code sections 19858.3, subd. (a), 19858.3, subd. (b), or 19858.3, subd. (c) or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subd. (c) or California Code of Regulations, title 2, section 599.752 subd. (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

Summary: The CRU found the following error in the DCA's state service transactions, which resulted with an employee not receiving a state service credit or leave accruals for which they were entitled to:

Type of Transaction	Time Base	State Service Incorrectly Posted	Leave Accruals Incorrectly Posted
Qualifying Pay Period	Full Time	1	1

Criteria: In the application of Government Code section 19837, an employee shall be considered to have a month of state service if the employee either: (1) has had 11 or more working days of service in a monthly pay period; or (2) would have had 11 or more working days of service in a monthly pay period but was laid off or on a leave of absence for the purpose of lessening the impact of an impending layoff. (Cal. Code of Regs., tit.2, § 599.608.) Absences from state service resulting from permanent separation for more than 11 consecutive working days which fall into two consecutive pay periods shall disqualify one of the pay periods. (*Ibid.*)

Hourly or daily rate employees working in a state agency in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit.2, § 599.609.) When an employee has a break in service or changes to full-time, any combination of time worked which does not equal one qualifying month of full-time service shall not be accumulated or counted. (*Ibid.*)

Severity: Very Serious. For audit purposes, accurate and timely attendance reporting is required of all departments. If the length of an informal leave results in a non-qualifying pay period, a state service transaction must be processed. Inappropriately authorizing state service credits and leave accruals to employees who did not earn them results in a monetary loss for the department.

Cause: The DCA states that the cause for this finding was due to an oversight.

Corrective Action: Within 90 days of the date of this report, the DCA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure state service transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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 but are not limited to, 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. 22 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the policy was disseminated to all staff and emphasized the DCA's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the DCA's nepotism policy was comprised of specific and sufficient components intended to prevent favoritism, or bias, based on a personal relationship from unduly influencing employment decisions.

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. 23 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the DCA 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 DCA received worker's 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 36 permanent DCA 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	Date Performance Appraisals Provided
Account Clerk II	12/31/2018	Not Provided
Air Quality Engineer I (BAR)	1/30/2018	Not Provided
Air Quality Engineer II (BAR)	6/30/2018	Not Provided
Associate Governmental Program Analyst	10/17/2018	Not Provided
Associate Governmental Program Analyst (BRN)	5/9/2018	Not Provided
Associate Governmental Program Analyst (BAR)	7/11/2018	Not Provided
Associate Governmental Program Analyst (BRN)	12/31/2018	Not Provided
Associate Governmental Program Analyst (BAR)	2/16/2018	Not Provided
Associate Governmental Program Analyst	11/1/2018	8/4/18
Associate Governmental Program Analyst	9/8/2018	12/3/18
Enforcement Representative I, CSLB	1/31/2018	Not Provided
Enforcement Representative II, CSLB	8/29/2018	Not Provided
Flammability Research Test Engineer	12/31/2018	12/21/18
Information Technology Specialist I	10/2/2018	Not Provided
Information Technology Specialist I (BAR)	3/14/2018	Not Provided
Information Technology Specialist I	8/31/2018	7/17/18
Inspector II, DCA (BCB)	3/14/2018	Not Provided
Inspector II, DCA (BCB)	11/14/2018	Not Provided
Inspector Board of Pharmacy	8/3/2018	12/4/18
Investigator	12/1/2018	Not Provided
Investigator	12/1/2018	Not Provided
Investigator (Dental Board)	12/31/2018	Not Provided
Office Technician - Typing (BAR)	7/1/2018	Not Provided
Program Representative I, DCA (BAR)	3/1/2018	Not Provided
Program Representative I, DCA	8/29/2018	6/17/18
Program Representative III, DCA - Supervisory (BAR)	5/31/2018	Not Provided
Program Technician II (Medical Board)	9/8/2018	Not Provided
Senior Air Quality Engineer (BAR)	10/31/2018	Not Provided
Staff Services Analyst - General (BAR)	11/15/2018	Not Provided
Staff Services Analyst - General (BAR)	3/16/2018	Not Provided
Staff Services Analyst - General (CSLB)	3/31/2018	Not Provided
Staff Services Manager I (Psychology Board)	6/8/2018	Not Provided
Staff Services Manager I (Physical Therapy Board)	6/13/2018	Not Provided
Staff Services Manager I	9/30/2018	7/2/18
Staff Services Manager II - Supervisory (Fiduciaries Bureau)	1/29/2018	Not Provided
Staff Services Manager III	1/21/2018	Not Provided

FINDING NO. 24 – Performance Appraisals Were Not Provided to All Employees

Summary: The DCA did not provide annual performance appraisals to 29 of 36 employees reviewed after the completion of the employee’s 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 DCA states that the cause for this finding is failure of the supervisor or manager to complete the performance appraisal when due.

Corrective Action: Within 90 days of the date of this report, the DCA 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 DCA’s response is attached as Attachment 1.

