CALIFORNIA STATE PERSONNEL BOARD

COMPLIANCE REVIEW REPORT

DEPARTMENT OF HEALTH CARE SERVICES

Compliance Review Unit
State Personnel Board
February 19, 2019

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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 merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Effective July 1, 2012, the Governor's Reorganization Plan Number One (GRP1) of 2011 consolidated all of the functions of the Department of Personnel Administration and the merit-related operational functions of the State Personnel Board (SPB) into the California Department of Human Resources (CalHR).

Pursuant to Government Code section 18502(c), CalHR and SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." CalHR and SPB, 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 not monitored on a consistent, 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.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Department of Health Care Services' (DHCS) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes[1]. 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	Unlawful Appointments
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Ethics Training Was Not Provided for All Filers
Mandated Training	Supervisory Training Was Not Provided for All Supervisors
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 Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

Area	Finding
Compensation and Pay	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Errors in Applying Pay Differentials
Compensation and Pay	Out of Class Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Actual Time Worked Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Policy and Plans Were Not Provided to All Employees Whose Leave Balances Exceeded Established Limits
Leave	715 Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
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
Policy	Administrative Hearing and/or Medical Examinations Interpreters Complied with Civil Services Laws, Board Rules, and/or CalHR policies and Guidelines

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 DHCS, consisting of over 30 major divisions and almost 3,900 employees, is the backbone of California's health care safety net, helping millions of low-income and

disabled Californians each and every day. The DHCS' mission is to provide Californians access to affordable, integrated, high-quality health care, including medical, dental, mental health, substance use treatment services, and long-term care. Its vision is to preserve and improve the overall health and well-being of all Californians. The DHCS funds health care services for about 13.5 million Californians, primarily via Medi-Cal, California's Medicaid program. Approximately one-third of Californians receive health care services financed or organized by the DHCS, making the Department the largest health care purchaser in California. The DHCS' success is made possible only through collaboration and cooperation with other state agencies, counties, and partners by investing more than $100 billion for the care of low-income families, children, pregnant women, seniors and persons with disabilities.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the DHCS' examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes[2] when applicable. The primary objective of the review was to determine if DHCS 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 DHCS' 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 DHCS provided, which included examination plans, examination bulletins, job analyses, and scoring results. Additionally, the DHCS did conduct permanent examination withhold actions during the compliance review period.

A cross-section of the DHCS' 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 DHCS provided, which included notice of personnel action (NOPA) forms, request for personnel actions (RPA's), vacancy postings, application screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The DHCS did not conduct any unlawful appointment investigations during the

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

compliance review period. Additionally, the DHCS did not make any additional appointments during the compliance review period.

The DHCS' appointments were also selected for review to ensure the DHCS applied salary regulations accurately and correctly processed employee's compensation and pay. The CRU examined the documentation that the DHCS provided, which included requests for employee's 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, bilingual pay, monthly pay differential, and out of class pay. During the compliance review period, the DHCS did not issue or authorize red circle rates or arduous pay.

The review of the DHCS'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 upward mobility program; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The DHCS' PSC's were also reviewed.[3] It was beyond the scope of the compliance review to make conclusions as to whether the DHCS justifications for the contracts were legally sufficient. The review was limited to whether the DHCS's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The DHCS' mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training and that all supervisors and managers were provided supervisory and sexual harassment prevention training within statutory timelines.

The CRU also identified the DHCS 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 DHCS to provide a copy of their leave reduction policy.

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

The CRU reviewed the DHCS' Leave Activity and Correction Certification forms to verify that the DHCS 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 DHCS' units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the DHCS's employee's 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 DHCS' employees who used Actual Time Worked (ATW) and Administrative Time Off (ATO) in order to ensure both ATW and ATO were appropriately administered.

Moreover, the CRU reviewed the DHCS' policies and processes concerning nepotism, workers' compensation, performance appraisals, and Administrative Hearing and Medical Interpreter Program. The review was limited to whether the DHCS' policies and processes adhered to procedural requirements.

The DHCS declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DHSC' written response on January 25, 2019, 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.) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).). The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid*.) Every applicant for examination shall file an application in the office of the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934). Generally, the final earned rating of

each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, June 1, 2017 through November 30, 2017, the DHCS conducted 27 examinations. The CRU reviewed 14 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Medi-Cal Eligibility Analyst	Open	Education and Experience (E&E)[4]	7/31/2017	2
Chief, Strategic Planning and Workforce Development Branch, Career Executive Assignment (CEA) A	CEA	Supplement of Qualifications (SOQ)[5]	8/23/2017	12
Assistant Chief Counsel, Administrative Litigation Team, CEA B	CEA	SOQ	10/13/2017	8
Chief, Integrated Systems of Care Division, CEA B	CEA	SOQ	8/2/2017	4
Project Management Officer, Enterprise Innovation Technology Services, CEA B	CEA	SOQ	11/8/2016	4

[4] 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.

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

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Dental Hygienist Consultant	Open	Training and Experience (T&E)[6]	4/18/2017	12
Health Program Auditor II	Departmental Promotional	E&E	9/30/2017	13
Health Program Auditor III	Departmental Promotional	E&E	6/30/2017	9
Medical Consultant I	Open	SOQ	6/30/2017	1
Nurse Consultant II	Open	SOQ	6/30/2017	1
Nurse Evaluator III	Open	Qualification Appraisal Panel[7]	7/31/2017	4
Pharmaceutical Consultant I	Open	T&E	8/31/2017	5
Pharmaceutical Consultant II (Specialist)	Open	E&E	8/31/2017	1
Senior Life Actuary	Open	E&E	8/31/2017	1

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

The CRU reviewed four CEA, two departmental promotional examinations and eight open examinations, which the DHCS administered in order to create eligible lists from which to make appointments. The DHCS published and distributed examination bulletins containing the required information for all examinations. Applications received by the DHCS were accepted prior to the final filing date. Applicants were notified about the next

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

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

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 DHCS 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 and CalHR Withhold Delegation Memo.) Permanent appointments and promotions within the state civil service system are merit-based, ascertained by a competitive examination process. Once a candidate has obtained list eligibility, a department may discover information pertaining to that eligible, which raises concerns regarding his/her eligibility or suitability for employment with the state. A permanent withhold action is valid for the duration of the eligible's list eligibility. As of February 12, 2013, departments are required to maintain a separate file for each withhold action and the file should include a copy of the withhold notification letter sent to the eligible, as well as all supporting documentation which form the basis of the withhold action. (CalHR Withhold Delegation Memo.)

