



COMPLIANCE REVIEW REPORT

CALIFORNIA VICTIM COMPENSATION BOARD

Compliance Review Unit
State Personnel Board
February 20, 2020

TABLE OF CONTENTS

Introduction	1
Executive Summary	2
Background	3
Scope and Methodology.....	4
Findings and Recommendations.....	6
Appointments.....	6
Equal Employment Opportunity	10
Personal Services Contracts.....	11
Mandated Training.....	12
Compensation and Pay.....	16
Leave	23
Policy and Processes.....	31
Departmental Response.....	36
SPB Reply	36

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 California Victim Compensation Board (CalVCB)'s personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The following table summarizes the compliance review findings.

Area	Finding
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	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Personal Services Contracts	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Ethics Training Was Not Provided for All Filers Within the Required Timeframe
Mandated Training	Supervisory Training Was Not Provided for All Supervisors
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Bilingual Pay
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Area	Finding
Leave	Administrative Time Off (ATO) Was Not Properly Documented
Leave	Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed
Leave	Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits
Leave	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Were Not Provided to All Employees

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 CalVCB is a state program dedicated to providing reimbursement for many crime-related expenses to eligible victims who suffer physical injury or the threat of physical injury as a direct result of a violent crime. The CalVCB funding comes from restitution paid by criminal offenders through fines, orders, penalty assessments, and federal funds.

To more accurately reflect its increasing roles and responsibilities, the Board of Control was renamed the Victim Compensation and Government Claims Board (VCGCB) in 2001, overseeing the California Victim Compensation Program, the Revenue Recovery Program and the Government Claims Program. In 2016, the Government Claims Program was transferred to the Department of General Services, and VCGCB became known as the CalVCB.

Today, CalVCB is housed under the Government Operations Agency and administers the Victim Compensation Program, the Revenue Recovery Program, Claims of Erroneously Convicted Felons, the Good Samaritan Act, and the Missing Children Reward Program.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CalVCB's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if the CalVCB 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 CalVCB did not conduct any examinations or permanent withhold actions during the compliance review period.

A cross-section of the CalVCB's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CalVCB provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The CalVCB did not conduct any unlawful appointment investigations during the compliance review period.

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

The CalVCB's appointments were also selected for review to ensure the CalVCB applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CalVCB provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: bilingual pay, monthly pay differentials, and out-of-class assignments.

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

During the compliance review period, the CalVCB did not issue or authorize hire-above-minimum (HAM) requests, red circle rate requests, or arduous pay.

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

The CalVCB'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 were provided supervisory training and sexual harassment prevention training within statutory timelines.

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

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

³If 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 CalVCB did not track any temporary intermittent employees by actual time worked during the compliance review period.

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

The CalVCB declined to have an exit conference. The CRU received and carefully reviewed the CalVCB’s written response on October 25, 2019, which is included in this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, July 1, 2017, through March 30, 2018, the CalVCB made 50 appointments. The CRU reviewed 20 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Office Technician (Typing)	Certification List	Limited Term	Full Time	1
Staff Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	3
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Staff Services Manager III	Certification List	Permanent	Full Time	1
Training Officer I	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	3
Career Executive Assignment	Transfer	Permanent	Full Time	1
Executive Assistant	Transfer	Retired	Intermittent	1
Office Technician (Typing)	Transfer	Retired	Intermittent	1
Staff Programmer Analyst (Specialist)	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1
Training Officer I	Transfer	Permanent	Full Time	1

The CalVCB measured each applicant’s ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 11 list appointments reviewed, the CalVCB ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed nine CalVCB appointments made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Regs., tit. 2, § 425.) The CalVCB verified the eligibility of each candidate to their appointed class.

FINDING NO. 1 – Probationary Evaluations Were Not Provided for all Appointments Reviewed

Summary: The CalVCB did not provide 11 probationary reports of performance for 5 of the 20 appointments reviewed by the CRU, as reflected in the table below:

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Staff Information System Analyst	List Certification	1	3
Staff Services Analyst	List Certification	1	1
Staff Services Manager	List Certification	1	2
Staff Program Analyst (Specialist)	Transfer	1	3
Staff Services Manager	Transfer	1	2

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully

perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: The CalVCB states that its Human Resources Branch reminds managers and supervisors via email of probationary reports when due. However, there was not follow up or accountability for completion. The CalVCB states that since the review it has put a process in place to ensure all report due dates are tracked and compliance is reviewed and followed up on a monthly basis at the executive level.

