



# **COMPLIANCE REVIEW REPORT**

## **OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT**

Compliance Review Unit  
State Personnel Board  
February 12, 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 with 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 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 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.

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the Office of Environmental Health Hazard Assessment (OEHHA)'s personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation, leave, and policy and processes<sup>1</sup>. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Appointments	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
Equal Employment Opportunity	Disability Advisory Committee Is Not Active
Personal Services Contracts	Personal Services Contracts Complied With Procedural Requirements
Mandated Training	Ethics Training Was Not Provided for All Filers
Compensation	Incorrect Application of Salary Determination Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation	Incorrect Application of Alternate Range Criteria
Leave	Leave Activity and Correction Certification Forms Were Not Completed for All Leave Records
Leave	Department Has Not Implemented a Monthly Internal Audit Process to Verify Timesheets are Keyed Accurately and Timely
Leave	Employee Time and Attendance Records Were Not Retained
Leave	Leave Reduction Plans Were Not Provided for All Employees Whose Leave Balances Exceeded Established Limits

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

Area	Finding
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Not Provided to All Employees

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

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

### **BACKGROUND**

The OEHHA’s principal mission is to protect and enhance public health and the environment by objective scientific evaluation of the risks posed by hazardous substances. The OEHHA performs risk assessments for various programs under the California Environmental Protection Agency (CalEPA), as well as other state and local agencies. The OEHHA provides these agencies and programs with the scientific tools and information upon which to base risk management decisions. Distinct programs within the OEHHA focus on assessing health risks from exposure to chemicals in air, drinking water, food (including fish and shellfish), consumer products and hazardous waste. The OEHHA also evaluates pollution burdens and vulnerabilities in California communities and tracks the key impacts of climate change on California.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the OEHHA’s examinations, appointments, EEO program, PSC’s, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup> when applicable. The primary objective of the review was to determine if OEHHA’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.

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<sup>2</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

A cross-section of the OEHHA's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the OEHHA provided, which included examination plans, examination bulletins, job analyses, and scoring results. The OEHHA did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the OEHHA's appointments were selected to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the OEHHA 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 OEHHA did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the OEHHA did not make any additional appointments during the compliance review period.

The OEHHA's appointments were also selected for review to ensure the OEHHA applied salary regulations accurately and correctly processed employees' compensation. The CRU examined the documentation that the OEHHA provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or appointees' application. During the compliance review period, the OEHHA did not issue or authorize HAM requests, arduous pay, bilingual pay, red circle rates, out of class pay, or any other monthly pay differential.

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

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<sup>3</sup>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 OEHHA'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 and managers were provided supervisory and sexual harassment prevention training within statutory timelines.

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

The CRU also identified the OEHHA's employees whose current annual leave, or vacation leave credits, exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Additionally, the CRU asked the OEHHA to provide a copy of their leave reduction policy. During the compliance review period, the OEHHA did not track any temporary intermittent employees by actual time worked, place any employee on Administrative Time Off, or initiate any state service 715 transactions.

Moreover, the CRU reviewed the OEHHA's policies and processes concerning nepotism and performance appraisals. The review was limited to whether the OEHHA's policies and processes adhered to procedural requirements. During the compliance review period, the OEHHA did not conduct Workers' Compensation claims and are not subject to the Administrative Hearing and Medical Interpreter Program.

The OEHHA declined to have an exit conference. The OEHHA was given until November 13, 2018, to submit a written response to the CRU's draft report. On November 27, 2018, the CRU received and carefully reviewed the response, 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, September 1, 2016 to May 31, 2017, the OEHHA conducted two examinations. The CRU reviewed both of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Applications
Associate Toxicologist	Open	Statement of Qualifications (SOQ) <sup>4</sup>	Continuous	13
Staff Toxicologist (Specialist)	Open	(SOQ)	Continuous	11

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

The CRU reviewed two open examinations, which the OEHHA administered in order to create eligible lists from which to make appointments. The OEHHA published and distributed examination bulletins containing the required information for all examinations. Applications received by the OEHHA were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed,

<sup>4</sup> 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.