During the review period, the DHCS conducted 27 permanent withhold actions. The CRU reviewed ten of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Accountant Trainee	9PB31	1/21/2010	2/7/2018	Failed to meet Minimum Qualifications (MQs)
Assistant Information Systems Analyst	9PB3001	1/8/2010	6/9/2018	Failed to meet MQs
Associate Governmental Program Analyst	9PB04	5/15/2009	3/20/2018	Failed to meet MQs
Associate Governmental Program Analyst	9PB04	5/15/2009	5/30/2018	Failed to meet MQs

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Employee Placed on Withhold
Associate Information Systems Analyst (AISA) (Specialist)	9PB3002	1/8/2010	7/12/2018	Failed to meet MQs
AISA (Specialist)	9PB3002	1/8/2010	7/12/2018	Failed to meet MQs
Research Analyst II (General)	4PB3302	12/5/2014	4/26/2018	Failed to meet MQs
Staff Information Systems Analyst (Specialist)	9PB4101	1/25/2010	10/6/2017	Failed to meet MQs
Staff Programmer Analyst (Specialist)	0PB0202	2/16/2010	7/25/2018	Failed to meet MQs
Staff Services Analyst (General)	7PB34	8/1/2010	2/17/2018	Failed to meet MQs

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

The CRU reviewed ten permanent withhold actions. 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.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the period under review, June 1, 2017 through November 30, 2017, the DHCS made 565 appointments. The CRU reviewed 55 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accountant Trainee	Certification List	Permanent	Full Time	1
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Accounting Administrator I (Specialist)	Certification List	Permanent	Full Time	1
Assistant Information Systems Analyst	Certification List	Permanent	Full Time	1
Associate Accounting Analyst	Certification List	Permanent	Full Time	1
Associate Administrative Analyst (Accounting Systems)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Associate Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	1
Auditor I	Certification List	Permanent	Full Time	1
Data Processing Manager III	Certification List	Permanent	Full Time	1
Health Program Audit Manager II	Certification List	Permanent	Full Time	1
Health Program Audit Manager IV	Certification List	Permanent	Full Time	1
Health Program Auditor II	Certification List	Permanent	Full Time	1
Health Program Auditor III	Certification List	Permanent	Full Time	1
Health Program Specialist I	Certification List	Permanent	Full Time	3
Investigator	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Personnel Supervisor I	Certification List	Permanent	Full Time	1
Pharmaceutical Consultant II, (Specialist)	Certification List	Permanent	Full Time	1
Programmer I	Certification List	Permanent	Full Time	1
Research Analyst II (General)	Certification List	Permanent	Full Time	1
Research Manager I (General)	Certification List	Permanent	Full Time	1
Research Manager II (General)	Certification List	Permanent	Full Time	1
Research Program Specialist I	Certification List	Permanent	Full Time	1
Research Scientist II (Social/Behavioral Sciences)	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Supervisor)	Certification List	Permanent	Full Time	1
Staff Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager II (Supervisor)	Certification List	Permanent	Full Time	1
Supervising Fraud Investigator I	Certification List	Permanent	Full Time	1
Systems Software Specialist I (Technical)	Certification List	Permanent	Full Time	1
Systems Software Specialist II (Technical)	Certification List	Permanent	Full Time	1
Systems Software Specialist III (Technical)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full Time	1
Attorney III	Mandatory Reinstatement	Permanent	Full Time	1
Health Program Auditor III	Mandatory Reinstatement	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Health Program Specialist I	Mandatory Reinstatement	Permanent	Full Time	1
Research Program Specialist I	Mandatory Reinstatement	Permanent	Full Time	1
Staff Mental Health Specialist	Mandatory Reinstatement	Permanent	Full Time	1
Staff Services Analyst (General)	Mandatory Reinstatement	Permanent	Full Time	1
Staff Services Manager I	Mandatory Reinstatement	Permanent	Full Time	1
Medical Consultant II	Retired Annuitant	Temporary	Intermittent	1
Assistant Information Systems Analyst	Training & Development	Permanent	Full Time	1
Accounting Administrator I (Supervisor)	Transfer	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	2
Associate Governmental Program Analyst	Transfer	Permanent	Part Time	1
Associate Management Auditor	Transfer	Permanent	Full Time	1
Research Analyst II (General)	Transfer	Permanent	Full Time	1
Staff Programmer Analyst (Specialist)	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	2
Staff Services Manager II (Supervisor)	Transfer	Permanent	Full Time	1

FINDING NO. 3 – Unlawful Appointments

Summary: Two employees who were list appointed to Accounting Administrator I (Specialist) and Associate Administrative Analyst (Accounting Systems) did not meet the MQs for their respective classifications. Therefore, both appointments will be voided.

Criteria: Pursuant to Government Code section 18931, subdivision (a), the Board shall establish minimum qualification for determining the fitness and qualifications of employees for each class of position.

Severity: Very Serious**.** An unlawful appointment provides the employee with an unfair and unearned appointment advantage over other employees whose appointments have been processed in compliance with the requirements of civil service law. Unlawful appointments which are not corrected also create appointment inconsistencies that jeopardize the equitable administration of the civil service merit system.

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If "bad faith" is determined on the part of the appointing power, civil or criminal action may be initiated.

Cause: The Department agrees with this finding and understands how serious and detrimental unlawful appointments can be both to the employee and the equitable administration of the civil service system. Both appointments were reviewed and appropriately voided. These appointments were made due to Human Resources (HR) staff errors.

Action: As a result of this finding, the DHCS has implemented additional quality review training. It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit to the CRU copies of any relevant documentation of the changes in the quality review process and/or training the department has implemented to ensure conformity with the requirements of Government Code section 18931, subdivision (a).