Corrective Action: Within 60 days of the date of this report, the CalVCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 19172. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 2 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Summary: The CalVCB failed to retain personnel records as required. Of the 20 appointments reviewed, the CalVCB did not retain 5 NOPAs.

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.)

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

Cause: The CalVCB acknowledges that some employees did not submit a completed NOPA for placement in the official personnel and

recruitment files; and there was no follow up or accountability for completion. The CalVCB states that it has since implemented a process by which employees are reminded on a weekly basis that the NOPA must be completed and submitted. Employee non-response will be elevated to ensure compliance.

Corrective Action: Within 60 days of the date of this report, the CalVCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with California Code of Regulations, title 2, section 26. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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. 3 – Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CalVCB EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Director of the CalVCB. In addition, the CalVCB has an established DAC, which reports to the Director on issues affecting persons with disabilities. The CalVCB also provided evidence of its efforts to promote EEO in its hiring and employment practices, and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC’s, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, August 1, 2017, through April 30, 2018, the CalVCB had five PSC’s that were in effect. The CRU reviewed all of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Eaton Interpreting Services	Sign Language Services	3/1/16 – 6/30/18	\$40,000.00	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?
Foothill Transcription Co.	Transcription Services	8/23/17 – 8/31/17	\$500.00	Yes
Leading Resources Inc.	Strategic Planning Consulting	1/1/17 – 12/31/18	\$110,060.00	Yes
Presentation Products dba. Spintar	Audiovisual Equipment Maintenance	7/1/16 – 6/30/18	\$14,867.92	Yes
Viking Shred LLC	Confidential Destruction Services	7/1/17 – 6/30/18	\$1,326.00	Yes

FINDING NO. 4 – Personal Services Contracts Complied with Procedural Requirements

The total dollar amount of all the PSC’s reviewed was \$166,753.92. It was beyond the scope of the review to make conclusions as to whether CalVCB’s justifications for the contract were legally sufficient. For all PSC’s reviewed, the CalVCB provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, CalVCB complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CalVCB PSC’s complied with civil service laws and Board rules.

Mandated Training

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

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

harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a), (b), & 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 CalVCB's mandated training program that was in effect during the compliance review period, May 1, 2016, through April 30, 2018. The CalVCB's sexual harassment prevention training was found to be in compliance, while the CalVCB's supervisory training and ethics training did not comply with statutory requirements.

FINDING NO. 5 – Ethics Training Was Not Provided for All Filers in the Required Timeframe

Summary: The CalVCB did not provide ethics training to 21 of 126 of existing filers. In addition, the CalVCB did not provide ethics training to 27 of 74 new filers within 6 months of their appointment.

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

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

Cause: The CalVCB acknowledges that Ethics Training certificates were not received for some employees required to take the training. The CalVCB states that it did not have a tracking system in place during the review period. Since then, the required training is tracked through a learning management system with automatic reminders to employees that training is due and new employees who are required to take the training are automatically enrolled. Managers can view employee training records to facilitate compliance and the Human Resources Branch also runs a quarterly report and sends individual emails to employees who must complete the training. Appropriate action is taken for non-compliance.

Corrective Action: Within 60 days of the date of this report, the CalVCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate that all filers are provided ethics training within the time periods prescribed. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 6 – Supervisory Training Was Not Provided for All Supervisors in the Required Timeframe

Summary: The CalVCB did not provide basic supervisory training to three of four new supervisors within twelve months of appointment.

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

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (d).)

Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. Thereafter, the employee shall receive a minimum of 20 hours of leadership training biennially. (Gov. Code, § 19995.4, subd. (e).)

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 CalVCB acknowledges that some of its supervisory employees did not complete supervisory training within the timeframe required due to a lack of follow up. The CalVCB did not have a tracking system in place at the time of the review. The CalVCB states that the required training is now tracked through a learning management system with automatic reminders to employees when training is due; and new employees who are required to take the training are automatically enrolled. Managers can view employee training records to facilitate compliance and the Human Resources Branch also runs a quarterly report and sends individual emails to employees who must complete the training. Appropriate action is taken for non-compliance.