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 OEHHA conducted 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, September 1, 2016 to May 31, 2017, the OEHHA made 23 appointments. The CRU reviewed 17 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Associate Business Management Analyst	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Environmental Scientist	Certification List	Limited Term	Full Time	2
Legal Analyst	Certification List	Permanent	Full Time	1
Research Scientist II (Epidemiology/ Biostatistics)	Certification List	Permanent	Full Time	2
Research Scientist III (Epidemiology/ Biostatistics)	Certification List	Limited Term	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appointments
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	1
Staff Programmer Analyst (Specialist)	Certification List	Permanent	Full Time	1
Staff Toxicologist (Specialist)	Certification List	Permanent	Full Time	3
Health Program Specialist I	Transfer	Permanent	Full Time	1
Personnel Specialist	Transfer	Retired Annuitant	Intermittent	1
Senior Accounting Officer (Specialist)	Transfer	Permanent	Full Time	1
Staff Toxicologist (Specialist)	Transfer	Retired Annuitant	Intermittent	1

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

**Summary:** The OEHHA did not provide four probationary reports of performance for four of the 17 appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	No. of Appointments Missing Probation Reports	No. of Missing Probation Reports
Research Scientist II (Epidemiology/Biostatistics)	Certification List	2	2
Staff Toxicologist (Specialist)	Certification List	2	2

**Criteria:** The service of a probationary period is required when an employee enters in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as CalHR may require. (Gov. Code § 19172.) CalHR's regulatory scheme provides that "a report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job." (Cal. Code Regs., tit. 2, § 599.795.) Specifically, a written appraisal of performance shall be made to the department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

**Severity:** Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

**Cause:** The OEHHA states the Human Resources Branch (HRB) has a process in place for probation reports wherein a memorandum is sent to the hiring supervisor once the NOPA is received from the State Controller's Office providing the supervisor with probationary report due dates. However, all probationary reports were not completed by the supervisors and submitted to the HRB. The OEHHA states it plans to remind supervisors when a probationary report is not received.

**Action:** It is recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the OEHHA submit to SPB a written corrective action plan that addresses the corrections the department will implement to ensure conformity with the probationary requirements of Gov. Code § 19172.

**FINDING NO. 3 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time**

**Summary:** Of the 17 appointments reviewed, the OEHHA failed to retain four NOPAs.

Classification	Appointment Type	Retention Document Missing
Research Scientist II (Epidemiology/Biostatistics)	Certification List	NOPA
Research Scientist III (Epidemiology/Biostatistics)	Certification List	NOPA
Staff Toxicologist (Specialist)	Certification List	NOPA
Staff Toxicologist (Specialist)	Certification List	NOPA

**Criteria:** As specified in section 26 of the Board’s regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.) Section 174 of the Board’s regulations specifically applies to examination applications and requires a two-year retention period.

**Severity:** Non-serious or Technical. Without documentation, the CRU could not verify if the appointments were properly conducted.

**Cause:** The OEHHA states the HRB has a process in place wherein the NOPA is provided to the supervisor to review with the employee. The supervisor is obligated to return the NOPA to the HRB. Four NOPAs were not returned as required. The OEHHA states it plans to send a reminder to the supervisor to return the NOPA.

**Action:** It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the OEHHA submit to the SPB a written corrective action plan that addresses the

corrections the department will implement to ensure conformity with the record retention requirements of Cal. Code Reg., tit. 2, § 26. 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. In a state agency with less than 500 employees, like OEHHA, the EEO Officer may be the Personnel Officer.

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).)

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 OEHHA's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the OEHHA. The OEHHA also provided evidence of its efforts to promote EEO in its hiring

and employment practices, to increase its hiring of persons with a disability, and to offer upward mobility opportunities for its entry-level staff.