FINDING NO. 4 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Summary: The DHSC did not provide 21 required probationary reports of performance.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Accountant Trainee	List Appointment	1	1
Assistant Information Systems Analyst	List Appointment	1	1

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Associate Administrative Analyst (Accounting Systems)	List Appointment	1	1
Associate Information Systems Analyst (Specialist)	List Appointment	1	1
Data Processing Manager III	List Appointment	1	1
Health Program Audit Manager IV, DHS	List Appointment	1	1
Health Program Auditor III, DHS	List Appointment	1	1
Health Program Specialist I	List Appointment	2	2
Research Manager II (General)	List Appointment	1	1
Senior Accounting Officer (Supervisor)	List Appointment	1	1
Staff Information Systems Analyst (Specialist)	List Appointment	1	1
State Service Manager II (Supervisor)	List Appointment	1	1
Systems Software Specialist II (Technical)	List Appointment	1	2
Systems Software Specialist III (Technical)	List Appointment	1	1
Accounting Administrator I (Supervisor)	Transfer	1	1
Associate Management Auditor	Transfer	1	2
Staff Services Analyst (General)	Transfer	1	1
Staff Services Manager II (Supervisor)	Transfer	1	1
Total		**19**	**21**

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

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 DHCS lacked sufficient tracking and monitoring methods to ensure compliance with the probationary report requirement.

Action: It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the requirements of California Code of Regulations, title 2, section 322 subdivisions, (c)(1) and (2). Copies of any relevant documentation should be included with the plan.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794) To that end, the appointing

power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the California Department of Human Resources by providing access to all required files, documents and data. (*Ibid*.) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795.)

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

Each state agency must establish a separate committee of employees who are individuals with a disability, or who have an interest in disability issues, to advise the head of the agency on issues of concern to employees with disabilities. (Gov. Code, § 19795, subd. (b)(1).) The department must invite all employees to serve on the committee and take appropriate steps to ensure that the final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

FINDING NO. 5 – Equal Employment Opportunity Program Complied with 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 DHCS' 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 Director of the DHCS. In addition, the DHCS has an established DAC which reports to the Director on issues affecting persons with disabilities. The DHCS also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff. Accordingly, the DHCS EEO program complied with civil service laws and Board rules.

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 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, June 1, 2017, through November 30, 2017, the DHCS had two PSC's that were in effect. The CRU reviewed all two of those contracts, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
Health Management Systems, Incorporated[8]	Medi-Cal Beneficiaries Services	12/1/13 - 11/30/18	$39,800,000	Yes
California State University, San Marcos Corp.	Palliative care training for Medi-Cal Providers	10/1/17 - 9/30/18	$224,000	Yes

FINDING NO. 6 – Personal Services Contracts Complied with Procedural Requirements

When an agency executes a Personal Services Contract under Government Code section 19130, subdivision (b), the department must document a written justification that includes

[8] Amendment to the contract

specific and detailed factual information that demonstrates how the contract meets one or more conditions specified in Government Code section 19131, subdivision (b). (Cal. Code Regs., tit. 2, § 547.60.) In addition to a written justification, under Government Code section 19132, subdivision (b), the department shall not execute any contract until they have notified all organizations that represent state employees who perform the type of work to be contracted.

The total dollar amount of all the PSC's reviewed was $40,024,000. It was beyond the scope of the review to make conclusions as to whether DHCS justifications for the contract were legally sufficient. For all PSC's reviewed, the DHCS provided specific and detailed factual information in the written justifications as to how each of the two contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Additionally, DHCS complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the DHCS' PSC's complied with civil service laws and Board rules.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & (c), & 19995.4, subd. (b).)

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 career executive assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs, the training must be a minimum of 20 hours. (*Ibid*.) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biannual basis. (*Ibid*.)

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

The CRU reviewed the DHCS's mandated training program that was in effect during the compliance review period. The DHCS's ethics training, basic supervisory training and sexual harassment prevention training were found to be out of compliance.

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

Summary: The DHCS has not updated its Fair Political Practices Commission (FPPC) code in twenty years. Therefore, the DHCS was unable to provide an accurate list of employees who are required to file by law. Subsequently, CRU could not determine whether the DHCS complied with ethics training mandates or not.

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: DHCS' Conflict of Interest Code (COIC) requires updating. It has been the responsibility of the employee's direct supervisor or manager to ensure compliance and track completion of training.

Action: Effective October 2018, the Department implemented a department-wide learning management system (Cornerstone), which will automate and centralize mandatory Ethics training tracking for applicable employees. It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit to the CRU copies of any relevant documentation including the DHCS's proposed COIC Code and specifics regarding how ethics training will be monitored and tracked to ensure conformity with the requirements of Government Code section 11146.3, subdivision (b).

FINDING NO. 8 – Supervisory Training Was Not Provided for All Supervisors

Summary: The DHCS did not provide basic supervisory training to 21 of 142 new supervisors within twelve months of appointment.

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

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 DHCS lacked a tracking system to monitor basic supervisory training. It has been the responsibility of the employee's direct supervisor or manager to ensure compliance and track completion.

Action: The DHCS implemented the Cornerstone learning management system which will automate and centralize the tracking of supervisor training. It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit to the CRU copies of any relevant documentation and specifics regarding how supervisory training will be monitored and

tracked to ensure conformity with the requirements of Government Code section 19995.4, subdivisions (b) and (c).

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

Summary: The DHCS did not provide sexual harassment prevention training to 102 of 348 new supervisors within six months of their appointment. In addition, the DHCS did not provide sexual harassment prevention training to 128 of 372 existing supervisors every two 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 its new supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

Cause: The tracking of mandatory sexual harassment prevention training for DHCS employees has been decentralized throughout the organization. It has been the responsibility of an employee's supervisor or manager to ensure compliance and track completion of this training requirement for direct reports.

Action: Cornerstone will automate and centralize sexual harassment prevention training for all employees. It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit to the CRU copies of relevant documentation and specifics regarding how sexual harassment training will be monitored and tracked to ensure compliance with Government Code section 12950.1 subdivision (a).

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate[9] upon appointment depending on the appointment type, and the employee's state employment pay history and tenure.