Corrective Action: Within 60 days of the date of this report, the CalVCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate that new supervisors are provided supervisory training within twelve months of appointment. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁴ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, July 1, 2017, through March 30, 2018, the CalVCB made 50 appointments. The CRU reviewed 20 of those appointments to determine if the CalVCB applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	\$4,177
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$4,784
Attorney III	Certification List	Permanent	Full Time	\$8,856
Office Technician (Typing)	Certification List	Limited Term	Full Time	\$2,921
Staff Information Systems Analyst (Specialist)	Certification List	Permanent	Full Time	\$6,800
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$3,977
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$4,980
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$3,977

⁴ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$7,421
Staff Services Manager III	Certification List	Permanent	Full Time	\$8,148
Training Officer I	Certification List	Permanent	Full Time	\$4,784
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,988
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,023
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,275
Career Executive Assignment	Transfer	Permanent	Full Time	\$11,149
Executive Assistant	Transfer	Retired	Intermittent	\$3,996
Office Technician (Typing)	Transfer	Retired	Intermittent	\$3,656
Staff Programmer Analyst (Specialist)	Transfer	Permanent	Full Time	\$7,242
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$4,176
Training Officer I	Transfer	Permanent	Full Time	\$5,023

FINDING NO. 7 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the salary determinations that were reviewed. The CalVCB appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many

instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, July 1, 2017 through March 30, 2018, the CalVCB made 18 alternate range movements within a classification. The CRU reviewed 18 of those alternate range movements to determine if the CalVCB applied salary regulations accurately and correctly processed employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Range A	Range L	Full Time	\$5,705
Attorney	Range C	Range D	Full Time	\$7,524
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Information Technology Specialist I	Range B	Range C	Full Time	\$7,079
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Information Technology Specialist I	Range B	Range C	Full Time	\$7,616
Personnel Specialist	Range A	Range B	Full Time	\$3,045
Personnel Specialist	Range B	Range C	Full Time	\$3,625
Personnel Specialist	Range B	Range C	Full Time	\$3,625
Staff Services Analyst (General)	Range A	Range B	Full Time	\$3,550
Staff Services Analyst (General)	Range A	Range B	Full Time	\$3,729
Staff Services Analyst (General)	Range A	Range B	Full Time	\$3,962
Staff Services Analyst (General)	Range B	Range C	Full Time	\$3,728
Staff Services Analyst (General)	Range B	Range C	Full Time	\$4,360
Staff Services Analyst (General)	Range B	Range C	Full Time	\$4,360

Staff Services Analyst (General)	Range B	Range C	Full Time	\$4,360
Staff Services Analyst (General)	Range B	Range C	Full Time	\$4,360

FINDING NO. 8 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU determined that the alternate range movements the CalVCB made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, July 1, 2017, through March 30, 2018, the CalVCB issued bilingual pay to 11 employees. The CRU reviewed all bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base
Associate Governmental Program Analyst	R01	Full-Time
Associate Governmental Program Analyst	R01	Full-Time
Staff Services Analyst (General)	R01	Full-Time
Staff Services Analyst (General)	R01	Full-Time
Staff Services Analyst (General)	R01	Full-Time
Staff Services Analyst (General)	R01	Full-Time
Staff Services Analyst (General)	R01	Full-Time
Staff Services Analyst (General)	R01	Full-Time

Staff Services Analyst (General)	R01	Full-Time
Staff Services Analyst (General)	R01	Full-Time
Staff Services Analyst (General)	R01	Full-Time

FINDING NO. 9 – Incorrect Authorization of Bilingual Pay

Summary: The CRU found five errors in the CalVCB’s authorization of bilingual pay:

Classification	Description of Finding(s)	Criteria
Associate Governmental Program Analyst	Department failed to supply supporting documentation demonstrating the position is held by a qualified bilingual employee, and requires the use of bilingual skills on a continuing basis.	Gov. Code, § 7296 and Pay Differential 14
Staff Services Analyst (General)	Department failed to supply supporting documentation demonstrating the position is held by a qualified bilingual employee, and requires the use of bilingual skills on a continuing basis.	Gov. Code, § 7296 and Pay Differential 14
Staff Services Analyst (General)	Department failed to supply supporting documentation demonstrating the position is held by a qualified bilingual employee, and requires the use of bilingual skills on a continuing basis.	Gov. Code, § 7296 and Pay Differential 14
Staff Services Analyst (General)	Department failed to supply supporting documentation demonstrating the position is held by a qualified bilingual employee, and requires the use of bilingual skills on a continuing basis.	Gov. Code, § 7296 and Pay Differential 14
Staff Services Analyst (General)	Department failed to supply supporting documentation demonstrating the position is held by a qualified bilingual employee, and requires the use of bilingual skills on a continuing basis.	Gov. Code, § 7296 and Pay Differential 14

