

# **COMPLIANCE REVIEW REPORT**

## **EMERGENCY MEDICAL SERVICES AUTHORITY**

Compliance Review Unit  
State Personnel Board  
December 23, 2015

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## **INTRODUCTION**

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

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

## **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of Emergency Medical Services Authority (EMSA) personnel practices in the areas of appointments, EEO, and mandated training from May 31, 2014, through May 31, 2015. There were no examinations conducted and no PSC's in effect during the compliance review period. The following table summarizes the compliance review findings.

Area	Finding	Severity
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time	Serious
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed	Serious
Appointments	Equal Employment Opportunity Questionnaires Were Not Separated From All Applications	Very Serious

Area	Finding	Severity
Equal Employment Opportunity	An Upward Mobility Process Has Not Been Established	Very Serious
Equal Employment Opportunity	A Disability Advisory Committee Has Not Been Established	Very Serious
Mandatory Training	Supervisor Training Complied with Civil Service Laws	In Compliance

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 EMSA is charged with providing leadership in developing and implementing Emergency Medical Services (EMS) systems throughout California, and setting standards for the training and scope of practice of various levels of EMS personnel. The EMSA also has responsibility for promoting disaster medical preparedness throughout the state, and when required, coordinating and supporting the state's medical response to major disasters. Through standard setting, consensus building, and leadership, the EMSA plays a central role in improving the quality of emergency medical services available for all Californians.

Day-to-day EMS system management is the responsibility of the local and regional EMS agencies. It is principally through these agencies that the EMSA works to promote quality EMS services statewide. EMSA staff also work closely with many local, state and federal agencies, and private enterprises with emergency and/or disaster medical services roles and responsibilities. The EMSA is authorized 71 positions and also has 19 temporary positions, for an overall staffing level of 90.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing EMSA's appointments, EEO program, and mandated training program from May 31, 2014, through May 31, 2015. The primary objective of the review was to determine if the EMSA personnel

practices, policies, and procedures complied with state civil service laws and board regulations, and to recommend corrective action where deficiencies were identified.

A cross-section of EMSA 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 EMSA provided, which includes examination bulletins, 511b's, scoring results, notice of personnel action (NOPA) forms, vacancy postings, application-screening criteria, hiring interview rating criteria, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The review of the EMSA 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).

In addition, the EMSA mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors were provided supervisory and sexual harassment training within statutory timelines.

On November 20, 2015, an exit conference was held with the EMSA to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the EMSA's written response on December 8, 2015, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Appointments**

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and board rules. (Gov. Code, § 19050.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the compliance review period, the EMSA made 30 appointments. The CRU reviewed 21 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	4
Senior Emergency Services Coordinator, OES	Certification List	Permanent	Full Time	1
Staff Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	1
Attorney III	Retired Annuitant	Temporary	Intermittent	2
Office Technician	Training and Development	Permanent	Full Time	1
Emergency Management Coordinator	Transfer	Permanent	Full Time	1
Office Technician (Typing)	Transfer	Permanent	Full Time	1
Program Manager I, OES	Transfer	Permanent	Full Time	3
Program Manager II, OES	Transfer	Permanent	Full Time	1
Program Manager III, OES	Transfer	Permanent	Full Time	1
Senior Emergency Services Coordinator	Transfer	Permanent	Full Time	2
Staff Services Analyst (General)	Transfer	Permanent	Full Time	2
Staff Services Manager I	Transfer	Permanent	Full Time	1

**FINDING NO. 1 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time**

**Summary:** The EMSA submitted 21 appointment files that did not contain 18 NOPA's.

**Criteria:** In relevant part, civil service laws require that the employment procedures of each state agency shall conform to the federal and state laws governing employment practices. (Gov. Code, § 18720.) State agencies are required to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after the

records and files are initially created or received. (Gov. Code, § 12946.)

**Severity:** Serious. Without documentation, the CRU could not verify if the appointments were properly conducted.

**Cause:** The EMSA states that the unit responsible for ensuring NOPA's are signed and returned by the appointed individual has experienced high turnover recently, including the departure of 2 new supervisors, 1 new manager, and 8 new specialists.

**Action:** The EMSA has submitted a corrective action plan and supporting documentation for ensuring compliance in meeting the retention requirements of Government Code section 12946; therefore, no further action is required at this time.

**FINDING NO. 2 – Probationary Evaluations Were Not Provided for All Appointments Reviewed**

**Summary:** The EMSA did not prepare, complete, and/or retain required probationary reports of performance for 5 of the 21 appointments reviewed by CRU, as reflected in the table below.