During the period under review, June 1, 2017 through November 30, 2017, the DHCS made 565 appointments. The CRU reviewed 27 of those appointments to determine if the DHCS applied salary regulations accurately and correctly processed employees' compensation transactions. These appointments are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary
Accounting Administrator I (Specialist)	Certification List	Permanent	Full Time	$6,578
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	$4,177
Assistant Information Systems Analyst	Certification List	Permanent	Full Time	$4,016
Associate Administrative Analyst (Accounting Systems)	Certification List	Permanent	Full Time	$5,022
Associate Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	$5,274
Auditor I	Certification List	Permanent	Full Time	$3,377
Auditor I	Certification List	Permanent	Full Time	$3,377
Health Program Audit Manager II, DHS	Certification List	Permanent	Full Time	$6,974
Health Program Audit Manager IV, DHS	Certification List	Permanent	Full Time	$5,537
Health Program Auditor II, DHS	Certification List	Permanent	Full Time	$3,409
Health Program Auditor III, DHS	Certification List	Permanent	Full Time	$4,605
Personnel Supervisor I	Certification List	Permanent	Full Time	$4,650

[9] "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (CA CCR Section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary
Pharmaceutical Consultant II, DHS (Specialist)	Certification List	Permanent	Full Time	$8,644
Programmer I	Certification List	Permanent	Full Time	$3,546
Research Program Specialist I	Certification List	Permanent	Full Time	$5,569
Research Scientist II (Social/Behavioral Sciences)	Certification List	Permanent	Full Time	$7,161
Staff Services Analyst	Certification List	Permanent	Full Time	$3,220
Staff Services Manager I	Certification List	Permanent	Full Time	$6,287
Staff Services Manager II (Supervisor)	Certification List	Permanent	Full Time	$6,273
Supervising Fraud Investigator I, DHS	Certification List	Permanent	Full Time	$7,682
Associate Governmental Program Analyst	Mandatory Reinstatement	Permanent	Full Time	$5,023
Staff Mental Health Specialist	Mandatory Reinstatement	Permanent	Full Time	$6,578
Staff Services Analyst (General)	Mandatory Reinstatement	Permanent	Full Time	$4,176
Associate Management Auditor	Transfer	Permanent	Full Time	$3,096
Account Administrative I (Supervisor)	Transfer	Permanent	Full Time	$5,988
Staff Services Analyst (General)	Transfer	Permanent	Full Time	$3,806
Staff Services Analyst (General)	Transfer	Permanent	Full Time	$3,381

FINDING NO. 10 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in 27 of 565 salary determinations that the DHCS made during the compliance review period. The DHCS appropriately calculated and processed 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, CalHR provides salary rules departments must use when employees move between alternate ranges. They 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, 2017 through August 31, 2017, the DHCS made 87 alternate range movements within a classification[10]. The CRU reviewed 12 of those alternate range movements to determine if the DHCS applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary
Attorney	Range C	Range D	Full-time	$6,825
Investigator	Range A	Range B	Full-time	$5,027
Investigator	Range A	Range B	Full-time	$5,675
Office Assistant (Typing)	Range A	Range B	Full-time	$2,471
Personnel Specialist	Range B	Range C	Full-time	$3,400
Personnel Specialist	Range B	Range C	Full-time	$3,400
Personnel Specialist	Range C	Range D	Full-time	$3,941
Staff Service Analyst	Range A	Range B	Full-time	$3,381
Staff Service Analyst	Range A	Range B	Full-time	$3,389
Staff Service Analyst	Range A	Range B	Full-time	$3,722
Staff Service Analyst	Range B	Range C	Full-time	$3,349
Staff Service Analyst	Range B	Range C	Full-time	$3,585

FINDING NO. 11 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found that 12 of 87 alternate range movements the DHCS made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Hiring Above Minimum (HAM) Requests

[10] 335 transactions.

Government Code section 19836 authorizes CalHR to allow payments above-the minimum rate in the salary range in order to hire persons who have extraordinary qualifications. On April 1, 2005, CalHR granted delegated authority to all departments to approve HAM's for former legislative employees, and former exempt employees. (PML 2005-012, "Delegation of Personnel Management Functions.") On September 25, 2007, CalHR also granted delegated authority for all departments to approve exceptions to the HAM criteria for extraordinary qualifications for all new state employees without prior review or approval from CalHR. However, for existing state employees, departments should obtain approval from CalHR and delegated authority does not apply. (PML 2010-005, "Hiring Above Minimum Standards for Extraordinary Qualifications.")

Prior to approving a HAM under delegated authority, departments should demonstrate and document the candidate's extraordinary qualifications which should contribute to the work of the department significantly beyond that which other applicants offer and provide expertise in a particular area of the department's program well beyond the normal requirements of the class. The department may also consider the unique talent, ability or skill demonstrated by the candidate's previous job experience as extraordinary qualifications, but the scope and depth of such experience should be more significant than the length. The qualifications and hiring rates of state employees already in the same class should be carefully considered. (CalHR Online Manual Section 1707). In all cases, the candidate's current salary or other bona fide salary offers should be above the minimum rate, verified and appropriately documented. Additionally, departments must request and approve HAM's before a candidate accepts employment. (*Ibid.*)

During the period under review, June 1, 2017 through November 30, 2017, the DHCS authorized eight HAM requests. The CRU reviewed four authorized HAM requests to determine if the DHCS correctly applied Government Code section 19836 and appropriately verified, approved, and documented candidates' extraordinary qualifications and subsequent salaries, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary
Administrative Law Judge	List Appointment	New to the State	Range A	$10,348.00
Associate Information Systems Analyst	List Appointment	New to the State	Range A	$4,943.00
Pharmaceutical Consultant I	List Appointment	New to the State	Range A	$7,655.00
Senior Programmer Analyst (Specialist)	List Appointment	New to the State	Range A	$8,454.00

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

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

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages ten percent or more of the total time worked. According to the Pay Scales, specifically Pay Differential 14, the ten 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, March 1, 2017 through August 31, 2017, the DHCS issued bilingual pay to 63 employees. The CRU reviewed 16 bilingual pay authorizations, to ensure compliance with applicable CalHR policies and guidelines.

FINDING NO. 13 – Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found that the bilingual pay authorized to 16 of 63 employees during the compliance review period, satisfied civil service laws, board rules, and CalHR policies and guidelines.

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. (CalHR Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales (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, March 1, 2017 through August 31, 2017, the DHCS issued 377 pay differentials. The CRU reviewed 56 pay differential authorizations to ensure compliance with applicable CalHR policies and guidelines.