Criteria: For any state agency, a “qualified” bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296 subd. (a)(1), (2) & (3).) An individual

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

Severity: Very Serious. The CalVCB was unable to provide documentation demonstrating that the positions met the requirements of Pay Differential 14 and/or Government Code section 7296.

Cause: The CalVCB acknowledges that the Bilingual Pay Authorization form (STD. 698) was not completed for all bilingual positions at the time of the review due to an oversight; and affirms it is now in compliance. The CalVCB states that it has set up a process to ensure future bilingual examination results are received from employees and maintained appropriately in position folders and the official personnel files. The STD. 698 will be completed and maintained for all bilingual positions.

Corrective Action: Within 60 days of the date of this report, the CalVCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 7296 and/or Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Pay Differentials

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

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, July 1, 2017, through March 30, 2018, the CalVCB issued pay differentials⁵ to three employees. The CRU reviewed all of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Executive Assistant	52	1.5%
Executive Assistant	52	1.5%
Supervising Attorney	84	5%

FINDING NO. 10 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Out-of-Class Assignments and Pay

For excluded⁶ and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

⁵ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.
⁶ "Excluded employee" means an employee as defined in section 3527, subd. (b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

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

During the period under review, July 1, 2017, through March 30, 2018, the CalVCB issued OOC pay to three employees. The CRU reviewed all three of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Collective Bargaining Identifier	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	S01	Staff Services Manager I	10/19/17 – 2/4/18
Associate Governmental Program Analyst	S01	Staff Services Manager I	2/20/18 – 6/8/18
Legal Secretary	R04	Executive Assistant	9/8/17 – 1/2/18

FINDING NO. 11 – Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Leave

Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for

duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also be granted when employees need time off for reasons such as blood or organ donation; extreme weather preventing safe travel to work; states of emergency; voting; and when employees need time off to attend special events. (*Ibid.*)

During the period under review, February 1, 2017, through January 30, 2018, the CalVCB placed three employees on ATO. The CRU reviewed all of these ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	No. of Days on ATO
Career Executive Assignment	9/18/17 – 12/28/17	102
Data Processing Manager IV	5/10/17	1
Staff Services Manager I	9/14/17 – 10/31/17	48

FINDING NO. 12 – Administrative Time Off (ATO) Was Not Properly Documented

Summary: The CalVCB did not key two employees’ ATO hours correctly into the Leave Accounting System. In addition, two timesheets did not match the timeframes during which the ATO was granted.

Criteria: 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. (Cal. Code Regs., tit. 2, § 599.665.) 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.” (*Ibid.*)

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: Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

Cause: The CalVCB acknowledges that ATO hours were not keyed correctly into the Leave Accounting System due to staff error; and that time sheets did not match the timeframes during which the ATO was granted. The errors occurred because updated documentation was not provided to the Personnel Transactions staff to key. The CalVCB states that it currently ensures ATO letters are sent to Personnel Transactions staff and that the timesheets match.

Corrective Action: Within 60 days of the date of this report, the CalVCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to document conformity with California Code of Regulations, title 2, section 599.665 and CalHR Manual Section 2101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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.) 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, November 1, 2017, through January 30, 2018, the CalVCB reported 11 units comprised of 81 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
November 2017	120	10	10	0
November 2017	130	8	8	0
November 2017	210	13	13	0
December 2017	225	6	6	0
December 2017	240	7	7	0
December 2017	260	13	12	0
January 2018	400	2	2	0
January 2018	430	8	8	0
January 2018	470	2	2	0
January 2018	500	10	10	0
January 2018	510	5	1	0

FINDING NO. 13 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records

Summary: The CalVCB failed to provide completed Leave Activity and Correction Certification forms for all 11 units reviewed during the November - December 2017, and January 2018 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. (*Ibid.*) 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: Non Serious or Technical. Departments must document that they reviewed all leave keyed 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 CalVCB states it was not aware that the CalHR 139 form was required for departments that use the State Controller's Office leave accounting system. Since this review, the CalVCB states that it completes the form each pay period and maintains records appropriately.

