



COMPLIANCE REVIEW REPORT

STATE INDEPENDENT LIVING COUNCIL

Compliance Review Unit
State Personnel Board
October 5, 2020

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INTRODUCTION

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

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

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

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

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the State Independent Living Council's (SILC's) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Finding
Equal Employment Opportunity	A Disability Advisory Committee Has Not Been Established
Equal Employment Opportunity	Equal Employment Opportunity Officer Is Not at the Managerial Level
Mandated Training	Ethics Training Was Not Provided for All Filers
Mandated Training	Supervisory Training Was Not Provided for All Supervisors
Mandated Training	Sexual Harrassment Prevention Training Was Not Provided for All Filers
Leave	Incorrectly Posted Leave Usage and/or Leave Credit
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records
Nepotism	Department Does Not Maintain a Current Written Nepotism Policy
Workers' Compensation	No Evidence that the Department is Out of Compliance with Workers' Compensation Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Were Not Provided to All Employees

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

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

BACKGROUND

In collaboration with the state network of Independent Living Centers (ILCs) and the California Department of Rehabilitation, the SILC prepares a State Plan for Independent Living which sets the policy and funding levels for the state's network of ILCs and services. To help guide this policy, the SILC solicits continual public feedback on the effectiveness of independent living services and the changing needs of the community.

In addition, to preparing and updating the State Plan for Independent Living, the SILC monitors the implementation of it. The SILC also coordinates with similar agencies and councils at the state and federal levels to increase communication and help assure that the services to people with disabilities are delivered effectively.

The Department of General Services (DGS) performs human resources operations for the SILC. The SILC has three permanent employees.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the SILC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if the SILC's 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.

The SILC did not conduct any examinations, permanent withhold actions, unlawful appointment investigations, and did not make any regular or additional appointments during the compliance review period. Furthermore, during the review period, the SILC did not issue or authorize hiring above the minimum (HAM) requests, red circle rate requests,

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

arduous pay, bilingual pay, monthly pay differentials, alternate range movements or out-of-class assignments.

The review of the SILC's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; the reasonable accommodation program; the discrimination complaint process; and the Disability Advisory Committee (DAC).

The SILC did not execute any PSC's during the compliance review period.

The SILC's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors, managers, and CEAs were provided leadership and development training and sexual harassment prevention training within statutory timelines.

The CRU reviewed the SILC's Leave Activity and Correction Certification forms to verify that the SILC 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 SILC's units in order to ensure they maintained accurate and timely leave accounting records.

During the compliance review period, the SILC did not have employees with non-qualifying pay period transactions, did not track any temporary intermittent employees by actual time worked during the compliance review period, and did not authorize Administrative Time Off (ATO).

Moreover, the CRU reviewed the SILC's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the SILC's policies and processes adhered to procedural requirements.

The SILC declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the SILC's written response on September 10, 2020, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring

the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

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

FINDING NO. 1 – A Disability Advisory Committee Has Not Been Established

Summary: The SILC 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 SILC is a very small commission with three employees, which is not enough employees to staff a DAC.

Corrective Action: Within 90 days of the date of this report, the SILC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure the establishment of a DAC, comprised of members who have disabilities or who have an interest in disability issues. SILC may also explore the option of joining an existing DAC, wherein that committee can advise SILC's Executive Director, as appropriate. Copies of relevant documentation demonstrating that the corrective action has been implemented, including the new DAC roster, agenda, and meeting minutes, must be included with the corrective action response.

FINDING NO. 2 – Equal Employment Opportunity Officer Is Not at the Managerial Level

Summary: The SILC's EEO Officer is an Associate Governmental Program Analyst. This is a rank and file classification.

Criteria: California Government Code section 19795, subdivision (a), states "the appointing power of each state agency and the director of each state department shall appoint, at the managerial level, an equal employment opportunity officer, who shall report directly to, and be under the supervision of, the director of the department, to develop, implement, coordinate, and monitor the agency's equal employment opportunity program."