FINDING NO. 14 – Incorrect Authorizations of Pay Differentials

Summary: The CRU found one error in 56 pay differentials DHCS authorized.

Classification	Type of Differential	Description of Findings	Criteria
Staff Services Manager I	Recruitment and Retention	The employee received the pay differential one month prior to being eligible.	Pay Differential 412

Criteria: A pay differential may be appropriate 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. 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. (CalHR Classification and Pay Manual Section 230.)

Severity: Very serious: The DHCS 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 DHCS misinterpreted the pay differential and subsequently miscalculated the qualifying eligibility months for the employee.

Action: HR management has re-reviewed the differential with HR staff, and provided additional training, to ensure this error does not reoccur.

Out-of-Class Assignments (OOC) and Pay

For excluded[11] and most rank and file employees, out of class 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.)

According to CalHR's 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 DPA Rule 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 provision or DPA regulation. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Section 375.)

During the period under review, March 1, 2017 through August 31, 2017, the DHCS issued out-of-class pay[12] to five employees. The CRU reviewed all five of these out-of-class assignments to ensure compliance with applicable CalHR policies and guidelines, which are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	R01	Staff Services Manager I	8/22/2017-12/7/2017
Health Program Specialist II	R01	Staff Services Manager II	5/22/2017-9/18/2017
Investigator	R07	Supervising Fraud Investigator I	5/18/2017-7/14/2017

[11] "Excluded employee" means an employee as defined in section 3572(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.
[12] Excluding bilingual and arduous pay.

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Staff Services Manager I	S01	Accounting Administrator II	8/10/2017-9/29/2017
Staff Services Manager II (Supervisory)	S01	Staff Services Manager III	5/4/2017-6/4/2017

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

The CRU found no deficiencies in the five out-of-class pay assignments that the DHCS authorized during the compliance review period. Out of Class 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

Actual Time Worked

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization (TAU) employee's time to ensure that the Constitutional limit of nine months in any 12 consecutive months is not exceeded (California Constitution, article VII, section 5). 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. Time is accrued by months so that the immediate prior 12-calendar months are the ones used to count the 194 working days. ATW includes any day on which the employee physically worked, regardless of the length of time worked on that day[13], any day for which the employee is on paid absence[14], and any holiday for which the employee receives either full or partial pay. If the employee works on the holiday, the day is counted only once regardless of the rate of pay[15].

[13] For example, two hours or ten hours counts as one day.
[14] For example, vacation, sick leave, compensating time off, etc.
[15] For example, straight time, time and one-half, double time, etc.

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. Therefore, departments must monitor the actual number of days worked in order to ensure that they do not exceed 194 days in any 12-consecutive in month period. (Cal. Code Regs., tit. 2, § 265.1, subd. (a).) For seasonal classifications, a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 194-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

At the time of the review, the DHCS reported 98 employees on ATW. The CRU reviewed nine ATW appointments to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Time Base	Time Frame	Time Worked by Hours
Seasonal Clerk	Intermittent	1/22/2016-1/21/2017	1,359
Seasonal Clerk	Intermittent	3/5/2016-3/5/2017	635
Seasonal Clerk	Intermittent	3/24/2016-3/23/2017	1,500
Seasonal Clerk	Intermittent	3/24/2016-3/23/2017	1,432
Seasonal Clerk	Intermittent	5/11/2017-11/31/2017	482
Seasonal Clerk	Intermittent	6/8/2016-6/7/2017	1,498
Seasonal Clerk	Intermittent	9/12/2016-9/11/2017	1,500
Seasonal Clerk	Intermittent	11/3/2016-11/3/2017	1,274
Special Consultant	Intermittent	7/25/2016-7/24/2017	414

FINDING NO. 16 – Actual Time Worked (ATW) Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies with the nine employees on ATW during the compliance review period. The DHCS provided the proper documentation justifying the use of ATW and adhered to applicable laws, regulations and CalHR policy and guidelines.

Administrative Time Off

Administrative Time Off (ATO) is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. 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. Additionally, ATO may be granted when employees need time off for any of the following: donating blood, extreme weather that makes getting to work impossible, and/or, when employees need time off to attend special events. Any ATO requests lasting over 30 days must be submitted and approved by CalHR. Approval will generally be given in 30 calendar day increments and any extension must be approved prior to the expiration of the 30 calendar days. Departments must properly document and track ATO for any length of time. (PML 2012-008, "Administrative Time Off (ATO) – Policy, Procedure and Documentation Requirements.")

Employees may also be granted a paid leave of absence of up to five days by their appointing power when the employee works or resides in a county where a state of emergency has been proclaimed by the Governor. (Cal. Code Regs., § 599.785.5.)

During the period under review, September 1, 2016 through August 31, 2017, the DHCS placed 45 employees on ATO. The CRU reviewed 15 employees placed on ATO to ensure the department complied with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Days on ATO
Accountant Trainee	2/13/2017 - 2/15/2017	3
Accounting Administrator I (Supervisor)	2/23/2017	1
Associate Governmental Program Analyst	2/13/2017 - 2/16/2017	4
Associate Governmental Program Analyst	2/13/2017 - 2/17/2017	5
Associate Medical Eligibility Analyst	2/13/2017 - 2/16/2017	4
Career Executive Assignment	2/13/2017	1
Executive Assistant	11/8/2017	1
Health Program Specialist I	2/9/2017 - 2/10/2017, 2/13/2017	3
Health Program Specialist I	11/8/2016	1

Classification	Time Frame	No. of Days on ATO
Medical Consultant I, DHS	2/13/2017 - 2/17/2017	5
Nurse Evaluator III, HS	2/14/2017	1
Nurse Evaluator IV, HS	2/13/2017, 2/15/2017-2/16/2017, 2/20/2017 - 2/21/2017	5
Office Technician (Typing)	2/13/2017	1
Senior Information Systems Analyst (Supervisor)	2/13/2018 - 2/14/2018	2
Staff Services Analyst (General)	2/16/2017	1

FINDING NO. 17 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in 15 of 45 employees placed on ATO during the compliance review period. The DHCS 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.)

Additionally, in accordance with CalHR Online Manual Section 2101, departments must create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. 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. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. Accurate and timely attendance reporting is required of all departments and is subject to audit.