Corrective Action: Within 60 days of the date of this report, the CalVCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate that their monthly internal audit process is documented. The CalVCB must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave Reduction Efforts

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

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, the employee may accumulate the unused portion."⁷ (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 amount⁸ 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

⁷ 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.

⁸ Excluded employees shall not accumulate more than 80 days.

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

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

As of December 2017, 22 CalVCB employees exceeded the established limits of vacation or annual leave. The CRU reviewed 15 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
Associate Governmental Program Analyst	R01	270.8	No
Associate Governmental Program Analyst	R01	57.5	No
Associate Governmental Program Analyst	R01	911	No
Associate Governmental Program Analyst	R01	257.5	No
Associate Management Auditor	R01	384.5	No
Business Services Analyst Specialist	R01	71	No
Career Executive Assignment	M01	280.5	No
Executive Officer	E99	1784	No
Information Technician Specialist I	R01	83.5	No
Staff Services Analyst	R01	52.75	No
Staff Services Analyst	R01	320	No
Staff Services Manager I	S01	152.5	No

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
Staff Services Manager II	S01	243.25	No
Staff Services Manager II	S01	183.7	No
Staff Services Manager II	S01	1148	No
Total		6,200.5	

FINDING NO. 14 – Leave Reduction Plans Were Not Provided to Employees Whose Leave Balances Exceeded Established Limits

Summary: The CalVCB did not provide leave reduction plans for the 15 employees reviewed whose leave balances significantly exceeded established limits. Additionally, CalVCB did not provide a general departmental policy addressing leave reduction.

Criteria: It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. (Human Resources Manual Section 2124.) Therefore, appointing authorities and state managers and supervisors must create a leave reduction policy for the organization and monitor employees’ leave to ensure compliance with the departmental leave policy. Employees who have significant “over-the-cap” leave balances must have a leave reduction plan in place and be actively reducing hours. (*Ibid.*)

Severity: Non-Serious or 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 CalVCB acknowledges that although employees were notified a plan was needed, CalVCB did not have an official leave balance reduction process in place that included monitoring and accountability. The CalVCB states it has since created a leave balance reduction form and process to hold employees accountable for reduction of leave balances to ensure compliance. Plans will be monitored monthly by the manager and HRB.

Corrective Action: Within 60 days of the date of this report, the CalVCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate employees who have significant “over-the-cap” leave balances have a leave reduction plan in place. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

State Service

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

An employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.⁹ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

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

⁹ Except as provided in sections 599.609 and 599.776.1, subd. (b) of these regulations, in the application of Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and sections 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.787, 599.791, 599.840 and 599.843 of these regulations.

(*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁰ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, July 1, 2017, through March 30, 2018, the CalVCB had one employee with non-qualifying pay period transactions. The CRU reviewed the one transaction to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	1

FINDING NO. 15 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU determined that the CalVCB ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) In addition, there may be personal relationships beyond this general definition that could be subject to these policies. (*Ibid.*)

¹⁰ As identified in Government Code sections 19858.3, subd. (a), 19858.3, subd. (b), or 19858.3, subd. (c) or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subd. (c) or California Code of Regulations section 599.752 subd. (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

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

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

Workers’ Compensation

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

Public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. (Human Resources Manual Section 1415.) Workers’ compensation coverage is not mandatory for volunteers as it is for employees. (*Ibid.*) This is specific to the legally uninsured state departments participating in the Master Agreement. (*Ibid.*) Departments with an insurance policy for workers’ compensation coverage should contact their State Compensation Insurance Fund (State Fund) office to discuss the status of volunteers. (*Ibid.*)

FINDING NO. 17 – Workers’ Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU verified that the CalVCB provides notice to their employees to inform them of their rights and responsibilities under CA Workers’ Compensation Law. Furthermore, the