Severity: Very Serious. The EEO Officer is responsible for developing, implementing, coordinating, and monitoring an effective EEO program. Due to the substantial responsibilities held by each department's EEO Officer, it is essential that each department dedicate adequate resources to the oversight of the EEO program.

Cause: The SILC was not aware that the EEO Officer is required to be at a managerial level.

Corrective Action: The SILC submitted documentation to demonstrate that the duties of the EEO Officer are now the responsibility of the Executive Director. This meets the requirement of the EEO Officer being at the managerial level or above. Therefore, no further action is required at this time.

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), and (b), & 19995.4, subd. (b).)

Additionally, the training must be successfully completed within the term of the employee’s probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

Within 12 months of the initial appointment of an employee to a management or 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 biennial basis. (*Ibid.*)

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

The CRU reviewed the SILC's mandated training program that was in effect during the compliance review period, August 1, 2017 , through July 30, 2019.

FINDING NO. 3 – Ethics Training Was Not Provided for All Filers

Summary: The SILC did not provide ethics training to one existing filer. In addition, the SILC did not provide ethics training to its one new filer within six months of appointment.

Criteria: New filers must be provided ethics training within six months of appointment. Existing filers must be trained at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).)

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

Cause: The SILC's filer submits his/her Form 700, Statement of Economic Interests directly through the Fair Political Practices Commission. Adequate tracking of the ethics training requirement was not in place.

Corrective Action: Within 90 days of this report, the SILC must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 4 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The SILC did not hire any new supervisors within the audit period who were required to complete sexual harassment prevention training (SHPT) within six months of appointment. However, the SILC did not provide sexual harassment prevention training to one existing supervisor 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 that all new and existing supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

Cause: The SILC was not aware that non-supervisory management positions were required to take sexual harassment prevention training.

Corrective Action: Within 90 days of the date of this report, the SILC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that supervisors are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 5 – Supervisory Training Was Not Provided for All Supervisors

Summary: The SILC did not provide basic supervisory training to one new supervisor within 12 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 biennially. (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 SILC was not adequately tracking this requirement and did not know which trainings meet the basic supervisory training requirement.

Corrective Action: Within 90 days of the date of this report, the SILC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors are provided supervisory training within twelve months of appointment as required by Government Code section 19995.4. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. (*Ibid.*) If an employee's attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error

occurred. (*ibid.*) Accurate and timely attendance reporting is required of all departments and is subject to audit. (*ibid.*)

During the period under review, February 1, 2019, through April 30, 2019, the SILC reported one unit comprised of two active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
February 2019	001	2	2	0
March 2019	001	2	2	0
April 2019	001	2	2	0

FINDING NO. 6 – Incorrectly Posted Leave Usage and/or Leave Credit

Summary: The SILC did not correctly enter one of six timesheets into the Leave Accounting System (LAS) during the April 2019 pay period. As a result, one employee retained six more hours of leave credits than she should have accrued.

Criteria: Departments shall create a monthly internal audit process to verify that all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*ibid.*)

Severity: Very serious. Errors in posting leave usage and/or leave credits puts the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, the risk of liability related to recovering inappropriately credited leave hours and funds, and/or the increase of the state’s pension payments.

Cause: The DGS performs HR operations for the SILC. Consequently, the SILC does not have the ability or access to enter timesheet information into the LAS. Also, without access, the SILC cannot

determine which leave credits and/or usages are posted inaccurately, or correct any errors in the LAS.

SPB Response: Ultimately, SILC, as the hiring authority, is responsible for the compliance of all human resources functions. SILC may want to have discussions with its contractor about compliance with existing laws and policy, and/or explore seeking a different contractor to perform its human resources functions.

Corrective Action: Within 90 days of the date of this report, the SILC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Human Resources Manual Section 2101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 7 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The SILC failed to provide completed Leave Activity and Correction Certification forms for one unit reviewed during the February, March and April 2019 pay periods.