However, the OEHHA does not have an active DAC as described in the finding below.

#### **FINDING NO. 4 – Disability Advisory Committee Is Not Active**

**Summary:** The OEHHA does not have an active DAC. In OEHHA’s previous compliance review report posted April 20, 2015, the SPB found that OEHHA did not have an established DAC during the review period. The OEHHA participated with the California Environmental Protection Agency’s DAC. Although the OEHHA has since established its own DAC, sporadic meetings have been held since February 2015.

**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 OEHHA states that they have an established DAC, but the committee has met sporadically since February 2015.

**Action:** The OEHHA must continue to take immediate steps to ensure that an active DAC is consistently maintained through regularly scheduled meetings. The OEHHA must submit to the CRU a written report of compliance, including the DAC roster, agenda, and meeting

minutes, no later than 60 days from the date of the SPB's Executive Officer's approval of these findings and recommendations.

**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, September 1, 2016 to September 30, 2017, the OEHHA had nine PSC's that were in effect. The CRU reviewed four contracts, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified
University of Washington	Air Quality Monitors	12/28/2015 - 04/30/2018	\$224,937.00	Yes
University of Arizona	Study Synthetic Turf Exposure	06/08/2017- 05/30/2018	\$95,914.69	Yes
Texas A&M University	Training and Risk Assessment	06/27/2017- 06/30/2019	\$145,000.00	Yes
Kaiser Foundation Research Institute	Study Women's Health	06/30/2017- 06/30/2018	\$9,425.00	Yes

**FINDING NO. 5 – 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 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.)

The total dollar amount of the PSC's reviewed was \$475,276.69. It was beyond the scope of the review to make conclusions as to whether OEHHA's justifications for the contract were legally sufficient. For all the PSC's reviewed, the OEHHA provided specific and detailed factual information in the written justification as to how each of the four contracts met at least one condition set forth in Government Code section 19131, subdivision (b). Accordingly, the OEHHA's 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 California Department of Human Resources (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 OEHHA's mandated training program that was in effect during the compliance review period. The OEHHA's basic supervisory training and sexual harassment prevention training were found to be in compliance. However, the OEHHA's ethics training was not in compliance.

#### **FINDING NO. 6 – Ethics Training Was Not Provided for All Filers**

**Summary:** The OEHHA did not provide ethics training to 13 of 32 new filers within six months of their appointment. In addition, the OEHHA did not provide ethics training to one of 120 existing filers.

**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 OEHHA states that it notifies employees annually of the requirements to complete ethics training, however consistent enforcement of the policy was not administered.

**Action:** The OEHHA must take appropriate steps to ensure that filers are provided ethics training within the time periods prescribed. It is therefore recommended that no later than 60 days after the SPB’s Executive Officer’s approval of these findings and recommendations, the OEHHA must submit a written corrective action plan to ensure compliance with ethics training mandates. Copies of any relevant documentation should be included with the plan.

**Compensation**

**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<sup>5</sup> upon appointment depending on the appointment type, the employee’s state employment and pay history, and tenure.

During the period under review, September 1, 2016 to May 31, 2017, the OEHHA made 23 appointments. The CRU reviewed 17 of those appointments to determine if the OEHHA applied salary regulations accurately and correctly processed employees’ compensation transactions. These appointments are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Business Management Analyst	Certification List	Permanent	Full Time	\$5,027
Attorney	Certification List	Permanent	Full Time	\$8,117
Environmental Scientist	Certification List	Limited Term	Full Time	\$5,116
Environmental Scientist	Certification List	Limited Term	Full Time	\$5,116