SPB REPLY

Based upon the DCA's written response, the DCA 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.



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR

OFFICE OF HUMAN RESOURCES1625 North Market Boulevard, Suite N-321, Sacramento, CA 95834
P 916-574-8300 F 916-574-8608**MEMORANDUM**

DATE	April 21, 2020
TO	Compliance Review Unit State Personnel Board
FROM	Nicole Le, Chief Office of Human Resources
SUBJECT	Compliance Review Report – DCA Response

The Department of Consumer Affairs (DCA), Office of Human Resources (OHR) is in receipt of the State Personnel Board's (SPB) draft Compliance Review Report. In response to the findings, please take into consideration that DCA is unique, in that under its purview are 37 boards, bureaus, committee and commission (clients) that operate semi-autonomously. Although DCA provides essential services and training related to personnel and equal employment opportunity (EEO), the semi-autonomous nature of our clients makes it challenging to control all aspects of personnel, EEO, and training requirements when the responsibility relies heavily on the clients to complete.

Please consider the following in response to the specific findings:

Finding No. 1 – Examinations complied with civil service laws and Board rules. No corrective action necessary.

Finding No. 2 – Permanent withhold actions complied with civil service laws and board rules. No corrective action necessary.

Finding No. 3 – Probationary evaluations were not provided for all appointments reviewed and those that were provided were untimely.

Response – DCA recognizes that managers and supervisors are responsible for providing timely probationary evaluations to their employees as the final stage of the selection process. Out of the 59 appointments reviewed, seven probationary reports were not provided timely to employees in accordance with California Code of Regulations (CCR), title 2, section 599.795. Although not timely, recognition should be given that the probationary reports were completed. Since the provisions of

CCR section 599.795 shall be construed as directory, the issued probationary reports are considered valid.

OHR provides advance notification to managers and supervisors when an employee's probationary evaluation is due. OHR will continue to instruct all managers and supervisors to complete the probationary evaluation when they are due.

Finding No. 4 – Unlawful appointment investigation complied with civil service laws, board rules, and CalHR policies and guidelines. No corrective action necessary.

Finding No. 5 – Equal Employment Opportunity program complied with all civil service laws and board rules. No corrective action necessary.

Finding No. 6 – Unions were not notified of personal services contracts.

Response – DCA partially agrees with this finding. DCA's Business Services Office (BSO) is responsible for notifying unions prior to entering into a personal services contract. Line 17(b) of each STD 215 requires the BSO analyst to certify that they notified the union. The BSO analyst is required to sign and date the certification. SPB did not accept the signed certification as proof of notice. Instead, SPB asked for an email from the BSO analyst to the union to verify notice was provided. The BSO analyst who processed the personal services contracts is no longer with DCA, thus, DCA was unable to retrieve the emails. BSO will continue to notify unions prior to entering a personal services contract and ensure their files are thorough and contain required substantiation.

Finding No. 7 – Ethics training was not provided for all filers.

Response – DCA inputs pertinent information into a vendor database of those employees subject to DCA's conflict of interest regulations. The database generates email notifications and reminders of required training to eligible employees. DCA's SOLID Training and Planning Solutions (SOLID) office receives and tracks all training certificates. In addition, OHR sends an annual Supervisor's Checklist reminding supervisors of required training, including Conflict of Interest Ethics training.

Finding No. 8 – Supervisory training was not provided for all supervisors, managers and CEAs.

Response – SOLID has established a series of measures to ensure that staff, both new and existing, are made aware of their requirements in fulfilling mandatory trainings. This includes monthly reports of new DCA employees and new supervisory employees provided to SOLID by OHR. With the report, SOLID generates template emails (to new supervisors, and those promoted to supervisor) that outline employees' requirements and responsibilities in completing their mandatory trainings. Each email also includes the links for easy access to training materials and how and where to send certificates. Each email is sent within one month of the new-hire or promotion date.

In addition, OHR sends an annual Supervisor's Checklist reminding supervisors of required leadership training.

Furthermore, SOLID is launching a Learning Management System (LMS) that will automate tracking of training taken by DCA employees. Fully implementing the LMS will provide greater compliance with mandatory training, increase efficiency with annual forms, expedite training requests, and increase department wide communication. The system will have the following functionality:

- Send reminders of required trainings.
- Launch training from LMS platform.
- Track all required and requested training.

Finding No. 9 – Sexual Harassment Prevention (SHP) training was not provided for all supervisors.

Response – Some DCA managers completed DCA's SHP training as rank and file employees during the 2015 mandatory training year and completed the training again during the subsequent mandatory training years (i.e., 2017 and 2019). In some cases, the manager's training dates occurred during the mandatory training years, which was more than six months after their appointment date. In 2019, a mandatory training year, the DCA achieved 100% SHP training compliance for all managers and supervisors.

In addition, OHR sends an annual Supervisor's Checklist reminding supervisors of the required SHP training.

Furthermore, as previously referenced, SOLID is launching LMS that will automate SHP training compliance tracking.