During the period under review, June 1, 2017 through August 31, 2017, the DHCS reported 141 units comprised of 3,507 active employees during the June 2017 pay period, 141 units comprised of 3,580 active employees during the July 2017 pay period and 142 units comprised of 3,582 active employees during the August 2017 pay period. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	No. of Units Reviewed	No. of Employees	No. of Timesheets Reviewed	No. of Missing Timesheets
June 2017	11	235	231	4
July 2017	16	310	307	3
August 2017	15	282	280	2

FINDING NO. 18 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The DHCS kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

Leave Reduction Efforts

Departments must comply with the regulations and CalHR policies that require a leave plan for every employee with vacation or annual leave hours over the maximum amount permitted. (Cal. Code Regs., tit. 2, § 599.742.1) and applicable Bargaining Unit Agreements). Bargaining Unit Agreements and California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. For instance, according to California Code of Regulations, title 2, section 599.737, if a represented employee does not use all of the vacation to which he or she is entitled in a calendar year, "the employee may accumulate the unused portion, provided that on January 1st of a calendar year, the employee shall not have more than" the established limit as stipulated by the applicable bargaining unit agreement[16]. Likewise, if an excluded employee does not use all of the vacation to which he or she is entitled in a calendar year, the "employee may accumulate the unused portion of vacation credit, provided that on January 1st of a calendar year, the excluded employee shall not have more than 80 vacation days." (Cal. Code Regs., tit. 2, § 599.738.)

[16] For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.

In accordance with CalHR Online Manual Section 2124, 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.

As of November 2017, 442 DHCS employees exceeded the established limits of vacation or annual leave. The CRU reviewed 44 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
Assistant Chief Counsel	M02	1,124	No
Associate Governmental Program Analyst	R01	1,235	No
Attorney IV	R02	1,250	No
Assistant Deputy Director, Audits and Investigations Division, Career Executive Assignment (CEA) B	M01	1,456	No
Assistant Deputy Director, Mental Health and Substance Use Disorder Services Division, CEA B	M01	411	No
Chief, Long Term Care Division, CEA B	M01	801	No
Data Processing Manager II	S01	763	No
Data Processing Manager II	S01	1,083	No
Data Processing Manager III	M01	1,446	No
Deputy Director, Legislative and Government Division	E99	797	No
Health Education Consultant III, (Specialist)	R19	336	No
Health Program Audit Manager I	S01	853	No
Health Program Audit Manager I	S01	1,723	No
Health Program Audit Manager I	S01	1,442	No
Health Program Audit Manager II	S01	737	No

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Health Program Audit Manager II	S01	685	No
Health Program Audit Manager II	S01	548	No
Health Program Specialist II	R01	639	No
Information Officer II	S01	1,310	No
Investigator	R07	483	No
Investigator	R07	803	No
Medical Consultant I	R16	765	No
Nurse Evaluator II	R17	583	No
Nurse Evaluator IV	S17	1,404	No
Nurse Evaluator IV	S17	1,353	No
Pharmaceutical Program Consultant	S19	465	No
Program Technician II	R04	393	No
Public Health Medical Officer III	S16	339	No
Research Analyst II (General)	R01	1,135	No
Research Manager II (General)	S01	1,682	No
Research Scientist III (Social/Behavioral Sciences)	R10	707	No
Senior Legal Typist	R04	1,169	No
Staff Information Systems Analyst (Specialist)	R01	752	No
Staff Services Manager (SSM) I	S01	1,066	No
Staff Services Manager I	S01	1,432	No
Staff Services Manager I	S01	1,092	No
Staff Services Manager I	S01	1,261	No
Staff Services Manager I	S01	885	No
Staff Services Manager I	S01	983	No
Staff Services Manager III	M01	1,573	No
Staff Services Manager III	M01	852	No
Supervising Fraud Investigator I	S07	505	No
Supervising Fraud Investigator I	S07	440	No
Supervising Fraud Investigator II	S07	1,090	No

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Total Hours		**41,851**	

FINDING NO. 19 – Leave Reduction Policy and/or Plans Were Not Provided to All Employees Whose Leave Balances Exceeded Established Limits

Summary: The DHCS did not provide leave reduction plans to 44 employees whose leave balances significantly exceeded established limits. Additionally, the DHCS did not have a Leave Reduction Policy in place.

Criteria: It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation. (Cal. Code Regs., tit. 2, § 599.742.1.), ensuring employees maintain the capacity to optimally perform their jobs. 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 for reasons other than those listed in sections 599.737 and 599.738 of these regulations 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. (Cal. Code Regs., tit. 2, § 599.742.)

According to CalHR Online Manual Section 2124, "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. 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; and; ensure employees who have significant 'over-the-cap' leave balances have a leave reduction plan in place and are actively reducing hours".

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: For the period of review, HR did not monitor accrued leave balances to identify which employees leave balances exceeded the maximum accrual limits. Additionally, HR did not require employees who exceeded the cap to submit leave reduction plans to their supervisor.

Action: **I**n March 2018, the DHCS issued an Employee Leave Management Administration Division Memorandum requiring employees whose leave balances were above the maximum accrual limit to submit a leave reduction plan to their supervisor beginning April 1, 2018 and each January 1 thereafter. It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit to the CRU copies of any relevant documentation including tracking and monitoring methods used to ensure compliance to ensure conformity with the requirements of California Code of Regulations, title 2, section 599742.

State Service

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.[17] (Cal. Code Regs., tit. 2, § 599.608.)

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 additional qualifying monthly pay period as defined in section 599.608, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. 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

[17] Except as provided in sections 599.609 and 599.776.1(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.

before and after breaks in service shall be counted. Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (Cal. Code Regs., tit. 2, § 599.739.) On the first day following a qualifying monthly pay period, excluded employees[18] shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

Permanent intermittent employees also earn leave credits with pay on the following pay period for each increment of 160 hours worked."