<sup>5</sup> “Salary Rate” is any one of the dollar amounts found within the salary ranges and steps of the Pay Plan established by the CalHR (CA CCR Section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Legal Analyst	Certification List	Permanent	Full Time	\$4,654
Research Scientist II (Epidemiology/ Biostatistics)	Certification List	Permanent	Full Time	\$6,820
Research Scientist II (Epidemiology/ Biostatistics)	Certification List	Permanent	Full Time	\$6,672
Research Scientist III (Epidemiology/ Biostatistics)	Certification List	Limited Term	Full Time	\$6,269
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	\$6,218
Staff Programmer Analyst (Specialist)	Certification List	Permanent	Full Time	\$5,323
Staff Toxicologist (Specialist)	Certification List	Permanent	Full Time	\$6,926
Staff Toxicologist (Specialist)	Certification List	Permanent	Full Time	\$6,926
Staff Toxicologist (Specialist)	Certification List	Permanent	Full Time	\$6,926
Health Program Specialist I	Transfer	Permanent	Full Time	\$5,571
Personnel Specialist	Transfer	Retired Annuitant	Intermittent	\$4,380
Senior Accounting Officer (Specialist)	Transfer	Permanent	Full Time	\$5,544
Staff Toxicologist (Specialist)	Transfer	Retired Annuitant	Intermittent	\$8,629

The CRU found no deficiencies in 16 out of 17 salary determinations that the OEHHA made during the compliance review period. The OEHHA 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.

However, the OEHHA incorrectly applied compensation laws, rules and/or CalHR policies and guidelines for one salary determination reviewed.

**FINDING NO. 7 – Incorrect Application of Salary Determination Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Summary:** The CRU found the following errors in the OEHHA's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Staff Programmer Analyst (Specialist)	Incorrect limited term (LT) salary determination reached that was not based on the employee's last permanent appointment. In addition, an incorrect anniversary date was calculated based on application of experience in a prior LT position. These errors resulted in incorrect salaries for subsequent transactions. The employee was incorrectly compensated.	599.676, 599.673, 599.682, 599.683

**Severity:** Very Serious. The OEHHA 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 and resulted in the civil service employee receiving incorrect and/or inappropriate pay amounts.

**Cause:** The OEHHA states that there were technical errors in calculating the salary rate and anniversary date for a Staff Programmer Analyst (Specialist) converting from limited term to permanent status.

**Action:** The OEHHA has corrected the error and provided its employee with an adjustment in pay for the months incorrectly compensated. In addition, the OEHHA has taken measures to ensure the accuracy of salary determinations through the establishment of an internal review process. Therefore, no further action is required at this time.

### 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, June 1, 2016 to February 28, 2017, the OEHHA made three alternate range movements within a classification<sup>6</sup>. The CRU reviewed all three of those alternate range movements to determine if the OEHHA applied salary regulations accurately and correctly processed employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary
Associate Toxicologist	Range A	Range B	Full Time	\$5,762
Associate Toxicologist	Range A	Range B	Full Time	\$5,762
Business Services Assistant (Specialist)	Range B	Range C	Full Time	\$3,875

The CRU found no deficiencies in two out of three alternate range movements that the OEHHA made during the compliance review period. The OEHHA appropriately calculated and processed the salaries for each transaction and correctly determined employees' salary, alternate range, and merit salary adjustment ensuring compliance with civil service laws, board rules and CalHR policies and guidelines.

However, the OEHHA incorrectly applied compensation laws, board rules and/or CalHR policies and guidelines for one alternate range change transaction.

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<sup>6</sup> 335 transactions.

## FINDING NO. 8 – Incorrect Application of Alternate Range Criteria

**Summary:** The CRU found the following error in the OEHHA's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Associate Toxicologist	The effective date of an Associate Toxicologist's alternate range change from Range A to Range B is incorrect. The employee received incorrect compensation.	ARC 286

**Severity:** Very Serious. The OEHHA 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 pay amounts.

**Cause:** The OEHHA agrees that a technical error was made in calculating the 12 months required to meet eligibility for the alternate range change. HR staff who is no longer with the department keyed the error.

**Action:** The OEHHA has corrected the error and made the adjustment in pay to its employee. It is further recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the OEHHA submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with Cal. Code Regs., tit. 2, § 599.676 and 599.673.