Classification	Appointment Type	No. of Appointments	No. of Uncompleted Prob. Reports
Associate Governmental Program Analyst	Certification List	4	8
Senior Emergency Coordinator, OES	Certification List	1	3
Staff Information Systems Analyst (Specialist)	Certification List	1	3
Office Technician (Typing)	Transfer	1	3
Staff Services Analyst (General)	Transfer	2	3
Total		9	20

**Criteria:** A new probationary period 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, subd. (c)(1) & (2).)

During the probationary period, the appointing power is required to evaluate the work and efficiency of a probationer at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Gov. Code, § 19172; Cal. Code Regs., tit. 2, § 599.795.) The appointing power must prepare a written appraisal of performance each one-third of the probationary period. (Cal. Code Regs., tit. 2, § 599.795.)

**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 EMSA states that some managers and supervisors were not completing probationary reports and prior human resources staff were not following up to ensure completion.

**Action:** The EMSA has submitted a corrective action plan for ensuring compliance in meeting the probationary requirements of Government Code section 19172; therefore, no further action is required at this time.



### **FINDING NO. 3 – Equal Employment Opportunity Questionnaires Were Not Separated From Applications**

- Summary:** Out of 21 appointments reviewed, 2 appointment files included applications where EEO questionnaires were not separated from the STD 678 employment application.
- Criteria:** Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status). Applicants for employment in state civil service are asked to provide voluntarily ethnic data about themselves where such data is determined by California Department of Human Resources (CalHR) to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD 678) states, "This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions."
- Severity:** Very Serious. The applicants' protected classes were visible, subjecting the agency to potential liability.
- Cause:** The EMSA states that Program Liaisons who were responsible for sorting and separating the EEO questionnaires from the applications failed to do so in 2 of the 21 appointment files reviewed.
- Action:** The EMSA has submitted a corrective action plan for ensuring EEO questionnaires are separated from the STD 678 employment applications; therefore, no further action is required at this time.

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

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

The CRU reviewed the DWR EEO program that was in effect during the compliance review period.

### **FINDING NO. 4 – An Upward Mobility Process Has Not Been Established**

<b>Summary:</b>	The EMSA does not currently have an upward mobility program established.
<b>Criteria:</b>	Each state agency must establish an effective upward mobility program for employees in low-paying occupational groups. (Gov. Code, § 19401.)
<b>Severity:</b>	<u>Very Serious.</u> Employees in low-paying occupational groups are not provided assistance to develop and advance to their highest potential.

**Cause:** The EMSA states that their Upward Mobility Plan has been in development but due to high turnover with their only Personnel Analyst position, its completion has been delayed.

**Action:** It is recommended that within 60 days of the Executive Officer's approval, the EMSA must submit to the CRU a written corrective action plan that the department will implement to ensure conformity with upward mobility requirements of Government Code section 19401. Copies of any relevant documentation should be included with the plan.

#### **FINDING NO. 5 – A Disability Advisory Committee Has Not Been Established**

**Summary:** The EMSA does not have an active DAC.

**Criteria:** 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).)

**Severity:** Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a DAC may limit an agency's ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.

**Cause:** The EMSA states that they have been unable to form a DAC due to their department's small size.

**Action:** The EMSA must take appropriate steps to ensure the establishment of a DAC, comprised of members who have disabilities or who have an interest in disability issues.

It is therefore recommended that no later than 60 days after the SPB's Executive Officer's approval of these findings and recommendations, the EMSA must establish a DAC and submit to the CRU a written report of compliance, including the DAC roster, agenda, and meeting minutes.

### Mandated Training

Each state agency shall offer at least semiannually to each of its filers an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, § 11146.1)

Each department must provide its new supervisors supervisory training within twelve months of appointment. (Gov. Code, § 19995.4 subd. (b) and (c).) The training must be a minimum of 80 hours, 40 of which must be structured and given by a qualified instructor. The other 40 hours may be done on the job by a higher-level supervisor or manager. (Gov. Code, § 19995.4 subd. (b).)

Additionally, each department having 50 or more employees must provide its supervisors two hours of sexual harassment training every two years. New supervisors must be provided supervisory training within six months of appointment. (Gov. Code, § 12950.1 subd. (a).)

The CRU reviewed the EMSA mandated training program that was in effect during the compliance review period.

### **FINDING NO. 6 – Mandated Training Complied with Civil Service Laws**

The EMSA provided semiannual ethics training to its 1 filer during the 2-year calendar year period commencing in 2013. The EMSA also provided supervisory training to its 3 new supervisors within 12 months of appointment. In addition, the EMSA provided sexual harassment training its 3 new supervisors within 6 months of appointment, and semiannual sexual harassment training to its 19 supervisors every 2 years

### **DEPARTMENTAL RESPONSE**

The EMSA department response is attached as Attachment 1.