During the period under review from March 1, 2017 through August 31, 2017, the CRU reviewed 15 of 60, 715 transactions the DHCS processed to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

Type of 715 Transaction	Time base	No. Reviewed
Non-Qualifying Pay Period	Full Time	10
Qualifying Pay Period	Full Time	5

FINDING NO. 20 – 715 Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. 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. Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. In addition, there may be personal relationships beyond this general definition that could be subject to these policies. Overall, departmental nepotism policies should aim to prevent favoritism or bias based on a personal relationship when recruiting, hiring or assigning

[18] As identified in Government Code sections 19858.3(a), 19858.3(b), or 19858.3(c) as it applies to employees excluded from the definition of state employee under section Government Code section 3513(c), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

employees. Departments have the discretion, based on organizational structure and size, to develop nepotism policies as they see fit. (CalHR Online Manual Section 1204.)

FINDING NO. 21 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the DHCS's nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the DHCS's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the DHCS'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 as outlined in CalHR's Online Manual Section 1204.

Workers' Compensation

Pursuant to California Code of Regulations, title 8, section 9880, employers shall provide to every new employee 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. This notice shall also contain a form that the employee can use to pre-designate their personal physician or medical group as defined by Labor Code section 4600. Additionally, employers shall also provide a claim form and notice of potential eligibility to their employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness. (Labor Code, § 5401.)

According to Labor Code section 3363.5, public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. Workers' compensation coverage is not mandatory for volunteers as it is for employees. This is specific to the legally uninsured state departments participating in the Master Agreement. Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (SCIF) office to discuss the status of volunteers. (PML 2015-009, "Workers' Compensation Coverage for Volunteers.") Those departments that have volunteers should have notified or updated their existing notification to the SCIF by April 1, 2015, whether or not they have decided to extend workers' compensation coverage to volunteers. In this case, the DHCS did not employ volunteers during the compliance review period.

FINDING NO. 22 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the DHCS's workers' compensation process that was in effect during the compliance review period, the CRU verified that the DHCS provides notice to their employees to inform them of their rights and responsibilities under CA workers' compensation law. Furthermore, the CRU verified that when the DHCS received workers' compensation claims, the DHCS properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, departments 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 54 permanent DHCS employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines.

FINDING NO. 23 – Performance Appraisals Were Not Provided to All Employees

Summary: The DHCS did not provide performance appraisals to 54 of 101 employees reviewed at least once in each twelve calendar months after the completion of the employee's probationary period.

Classification	No. of Performance Appraisals Due	No. of Uncompleted Performance Appraisals
Accounting Officer (Specialist)	4	4
Associate Accounting Analyst	1	1
Assistant Information System (Specialist)	1	1
Associate Administrative Analyst (Accounting Systems)	2	2
Associate Governmental Program Analyst	11	11
Auditor I	1	1
Data Program Manager II	1	1
Executive Assistant	1	1
Health Program Audit Manager I, DHS	1	1

Classification	No. of Performance Appraisals Due	No. of Uncompleted Performance Appraisals
Health Program Auditor II	5	5
Health Program Auditor III	2	2
Health Program Specialist I	1	1
Legal Secretary	1	1
Medical Consultant I	1	1
Medical Consultant II	2	2
Nurse Evaluator II	4	4
Office Assistant (Typing)	1	1
Office Technician (Typing)	1	1
Research Analyst II (General)	3	3
Research Program Specialist II	1	1
Senior Information Systems Analyst (Specialist)	1	1
Senior Information Systems Analyst (Specialist)	3	3
Staff Services Analyst (General)	4	4
Staff Services Manager I	1	1
Total		**54**

Criteria: Departments are required to "prepare performance reports and keep them on file as prescribed by department rule." (Government Code Section 19992.2.) 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.

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

Cause: The DHCS lacked sufficient monitoring and tracking methods to ensure compliance with the performance appraisal requirement.

Action: In October 2018, the DHCS introduced two new training courses to emphasize the importance of establishing expectations and

completing performance appraisals. It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the DHCS submit to the CRU copies of relevant documentation such as enhanced tracking and monitoring methods to ensure conformity with the requirements of Government Code section 19992.2.

Administrative Hearing and Medical Interpreter Program

According to Government Code section 11435.15, specific departments must provide language assistance in adjudicative proceedings. Language assistance means oral interpretation or written translation into English of a language other than English or of English into another language for a party or witness who cannot speak or understand English or who can do so only with difficulty. (Gov. Code, § 11435.05.)

The hearing, or any medical examination conducted for the purpose of determining compensation or monetary award, shall be conducted in English. (Gov. Code, § 11435.20, subd. (a).) If a party or the party's witness does not proficiently speak or understand English and before commencement of the hearing or medical examination requests language assistance, an agency subject to the language assistance requirement of this article shall provide the party or witness an interpreter. (Gov. Code, § 11435.20, subd. (b).)

An interpreter used in a hearing shall be certified pursuant to s11435.30. However, if an interpreter certified pursuant to section 11435.30 cannot be present at the hearing, the hearing agency shall have discretionary authority to provisionally qualify and use another interpreter. (Gov. Code, § 11435.55, subd. (a).)

An interpreter used in a medical examination shall be certified pursuant to section 11435.35. However, if an interpreter certified pursuant to section 11435.35 cannot be present at the medical examination, the physician provisionally may use another interpreter if that fact is noted in the record of the medical evaluation. (Gov. Code, § 11435.55, subd. (b).)

FINDING NO. 24 –	**Administrative Hearing and/or Medical Examination Interpreters Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies with the interpreters the DHCS used in administrative hearings and/or medical examinations. The DHCS provided the proper documentation justifying the use of interpreters and adhered to applicable laws, regulations, and CalHR policy and guidelines.

DEPARTMENTAL RESPONSE

Departmental Response is attached as Attachment 1.

SPB REPLY

Based upon the DHCs' written response and corrective action plans submitted, the DHCS will comply with the CRU findings and recommendations.