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

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

Cause: The DGS performs human resources operations for the SILC. As such, the SILC does not have access to the LAS to enter or correct

timesheet transactions. Consequently, the SILC does not have a mechanism to complete the required Leave Activity and Correction Certification forms accurately.

SPB Response: Ultimately, SILC, as the hiring authority, is responsible for the compliance of all human resources functions. SILC may want to have discussions with its contractor about compliance with existing laws and policy, and/or explore seeking a different contractor to perform its human resources functions.

Corrective Action: Within 90 days of the date of this report, the SILC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that their monthly internal audit process is documented and that all leave input is keyed accurately and timely. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave Reduction Efforts

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

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, the employee may accumulate the unused portion."² (Cal. Code Regs., tit. 2, § 599.737.) If it appears an excluded employee will have a vacation or annual leave balance that will be above the maximum amount³ as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

² For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 06 there is no established limit and for Bargaining Unit 05 the established limit is 816 hours.

³ Excluded employees shall not accumulate more than 80 days.

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

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

FINDING NO. 8 – Department Does Not Maintain a Current Written Nepotism Policy

Summary: The SILC does not maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees.

Criteria: It is the policy of the State of California to recruit, hire and assign all employees on the basis of fitness and merit in accordance with civil service statutes, rules and regulations. (Human Resources Manual

Section 1204). All department policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring, and assigning employees on the basis of merit. (*Ibid.*)

Severity: Very Serious. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. Departments must take proactive steps to ensure that the recruitment, hiring, and assigning of all employees is done on the basis of merit and fitness in accordance with civil service statutes. Maintaining a current written nepotism policy, and its dissemination to all staff, is the cornerstone for achieving these outcomes.

Cause: The SILC was not aware of the requirement to maintain its own written nepotism policy. In the past, the SILC thought maintaining its own policy was not necessary because it is a very small department of three employees.

Corrective Action: Within 90 days of the date of this report, the SILC must submit to the SPB a written corrective action response which includes an updated nepotism policy which contains requirements outlined in Human Resources Manual section 1204, and documentation demonstrating that it has been distributed to all staff.

Workers' Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subds. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401 subd. (a).)

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers' compensation coverage is not mandatory for volunteers as it is for employees.

(*Ibid.*) This is specific to the legally uninsured state departments participating in the Master Agreement. (*Ibid.*) Departments with an insurance policy for workers' compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*)

In this case, the SILC did not employ volunteers during the compliance review period.

FINDING NO. 9 – No Evidence that the Department is Out of Compliance with Workers' Compensation Laws, Board Rules, and/or CalHR Policies and Guidelines

During the review period, there was no indication that the SILC was out of compliance with applicable Workers' Compensation Law, Board Rules, and/or CalHR policies and or guidelines. SILC has not appointed any new employees for three and a half years, and they reported no work-related injuries within current record retention requirements.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must "prepare performance reports." Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee's probationary period.

The CRU selected two permanent SILC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due	Date Performance Appraisal Provided
Associate Governmental Program Analyst	12/31/18	None
Staff Services Manager I (Specialist)	1/31/19	None

FINDING NO. 10 – Performance Appraisals Were Not Provided to All Employees

Summary: The SILC did not provide annual performance appraisals to both employees reviewed after the completion of the employee's probationary period.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

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

Cause: Although, the SILC's Executive Director keeps regular open lines of communication between management and employees; formal annual performance appraisals were not completed after the probationary period.

Corrective Action: Within 90 days of the date of this report, the SILC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

DEPARTMENTAL RESPONSE

The SILC's departmental response is attached as Attachment 1.

SPB REPLY

Based upon the SILC's written response, the SILC will comply with the corrective actions specified in these report findings. Within 90 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified, must be submitted to the CRU.