### 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).

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, December 1, 2016 to February 28, 2017, the OEHHA reported 16 units comprised of 125 active employees during the December 2016 pay period, 16 units comprised of 126 active employees during the January 2017 pay period, and 16 units comprised of 127 active employees during the February 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
January 2017	3	30	28	2
February 2017	2	9	7	1

**FINDING NO. 9 – Leave Activity and Correction Certification Forms Were Not Completed for All Leave Records**

**Summary:** OEHHA did not provide completed Leave Activity and Correction Certification forms for three out of three units reviewed during the January 2017 pay periods. Additionally, the OEHHA did not provide completed Leave Activity and Correction Certification forms for two out of two units reviewed during the February 2017 pay period.

**Criteria:** In accordance with California Code of Regulations, title 2, section 599.665, departments are responsible for maintaining accurate and timely leave accounting records for their employees. In an effort to ensure departmental compliance, CalHR mandates that departments audit processes include the comparison of “what has been recorded in the leave accounting system as accrued/earned or used by each employee to their attendance record for the pay period” (CalHR Online Manual Section 2101). CalHR also directs departments to identify and record all leave errors found using a Leave Activity and Correction Certification form (*Ibid.*). Moreover, CalHR requires that departments certify that all leave records for the unit/pay period identified on the certification form be reviewed regardless of whether errors were identified.

**Severity:** Non-serious or 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 OEHHA states Leave Activity and Balance reports and Leave Activity and Correction Certification forms are sent to attendance clerks and supervisors for completion. Not all forms were completed and returned. The OEHHA has established a checklist and is notifying attendance coordinators and supervisors when the Leave Activity and Correction Certification forms are not returned.

**Action:** It is recommended that the OEHHA take appropriate steps to implement the action plan stated above to ensure conformity with California Code of Regulations, title 2, section 599.665 and CalHR Online Manual Section 2101. No further action is required at this time.

**FINDING NO. 10 – Department Has Not Implemented a Monthly Internal Audit Process To Verify Timesheets are Keyed Accurately and Timely**

**Summary:** The OEHHA failed to implement a monthly internal audit process to verify time worked is keyed accurately and timely.

**Criteria:** In accordance with California Code of Regulations, title 2, section 599.665, 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 Reg., tit. 2, §599.665). CalHR also directs that departments identify and record all leave errors found using a Leave Activity and Correction Certification form (Ibid.). Moreover, CalHR requires that departments certify that all leave records for the unit/pay period identified on the certification form have been reviewed regardless of whether errors were identified.

**Severity:** Serious. The OEHHA failed to key the correct amount of hours an employee worked at the conclusion of the pay period, which affected

employee compensation. 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 OEHHA states it has an internal audit process to verify correct keying of time. However, not all parties completed their portion. HRB plans to add a checklist to the process to validate receipt of the LAB Report and Leave Activity and Correction Certification form from each Attendance Coordinator/Supervisor.

**Action:** It is therefore recommended that within 60 days of the SPB's Executive Officer's approval of these findings and recommendations, the OEHHA submit to CRU a written corrective action plan that addresses the corrections the department will implement to ensure and verify all leave input into the leave accounting system is keyed accurately and timely. Copies of any relevant documentation should be included with the plan.

#### **FINDING NO. 11 – Employee Time and Attendance Records Were Not Retained**

**Summary:** In reviewing the OEHHA's timekeeping practices and procedures, as applied to five selected units from January 2017 through February 2017, the CRU found that the OEHHA did not retain two of 30 timesheets from the January 2017 pay period and one of nine timesheets from the February 2017 pay period.

**Criteria:** In accordance with California Code of Regulations, title 2, section 599.665, departments are responsible for maintaining accurate and timely leave accounting records for their employees. In an effort to ensure departmental compliance, CalHR mandates that "each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. Such records shall be kept in the form and manner prescribed by the Department of Finance in connection with its powers to devise, install and supervise a modern

and complete accounting system for state agencies.” (California Code of Regulations, title 2, section 599.665.)