State of California—Health and Human Services Agency
Department of Health Care Services

JENNIFER KENT
Director

GAVIN NEWSOM
Governor

January 22, 2019

Ms. Suzanne Ambrose
Executive Director
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Re: **Department of Health Care Services' Response to State Personnel Board Compliance Review**

Dear Ms. Ambrose:

Pursuant to Government Code section 18661, the State Personnel Board's (SPB/Board) Compliance Review Unit (CRU) conducted a compliance review of the Department of Health Care Services' (DHCS/Department) personnel practices in five areas: examinations, appointments, equal employment opportunity, personal services contracts, and mandated training, to ensure compliance with civil service laws and Board regulations. On November 29, 2018, DHCS received CRU's draft Compliance Review Report. DHCS has reviewed the compliance review findings and appreciates SPB's collaboration and professionalism. The Department is pleased that SPB found that the majority of DHCS' personnel practices are in compliance, and we are committed to addressing issues identified. Below are DHCS' responses to each of the findings identified in the SPB compliance review:

Finding No. 3 – Unlawful Appointments

The Department agrees with this finding and understands how serious and detrimental unlawful appointments can be to both the employee and the equitable administration of the civil service merit system. Both appointments were reviewed and appropriately voided. These appointments were made due to Human Resources (HR) staff errors, which has resulted in additional quality review and training.

Finding No. 4 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

The Department recognizes the importance of probationary reports for both the employee and the organization. Since 2016, HR has been proactive in educating

supervisors and managers in understanding their roles and responsibilities in this area. On May 9, 2016, HR issued a Best Hiring Practices Administration Division Memorandum providing guidance to supervisors and managers in the various elements of the hiring process, including the requirements of Government Code section 19172 to regularly evaluate the work and efficiency of the probationer. Additionally, in July 2017, HR rolled out a progressive discipline training course for supervisors and managers which discusses the importance of evaluations during the probationary period. In October 2018, HR introduced two new training courses for supervisors and managers, titled Best Hiring Practices and Communicating Performance Expectations. Both courses have a focus on the importance of establishing expectations and completing all probationary reports. In addition to these training efforts, the Department will enhance tracking and monitoring methods to improve compliance.

Finding No. 7 – Ethics Training Was Not Provided for All Filers

The Department recognizes the importance of compliance with mandatory training requirements. Dissemination of the Ethics training requirement occurs in late winter of each year when HR issues an email notification with Conflict of Interest Form 700 filing requirements, instructions, and associated mandatory training to all departmental employees. It has been the responsibility of an employee's direct supervisor or manager to ensure compliance and track completion of training. Although DHCS' Conflict of Interest Code (COIC) is pending formal update (anticipated to be completed in April 2019), since the review period, the Department completed a comprehensive review of the COIC and all DHCS duty statements to ensure the appropriate positions are designated as Conflict of Interest sensitive and all associated incumbents are designated as required to file a Form 700 and required to take Ethics training.

Additionally, effective October 2018, the Department implemented a department-wide learning management system (Cornerstone), which will automate and centralize mandatory Ethics training tracking for applicable employees. Once the COIC is updated, all existing employees designated as Form 700 filers will be identified in Cornerstone as requiring Ethics training and will automatically be notified of the mandatory training requirement. Additionally, new employees hired into a COIC position will receive notification of all mandatory training requirements. Cornerstone is configured to identify all initial mandatory training requirements, track training completion, and provide renewal notification to each employee (and their direct supervisor/manager).

Finding No. 8 – Supervisory Training Was Not Provided for All Supervisors

The Department is committed to providing our supervisors and managers professional training and development and recognizes the importance of compliance with mandatory training requirements. Prior to rolling out Cornerstone, new supervisor/manager hires

received an email notification advising them of their mandatory supervisory training requirements and options for fulfillment. Mandatory training information is also provided in DHCS' online New Employee Orientation. It has been the responsibility of the employee's direct supervisor or manager to ensure compliance and track completion.

Cornerstone will automate and centralize the tracking of supervisor training. Cornerstone will establish the baseline of compliance and renewal for each supervisor and manager individually and will issue compliance completion or deficiency notices. Upon receiving a deficiency notice, the supervisor or manager will be required to fulfill the mandatory training requirement identified.

Finding No. 9 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

The Department recognizes the importance of compliance with mandatory training requirements. Supervisors and managers receive the required mandatory training announcements and new employees receive the information via the online New Employee Orientation. Historically, the tracking of mandatory sexual harassment prevention training for DHCS employees has been decentralized throughout the organization. It has been the responsibility of an employee's supervisor or manager to ensure compliance and track completion of this training requirement for direct reports.

As previously indicated, Cornerstone will automate and centralize all mandatory training, including sexual harassment prevention training for all employees. Cornerstone will establish the baseline of compliance and renewal for each supervisor and manager individually and will issue compliance completion or deficiency notices. Upon receiving a deficiency notice, the supervisor or manager will be required to fulfill the mandatory training requirement identified.

Finding No. 14 – Incorrect Authorizations of Pay Differential

The Department agrees with this finding, which was due to a misinterpretation of the pay differential and subsequent miscalculation of qualifying eligibility months for the employee. HR management has re-reviewed the differential with HR staff, and provided additional training, to ensure this error does not reoccur.

Finding No. 18 – Leave Reduction Policy and/or Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits

In March 2018, the Department issued an Employee Leave Management Administration Division Memorandum requiring employees whose leave balances were above the maximum accrual limit to submit a leave reduction plan to their supervisor beginning

April 1, 2018 and each January 1 thereafter. HR will issue the memorandum annually and monitor leave balances quarterly to evaluate effectiveness.

Finding No. 22 – Performance Appraisals Were Not Provided to All Employees

The Department is committed to providing our employees opportunities for professional learning and growth and recognizes the importance of providing written performance appraisals with permanent employees at least once in each twelve calendar months following the completion of an employee's probationary period. In July 2017, HR introduced a progressive discipline training course for supervisors and managers which discusses the importance of written appraisals for all employees. In October 2018, HR introduced two new training courses for supervisors and managers, titled Best Hiring Practices and Communicating Performance Expectations. Both courses have a focus on the importance of establishing expectations and completing probationary reports and performance appraisals. In addition to these training efforts, the Department will enhance tracking and monitoring methods to improve compliance.

Thank you for the opportunity to respond to the draft Compliance Review Report. If you have any questions, please contact Erin Whitsell, Assistant Chief, Human Resources Branch, at (916) 345-7260 or at Erin.Whitsell@dhcs.ca.gov.

Sincerely,

Darci Haesche, Chief
Human Resources Branch
Administration Division
Department of Health Care Services

cc: Jennifer Kent, Director
Department of Health Care Services

Erika Sperbeck
Chief Deputy Director
Policy and Program Support
Department of Health Care Services

Lisa Keeler, Deputy Director
Administration Division
Department of Health Care Services