CRU verified that when the CalVCB received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2 subsection (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 57 permanent CalVCB 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
Accounting Officer (Specialist)	3/16/2015
Accounting Officer (Specialist)	5/21/2015
Accounting Officer (Specialist)	9/1/2016
Associate Governmental Program Analyst	2/28/2016
Associate Governmental Program Analyst	8/15/2018
Associate Governmental Program Analyst	4/13/2017
Associate Governmental Program Analyst	1/20/2017
Associate Governmental Program Analyst	7/9/2018
Associate Governmental Program Analyst	12/31/2015
Associate Management Auditor	7/17/2018
Associate Personnel Analyst	6/15/2018
Business Services Officer I (Supervisor)	7/28/2017
Business Svc Analyst (Spec)	8/9/2017
Business Svc Officer I (Specialist)	6/15/2010
Graphic Designer II	7/11/2016
Information Technology Associate	10/30/2017
Information Technology Manager II	7/31/2012
Information Technology Specialist	9/7/2017
Information Technology Specialist I	3/14/2018
Information Technology Specialist I	2/21/2017

Classification	Date Performance Appraisals Due
Information Technology Specialist I	6/30/2013
Information Technology Specialist I	10/27/2017
Information Technology Specialist I	2/24/2017
Legal Secretary	1/31/2018
Office Assistant (General)	3/11/2009
Office Technician (General)	4/11/2017
Office Technician (General)	4/02/2008
Office Technician (General)	7/5/2017
Office Technician (Typing)	11/01/1989
Office Technician (Typing)	7/12/2018
Office Technician (Typing)	7/12/2018
Office Technician (Typing)	6/15/2018
Program Technician	7/18/2018
Program Technician II	1/11/2017
Program Technician II	2/27/2017
Research Analyst II (General)	4/05/2013
Senior Management Auditor	6/25/2018
Staff Services Analyst	10/11/2017
Staff Services Analyst	8/16/2018
Staff Services Analyst	7/13/2018
Staff Services Analyst	7/12/2018
Staff Services Analyst	3/22/2017
Staff Services Analyst	7/18/2018
Staff Services Analyst	7/13/2018
Staff Services Analyst	7/13/2018
Staff Services Analyst	7/16/2018
Staff Services Analyst	7/6/2018
Staff Services Analyst	7/16/2018
Staff Services Analyst	8/31/2017
Staff Services Manager I	6/13/2018
Staff Services Manager I	7/20/2018
Staff Services Manager I	1/12/2018
Staff Services Manager I	6/12/2018
Staff Services Manager I	6/6/2017

Classification	Date Performance Appraisals Due
Staff Services Manager I (Specialist)	6/13/2018
Staff Services Manager II	11/20/2017
Staff Services Manager II	7/16/2018

FINDING NO. 18 – Performance Appraisals Were Not Provided to All Employees

Summary: The CalVCB did not provide annual performance appraisals to 18 of 57 employees reviewed after the completion of the employee’s probationary period.

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

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

Cause: The CalVCB acknowledges that performance appraisals were not completed for all employees when required. The CalVCB did not have a process in place. Since the review, the CalVCB has put a process in place to ensure all reports are tracked and compliance is reviewed and followed up timely.

Corrective Action: Within 60 days of the date of this report, the CalVCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate 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 CalVCB's response is attached as Attachment 1.

SPB REPLY

Based upon the CalVCB's written response, the CalVCB will comply with the corrective actions specified in these report findings. Within 60 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.



ATTACHMENT 1

October 25, 2019

Ms. Diana Campbell
Compliance Review Manager
801 Capitol Mall
Sacramento, CA 95818

Dear Ms. Campbell:

The California Victim Compensation Board (CalVCB) would like to thank the State Personnel Board's (SPB) Compliance Review Unit (CRU) for reviewing information and providing guidance and opportunities to make improvements in policies, practices and procedures. CalVCB reviewed the draft report and is providing responses to findings below as presented by SPB:

FINDING #1: The CalVCB did not provide 11 probationary reports of performance for five of the 20 appointments reviewed by the CRU.

Cause: The Human Resources Branch (HRB) reminds managers and supervisors via email of probationary reports due, however, there was no follow up or accountability for completion.

Departmental Response and Corrective Action Plan: The CalVCB put a process in place to ensure all report due dates are tracked and compliance is reviewed and followed up on monthly at the executive level.

FINDING #2: The CalVCB failed to retain personnel records as required. Of the 20 appointments reviewed, the CalVCB did not retain five NOPAs.