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Subject: SILC Compliance Review Report Finding Response

Ms. Doi,

Please see the below response to the findings from the State Independent Living Council's (SILC) Compliance Review. You can contact the Office Manager Danielle Hess if you have any questions.

FINDING NO. 1 – A Disability Advisory Committee Has Not Been Established
Cause: The SILC employs 3 people, which does not create a significant bulk of employees with which to staff a DAC. As a Disability Advocacy Agency, the SILC does have a focus on recruiting and hiring qualified individuals with disabilities as a normal part of our work.

Action item: The SILC has asked to join the DAC of a partner agency, and if we aren't able to join them we will look for another agency or establish our DAC.

FINDING NO. 2 – Equal Employment Opportunity Officer Is Not at the Managerial level

Cause: SILC Staff was not aware of the requirement that the EOE Officer needed to be at a managerial level, and instead had it assigned to the HR Liaison. This duty has been reassigned to the Executive Director and their Duty Statement has been amended accordingly.

Action item: The SILC has already reassigned this task to the SILC's Executive Director, who has the appropriate level of responsibility.

FINDING NO. 3 – Ethics Training Was Not Provided for All Filers

Cause: Eligible SILC Staff file their Form 700 Statement of Economic Interests directly through the Fair Political Practices Commission. Adequate tracking of the ethics training requirement wasn't in place.

Action item: Develop clear written protocols for what trainings have to be taken by SILC Staff, when they need to be taken, and how they will be tracked. This will be complete by December 30, 2020.

FINDING NO. 4 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Cause: SILC staff were not adequately tracking this requirement, and further were not aware that even non-supervisory management positions needed to take this training.

Action item: Develop clear written protocols for what trainings have to be taken by SILC Staff, when they need to be taken, and how they will be tracked. This will be complete by December 30, 2020.

FINDING NO. 5 – Supervisory Training Was Not Provided for All Supervisors

Cause: SILC staff were not adequately tracking this requirement and haven't received information on what trainings qualify to meet this requirement.

Action item: The SILC will work with the Department of General Services (DGS), who we contract with to provide HR services, to identify appropriate training for supervisors. This information will be included in the new written protocols on training and tracking training for SILC staff. This will be complete by December 30, 2020.

FINDING NO. 6 – Incorrectly Posted Leave Usage and/or Leave Credit

Cause: The SILC does not have the ability or access to enter timesheet information into the Leave Accounting System (LAS). This is handled by DGS, with which the SILC contracts for HR services.

Action items: The SILC will need to work with DGS HR to develop a system for validating that timesheets are entered into LAS correctly.

FINDING NO. 7 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Cause: The SILC does not have access to enter our timesheet information into the Leave Accounting System (LAS), and as such doesn't have a mechanism by which we can identify when Leave Activity and Correction Certification forms need to be completed.

Action items: The SILC will need to work with DGS HR to develop a system for determining when Leave Activity and Correction Certification forms need to be completed and having those forms completed by the appropriate persons.

FINDING NO. 8 – Department Does Not Maintain a Current Written Nepotism Policy

Cause: The SILC was unaware of the requirement to have a written nepotism policy. As a small department of three employees, it was not thought necessary in the past.

Action item: The SILC will develop and approve a new nepotism policy based on the most current guidance available in the Human Resources Manual Section 1204. This will be complete by December 30, 2020.

FINDING NO. 9 – No Evidence that the Department is Out of Compliance with Workers' Compensation Laws, Board Rules, and/or CalHR Policies and Guidelines

Cause: No response needed

Action item: No action needed

FINDING NO. 10 – Performance Appraisals Were Not Provided to All Employees

Cause: The SILC Executive Director keeps regular open lines of communication between management and employees but did not complete the formal annual performance appraisals after the probationary period.

Action item: Yearly formal performance appraisals will be scheduled and this requirement will be included in the SILC's formal HR procedures.



Carrie England
Executive Director
State Independent Living Council