Finding No. 10 – Salary determinations complied with civil service laws, board rules, and CalHR polices and guidelines. No corrective action necessary.

Finding No. 11 – Alternate range movements did not comply with civil service laws, board rules, and/or CalHR polices and guidelines.

Response – DCA agrees that one out of 14 alternate range movements reviewed had an error. OHR acknowledges this was due to a miscalculation by Transactions staff of \$3.00. OHR has taken corrective action and updated the employment PIMS history. OHR has requested that pay issue to the impacted employee.

Finding No. 12 – Hire above minimum requests complied with civil service laws, board rules, and/or CalHR policies and guidelines. No corrective action necessary.

Finding No. 13 – Incorrect application of laws, rules, and CalHR polices and guidelines for red circle rate pay.

Response – DCA partially agrees with this finding. The hire above minimum amount was determined by another department upon the termination of a CEA appointment. OHR acted in good faith when processing the return of the employee and applying the new salary rate provided by the other department. OHR recognizes that any personnel related information provided by another department shall be verified by OHR before processing. The impacted employee is no longer a DCA employee so OHR staff will reach out to the new department to ensure pay is issued to the employee accordingly.

Finding No. 14 – Incorrect authorization of bilingual pay.

Response – DCA agrees with this finding that one duty statement did not demonstrate the need for bilingual services. Additionally, OHR was unable to produce STD 897s for 11 of the 22 bilingual pay authorizations reviewed. Although STD 897s were not available, in 2017, OHR conducted an audit of all bilingual pay and verified those receiving pay were authorized. The duty statement has been updated to include the required bilingual language and OHR will ensure that STD 897s are on file for all positions/employees prior to authorizing bilingual pay.

Finding No. 15 – Pay differential authorizations complied with civil service laws, board rules, and CalHR polices and guidelines. No corrective action necessary.

Finding No. 16 – Out of class pay authorizations complied with civil service laws, board rules, and CalHR policies and guidelines. No corrective action necessary.

Finding No. 17 – Department did not properly monitor time worked for all positive paid employees.

Response – DCA agrees with this finding that five out of 27 positive paid employees work hours/days were not properly monitored. OHR created an Hourly Employee Handbook which is posted on its intranet for clients to utilize. This handbook outlines several items related to hourly employees including the hour/day work limitations. DCA also sends a work limitation reminder email to the client when an employee is nearing the maximum hours/days allowed. OHR has implemented an electronic leave card to assist OHR staff with tracking the hours and days paid for all positive paid employees.

Finding No. 18 – Administrative Time Off authorizations complied with civil service laws, board rules, and/or CalHR policies and guidelines. No corrective action necessary.

Finding No. 19 – Leave activity and Correction Certification forms were not completed for all leave records reviewed.

Response – DCA agrees with the finding that Leave Activity and Correction Certification forms were not completed. OHR has implemented a monthly leave audit process which includes the completion of the Leave Activity and Correction Certification forms for all DCA clients.

Finding No. 20 – Leave reduction plans were not developed for employees whose leave balances exceeded established limits.

Response – DCA agrees with this finding that 10 out of 27 employees reviewed had not developed leave reduction plans. At the beginning of each year, OHR sends notice to all DCA clients asking that employees complete a leave reduction plan if they are over the max. OHR will continue to send notices and follow up with clients who fail to submit a plan.

Finding No. 21 – Incorrect application of state service and leave transactions.

Response – DCA agrees with this finding. OHR staff failed to provide one month of state service credit and leave accruals for one employee out of 14 reviewed, who was out on State Disability Insurance. OHR has corrected the error and provided the employee with the state service and leave

accruals owed. OHR is creating a checklist that OHR staff will utilize when processing a disability claim, which will include prompts to provide employees with the accurate state service credit and leave accruals.

Finding No. 22 – Nepotism policy complied with civil service laws, board rules, and/or CalHR policies and guidelines. No corrective action necessary.

Finding No. 23 – Workers' compensation process complied with civil service laws, board rules, and/or CalHR policies and guidelines. No corrective action necessary.

Finding No. 24 – Performance appraisals were not provided to all employees.

Response – DCA recognizes that managers and supervisors are responsible for providing annual performance appraisals to their employees. DCA's practice is conduct performance appraisals on employees' birth month. Clients also have the discretion to conduct performance appraisals on their own schedule, such as at the beginning of the year or fiscal year. OHR provides advance notification to managers and supervisors when an employee's performance appraisal is due. In addition, OHR sends an annual Supervisor's Checklist reminding supervisors to conduct annual performance appraisals.

OHR will continue to instruct all managers and supervisors to complete performance appraisals when they are due.

On behalf of the department, I would like to thank SPB and the Compliance Review Unit for taking the time to review DCA's personnel, EEO and training processes. My staff and I will continue to educate and train our client boards and bureaus on personnel requirements to ensure compliance with civil service laws, SPB rules, and CalHR policies and guidelines. If you have any questions or need additional information, please contact Olivia Trejo, Section Chief, at (916) 574-8342.