Cause: Some employees did not submit a completed Notice of Personnel Action for placement in the official personnel and recruitment files and there was no follow up or accountability for completion.

Departmental Response and Corrective Action Plan: The CalVCB implemented a process by which employees are reminded on a weekly basis that the NOPA must be completed and submitted. Employee non-response is elevated to ensure compliance.

FINDING #5: The CalVCB did not provide ethics training to 21 of 126 of existing filers. In addition, the CalVCB did not provide ethics training to 27 of 74 new filers within six months of their appointment.

Cause: Ethics Training certificates were not received for some employees required to take the training due to lack of follow up.

Departmental Response and Corrective Action Plan: Required training is now tracked



through a learning management system with automatic reminders to employees that training is due and new employees who are required to take the training are automatically enrolled. Managers can view employee training records to facilitate compliance and the HRB also runs a quarterly report and sends individual emails to employees who must complete the training. Appropriate action is taken for non-compliance.

FINDING #6: The CaVCB did not provide basic supervisory training to three of four new supervisors within twelve months of appointment.

Cause: Some supervisory employees did not complete supervisory training within the timeframe required due to lack of follow up.

Departmental Response and Corrective Action Plan: Required training is now tracked through a learning management system with automatic reminders to employees that the training is due and new employees who are required to take the training are automatically enrolled. Managers can view employee training records to facilitate compliance and the HRB also runs a quarterly report and sends individual emails to employees who must complete the training. Appropriate action is taken for non-compliance.

FINDING #9: The CRU found five errors in the CaVCB's authorization of bilingual pay. Specifically, the CaVCB failed to supply supporting documentation demonstrating the position is held by a qualified bilingual employee and requires the use of bilingual skills on a continuing basis.

Cause: The STD. 698, Bilingual Pay Authorization form was not completed for all bilingual positions due to an oversight.

Departmental Response and Corrective Action Plan: The CaVCB affirms current compliance and ensures that bilingual examination results are received from employees and maintained appropriately. The STD. 698 will be completed and maintained for all bilingual positions.

FINDING #12: The CaVCB did not key two employees' ATO hours correctly into the Leave Accounting System. In addition, two timesheets did not match the timeframes during which the ATO was granted.

Cause: ATO hours were not keyed correctly into the Leave Accounting System and time sheets did not match the timeframes as updated documentation was not provided to the Personnel Transactions staff to key.

Departmental Response and Corrective Action Plan: The CaVCB now ensures that ATO letters are sent to Personnel Transactions and that timesheets match.

FINDING #13: The CaVCB failed to provide completed Leave Activity and Correction Certification forms for 11 out of 11 units reviewed during the November - December 2017, and January 2018 pay periods.



Cause: The CalVCB was not aware that the CalHR 139 form was required for departments who use the State Controller's Office Leave Accounting System.

Departmental response and Corrective Action Plan: The CalVCB completes the CalHR 139 form each pay period and maintains records appropriately, and therefore, is now in compliance.

FINDING #14: The CalVCB did not provide leave reduction plans for the 15 employees reviewed whose leave balances significantly exceeded established limits. Additionally, CalVCB did not provide a general departmental policy addressing leave reduction.

Cause: Although employees were notified that they had to have a plan in place, CalVCB did not have an official leave balance reduction process in place that included monitoring and accountability.

Departmental Response and Corrective Action Plan: The CalVCB created a leave balance reduction form and process to hold employees accountable for reduction of leave balances to ensure compliance. Plans will be monitored monthly by the manager and HRB.

FINDING #18: The CalVCB did not provide performance appraisals to 18 of 57 non-probationary employees.

Cause: Performance appraisals were not completed for all employees when required; however, CalVCB does not have a cause for each instance.

Departmental Response and Corrective Action Plan: The CalVCB put a process in place to ensure all report due dates are tracked and compliance is reviewed and followed up monthly at the executive level.

The CalVCB appreciates the time and effort the State Personnel Board Compliance Review Unit took to review documentation for statewide consistency and to limit liability in keeping with the merit principles and best practices.

If you have questions or need additional information, please feel free to contact me at (916) 491-3802.

Sincerely,

Beth Townsend, Manager
Human Resources Branch

cc: Jeannine Fenton, Deputy Executive officer
Administration Division