**Severity:** Serious. All employees must submit attendance records each pay period, regardless if leave was used. Without documentation, the CRU could not verify if the OEHHA entered employees’ leave into their leave accounting system accurately.

**Cause:** The OEHHA states it requires all employees to complete a monthly timesheet and has a process established with Attendance Coordinators to receive them. Not all employees comply. The OEHHA plans to work with the Attendance Coordinators and Supervisors to ensure all timesheets are received. When a timesheet is missing, respective parties will be notified by email with a deadline for submittal.

**Action:** It is recommended that the OEHHA take appropriate steps to implement the action plan stated above to ensure conformity with California Code of Regulations, title 2, section 599.665. No further action is required at this time.

### 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<sup>7</sup>. 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).

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<sup>7</sup> 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 for 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 December 2017, OEHHA had 24 employees who exceeded the established limits of vacation or annual leave. The CRU reviewed 13 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
CEA	M01	202.00	No
Research Scientist III (Epidemiology/Biostatistics)	R10	326.00	No
Research Scientist Supervisor I (Epidemiology/Biostatistics)	S10	537.50	No
Senior Accounting Officer (Specialist)	R01	103.75	No
Senior Information Systems Analyst (Specialist)	R01	155.00	No
Senior Toxicologist	S10	90.30	No
Staff Services Manager I	S01	200.75	No
Staff Toxicologist (Specialist)	R10	190.50	No
Staff Toxicologist (Specialist)	R10	335.00	No
Staff Toxicologist (Specialist)	R10	175.00	No
Supervising Toxicologist (Managerial)	M10	205.00	No
Supervising Toxicologist (Managerial)	M10	383.00	No
Supervising Toxicologist (Managerial)	M10	63.30	No
<b>Total Hours</b>		2967.10	

**FINDING NO. 12 – Leave Reduction Plans Were Not Provided to All Employees Whose Leave Balances Exceeded Established Limits**

**Summary:** The OEHHA did not provide a departmental policy addressing leave reduction. Additionally, the OEHHA did not provide leave reduction plans for the 13 employees reviewed whose leave balances significantly exceeded established limits.

**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:** The OEHHA states it has had a significant number of difficult-to-recruit vacancies, which prevented OEHAA from implementing a leave reduction plan for some staff.

**Action:** It is therefore recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the OEHHA submit to the CRU a written corrective action plan that addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.742 and CalHR Online Manual Section 2124. Copies of any relevant documentation should be included with the plan.

## **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 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. 13 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

After reviewing the OEHHA's nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the OEHHA's commitment to the State policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the STO'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.

## 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 nine permanent OEHHA 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. 14 – Performance Appraisals Were Not Provided to All Employees**

**Summary:** The OEHHA did not provide performance appraisals to six of nine employees reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period.

Classification	Date(s) Performance Appraisal(s) Due
Accounting Officer (Specialist)	06/01/2017
Associate Governmental Program Analyst	08/23/2016
Attorney III	09/30/2015
Office Assistant (Typing)	06/01/2015 06/01/2016 06/01/2017
Office Technician (Typing)	01/05/2017
Research Scientist I (Epidemiology/Biostatistics)	12/14/2016

**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 OEHHA states there is a process in place in which managers are sent an email from the Administrative Services Division Chief reminding them to complete the Individual Development Plan (IDP) with members of their staff. Not all managers completed the IDP with their staff who are required to submit them. The OEHHA plans to establish a checklist of IDP's submitted and remind supervisors who need to complete and submit IDP's to HRB.

**Action:** It is therefore recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the OEHHEA submit to the CRU a written corrective action plan that 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 any relevant documentation should be included with the plan.

### **DEPARTMENTAL RESPONSE**

The OEHHA's response is attached as Attachment 1.

### **SPB REPLY**

Based upon the OEHHA's written response, the OEHHA will comply with the CRU recommendations and findings and provide the CRU with an action plan.