### **SPB REPLY**

Based up on the EMSA written response, the EMSA will comply with the CRU recommendations and findings, and provide the CRU with a corrective action plan with supporting documentation for findings 4 and 5. The EMSA submitted corrective action plans for departmental findings numbers 1, 2, and 3.

It is further recommended that the EMSA continue to comply with the afore-stated recommendations and submit to the CRU a written report of compliance within 60 days of the Executive Officer's approval of this report.

**EMERGENCY MEDICAL SERVICES AUTHORITY**

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December 8, 2015

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**SUBJECT: State Personnel Board (SPB) Compliance Review (CR) Response**

This letter is in response to the draft SPB CR Report submitted to the Emergency Medical Services Authority (EMSA)/Department of General Services (DGS) by the State Personnel Board (SPB) for review. Both EMSA/DGS have reviewed the CR report and does not dispute the findings.

Both EMSA/DGS take these compliance issues very seriously and have taken into account the findings identified in the CR report and begun the necessary corrective actions to bring the Department into compliance. Subsequent action beyond the responses to each finding below will be addressed and documented in a corrective action plan.

**Finding # 1: Appointment Documentation Was Not Kept for the Appropriate Amount of Time**

**Cause:** DGS/EMSA acknowledges the finding and is aware of the necessary retention requirements for appointment documentation. DGS does have a procedure in place to ensure NOPAs are signed and returned by the appointed individual. This procedure is executed by a unit which has experienced high turnover recently including two new supervisors, a new manager and eight new specialists.

**Corrective Action:** DGS has released HR Memo 15-025 to all OHR staff, program liaisons, department managers and other relevant parties. This memo includes which documents must be retained in the appointment package and for how long. In addition, the procedure to ensure signed NOPA's are received from program will be communicated to each specialist and management will evaluate if a new procedure is necessary.

**Finding # 2: Probationary Evaluations Were Not Provided for All Appointments Reviewed**

**Cause:** Some managers and supervisors were not completing probationary reports and prior HR staff was not following up to ensure completion.

**Corrective Action:** EMSA is aware of the importance to evaluate the work and efficiency of a probationer at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. The importance of completing all probationary reports is a topic discussed during the mandatory 2-week California Health and Human Services Supervisors' Training Academy, and will continue to be emphasized during the training.

An email will be sent in December 2015 to the EMS Authority's management team as a reminder of the importance of completing probationary reports with the understanding that this email will also serve as a reminder to complete and submit any outstanding probationary reports. Additionally, the EMS Authority is in the process of modifying our internal personnel database system to include a probationary reporting and tracking module for all employees. This module will be used by the Department's personnel analyst to further monitor and ensure submittal of probationary reports for inclusion in the official personnel file for each employee. Furthermore, a monthly compliance report will be provided to the Executive Team.

**Finding #3:** Equal Employment Opportunity Questionnaires Were Not Separated From Applications

**Cause:** DGS/EMSA acknowledges that out of 21 appointments reviewed, 2 appointment files included applications where EEO questionnaires were not separated from the STD 678 employment application. Applicants are unaware that completion of the EEO Questionnaire is only required when applying for state examinations and not when applying for vacant positions. Program Liaisons are responsible to sort and separate the EEO questionnaires from applications received.

**Corrective Action:** DGS has released HR Memo 15-025 to all OHR staff, program liaisons, department managers and other relevant parties. This memo includes the removal and confidential shredding of every EEO Questionnaire included in an application received for a vacancy. DGS also is working to add verbiage to its vacancies to help reduce the amount of questionnaires received.

**Finding #4:** An Upward Mobility Process Has Not Been Established

**Cause:** The EMS Authority's Upward Mobility Plan has been in development but high turnover in the Department's only personnel analyst position has delayed the completion of the policy.

**Corrective Action:** The EMS Authority has made it a priority to complete the development and implementation of an Upward Mobility Plan by January 2016. The Upward Mobility Plan will provide employees with information on how to develop their qualifications in order to be competitive in achieving their individual career goals.

**Finding #5:** A Disability Advisory Committee Has Not Been Established

**Cause:** The EMS Authority has been unable to form a DAC due to the size of the Department.

**Corrective Action:** The EMS Authority understands that this is an important mandated committee and we are in the process of taking the necessary steps to initiate a DAC. Specifically, the Director will be sending out an email in December 2015 to all staff to recruit volunteers to participate on this committee. If there is not enough interest expressed during this recruitment process the EMS Authority will partner with a Department with an existing DAC. This assigned staff member will report back to the Director on issues of concern to employees with disabilities.

**Finding #6:** Found to be "in compliance" and no further action is required.

If you have questions or need additional information, feel free to contact me at 916-431-3737 or by email at [rick.trussell@emsa.ca.gov](mailto:rick.trussell@emsa.ca.gov).

Sincerely,



Richard Trussell  
Chief of Administration  
Emergency Medical Services Authority