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



Lauren Zeise, Ph.D., Director  
Matthew Rodriguez, Secretary for Environmental Protection  
Edmund G. Brown Jr., Governor

ATTACHMENT 1

November 27, 2018

Ms. Suzanne M. Ambrose  
Executive Officer  
State Personnel Board  
801 Capitol Mall, Suite 1200  
Sacramento, CA 95814

Dear Ms. Ambrose:

The Office of Environmental Health Hazard Assessment (OEHHA) is in receipt of the draft State Personnel Board (SPB) Compliance Review Report. OEHHA recognizes the importance of the evaluations to ensure personnel practices are properly applied and adhered to in accordance with civil service laws, rules and regulations.

OEHHA acknowledges the findings in the *October 2017* SPB Compliance Report. Detailed below are the compliance findings along with OEHHA's cause and action that has been applied.

**Finding No. 2 – Probationary Evaluations Were Not Provided for All Appointments**

**Cause:** OEHHA's Human Resources Branch (HRB) has a process in place to send a memo to the hiring supervisor with the Notice of Personnel Action (NOPA) once it is received from the State Controller's Office. The memo requests the supervisor review the NOPA with the employee and provide it to the employee for signature. Additionally, the memo provides the supervisor with the dates the employee's probationary reports are due. Unfortunately, all the probationary reports were not completed by the supervisor and submitted to the HRB. This caused these probationary reports not to be available for the State Personnel Board's Compliance Review Unit (CRU).

**Action:** OEHHA will remind supervisors when a probationary report is not received and will provide CRU with our follow-up communications with supervisors if an instance arises in the future, where we cannot provide CRU with all probationary reports.

**FINDING NO. 3 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time**

**Cause:** As noted above under Finding No. 2, OEHHA HRB provides the NOPA to the supervisor to review with the employee. Unfortunately, four NOPAs were not returned to the HRB. This caused these NOPAs to not be available for the CRU.

**Action:** OEHHA will send reminders to supervisors to return the NOPA. In instances where a NOPA is not returned, CRU will be provided with the communication to the supervisor regarding the NOPA.

**FINDING NO. 4 – Disability Advisory Committee (DAC) Has Not Been Established**

**Cause:** OEHHA initially participated with the DAC amongst the sister departments under the California Environmental Protection Agency. In April 2014, OEHHA sent out an all-staff memo to establish its own DAC. The following month, one application was received for participation. After waiting for an extended period of time to receive additional applications, the first meeting was held in February 2015 with the Equal Employment Opportunity Officer and the employee that sent in an application. Since this date, there have been sporadic meetings held with the original two employees. As of October 29, 2018, when the SPB CRU sent the draft report, the membership had grown to six employees.

**Action:** OEHHA does have an established DAC and has officially been meeting since February 2015.

**FINDING NO. 6 – Ethics Training Was Not Provided for All Filers**

**Cause:** Although OEHHA HRB notifies employees annually when they are due for ethics training. This occurs the same time each year when Form 700's are due. Not all employees completed the ethics training.

**Action:** OEHHA will send reminder communications to employees who have not returned their certificate of completion to HR, and if necessary elevate to the supervisor.

**FINDING NO. 7 – Incorrect Application of Salary Determination Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Cause:** It was noted in the draft CRU report the Staff Programmer Analyst (Specialist) was overpaid when in fact he was underpaid as he did not receive credit for the time already spent in the classification as a limited term prior to being converted to permanent status in the classification. Since the draft CRU report, the error was fixed and the employee has since received the adjustment to pay for the months he was underpaid.

**Action:** OEHHA HRB corrected the finding, and has established an internal review process to catch errors.

**FINDING NO. 9 – Leave Activity and Correction Certification Forms Were Not Completed for All Leave Records**

**Cause:** Each month when the Leave Activity and Balance (LAB) reports are generated, an email is sent with the LAB reports and Leave Activity and Correction Certification to the Attendance Coordinators and Supervisors that reminds them of their responsibility to complete the form. Unfortunately, not all parties completed the form and returned it to the HRB.

**Action:** HRB has established a check list and is notifying Attendance Coordinators and Supervisors when the Leave Activity and Correction Certification is not returned to HRB.

**FINDING NO. 10 – Department Has Not Implemented a Monthly Internal Audit Process To Verify Timesheets are Keyed Accurately and Timely**

**Cause:** OEHHA does have an audit process, but unfortunately all parties did not complete their portion.

**Action:** OEHHA has always had an internal audit process to verify correct keying of time by reviewing the LAB reports against the time posted to the STD. 672. When the Personnel Management Liaison memo was released requiring departments to have a Leave Activity and Correction Certification, OEHHA HRB informed the Attendance

Coordinators and Supervisors of their responsibility to complete the sheet once they had reviewed the LAB reports each month. Thereafter, each month when the LAB reports are generated, an email is sent with the LAB Reports and Leave Activity and Correction Certification to the Attendance Coordinators and Supervisors reminding them of their responsibility to complete the form. This has always been considered an additional layer of auditing except that now the Attendance Coordinators and Supervisors are noting corrections to the Certification sheet. HRB will also add a checklist to the process to validate receipt of the LAB Report and Leave Activity and Correction Certification form from each Attendance Coordinator/Supervisor.

#### **FINDING NO. 11 – Employee Time and Attendance Records Were Not Retained**

**Cause:** The OEHHA HRB requires that all employees complete a monthly attendance record and has a process established with Attendance Coordinators to receive them. Unfortunately, some employees do not comply.

**Action:** The OEHHA HRB will work with the Attendance Coordinators and Supervisors to ensure all timesheets are received. When a timesheet is missing, an e-mail will be sent to the employee, Attendance Coordinator and the supervisor to notify them of a missing timesheet with a deadline for submittal.

#### **Finding No. 12: Leave Reduction Plans Were Not Provided to All Employees Whose Leave Balances Exceeded Established Limits**

**Cause:** OEHHA has had a significant number of difficult-to-recruit vacancies, which prevented OEHHA from implementing a leave reduction plan for some staff.

**Action:** OEHHA sent notices to all staff and those staff members' supervisors with excessive leave balances. The notices requested that a leave reduction plan be submitted. OEHHA is committed to meeting the goal of all staff requiring a leave reduction plan to have one on file. In some instances, management could not approve a leave reduction plan for key staff where doing so would have prevented OEHHA from meeting its mandates.

Even with these extenuating circumstances, 16 of OEHHA's staff did submit a reduction plan. OEHHA went from 24 staff members being over the maximum to 16 staff members.

**FINDING NO. 14 – Performance Appraisals Were Not Provided to All Employees**

**Cause:** OEHHA has a process in place in which each year managers are sent an email from the Administrative Services Division Chief reminding them to complete the Individual Development Plan (IDP) with members of their staff who are required to submit them. Unfortunately, not all managers/employees completed the IDP and submitted it to the HRB.

**Action:** OEHHA HRB will establish a checklist of IDP's submitted and remind supervisors who still need to complete and submit to HRB.

**Departmental Response**

OEHHA understands the importance of applying the laws and rules that have been established by the Control Agencies. To the best of our ability, OEHHA HRB will take measures to have more follow-up strategies to ensure that OEHHA staff will provide required information and documents to HRB. In cases where OEHHA HRB caused an error, HRB will take corrective actions to ensure the laws and rules are properly followed.

Thank you again for the opportunity to respond to the Draft Compliance Review Report. If you have any questions, please contact Cassandra Willis, Chief, Human Resources Branch, at (916) 324-2234 or by email at [Cassandra.Willis@oehha.ca.gov](mailto:Cassandra.Willis@oehha.ca.gov).

Sincerely,



Susan Villa, Deputy Director  
Administrative Services Division

