



# **COMPLIANCE REVIEW REPORT**

## **WILDLIFE CONSERVATION BOARD**

Compliance Review Unit  
State Personnel Board  
May 29, 2018

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## INTRODUCTION

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

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authority's personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and board regulations. The purpose of these reviews is to ensure state agencies comply 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 State Personnel Board (SPB) into the California Department of Human Resources (CalHR).

Pursuant to Government Code Section 18502(c), CalHR and SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." CalHR and SPB, by mutual agreement, expanded the scope of items reviewed by the SPB's CRU beyond merit-related issues to more operational practices delegated to departments, and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and not monitored on a consistent, statewide basis.

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

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

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

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the Wildlife Conservation Board’s (WCB) personnel practices in the areas of examinations, appointments, EEO, PSC’s, mandated training, compensation and pay, leave, and policy and processes<sup>1</sup>. 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
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors Within the Prescribed Timeframe
Mandated Training	Ethics Training Was Not Provided to All Filers Within the Prescribed Timeframe
Compensation	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Actual Time Worked Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Were Not Provided to All Employees Whose Leave Balances Exceeded Established Limits
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Worker’s Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

<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	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 Wildlife Conservation Board (WCB) was created by legislation in 1947 to administer a capital outlay program for wildlife conservation and related public recreation. Originally created within the California Department of Natural Resources, and later placed with the California Department of Fish and Wildlife, the WCB is a separate and independent Board with authority and funding to carry out an acquisition and development program for wildlife conservation (California Fish and Game Code 1300, et seq.). The WCB's seven-member Board consists of the President of the Fish and Game Commission, the Director of the California Department of Fish and Wildlife, the Director of the Department of Finance, and four public members, two appointed by the legislature and two by the Governor. Legislation that created the WCB also established a Legislative Advisory Committee consisting of three members of the Senate and three members of the Assembly, which meet with the WCB, providing legislative oversight.

The primary responsibilities of WCB are to select, authorize, and allocate funds for the purchase of land and waters suitable for recreation purposes and the preservation, protection and restoration of wildlife habitat. The WCB approves and funds projects that set aside lands within the state for such purposes, through acquisition or other means, to meet these objectives. The WCB can also authorize the construction of facilities for recreational purposes on property in which it has a proprietary interest.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing WCB 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 WCB personnel practices, policies, and procedures complied with state civil

<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.

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 WCB did not conduct any Exams during the compliance review period.

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

The WCB's appointments were also selected for review to ensure the WCB applied salary regulations accurately and correctly processed employee's compensation and pay. The CRU examined the documentation that the WCB provided, which included employee's employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: hiring above minimum (HAM) requests, bilingual pay, and arduous pay. During the compliance review period, the WCB did not issue or authorize red circle rates, out of class pay, or any other monthly pay differential.

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

The WCB'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 also identified the WCB 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 and are actively reducing hours. Additionally, the CRU asked the WCB to provide a copy of their leave reduction policy.

The CRU reviewed the WCB’s Leave Activity and Correction certification forms to verify that the WCB 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 WCB’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 WCB’s employee’s employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of WCB employees who used Actual Time Worked (ATW) and Administrative Time Off (ATO) in order to ensure that both ATW and ATO was appropriately administered.

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

On April 25, 2018, an exit conference was held with the WCB to explain and discuss the CRU’s initial findings and recommendations. The CRU received and carefully reviewed the WCB’s written response on May 15, 2018, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Appointments**

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

During the period under review, June 1, 2016, through June 30, 2017, the WCB made 11 appointments. The CRU reviewed 11 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Attorney III	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Environmental Scientist	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Staff Services Manager II	Certification List	Permanent	Full Time	1
Seasonal Clerk	Certification List	TAU	Intermittent	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Associate Land Agent	Transfer	Permanent	Full Time	1
Public Land Management Specialist	Transfer	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Transfer	Permanent	Full Time	1

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

**Summary:** The WCB did not prepare, complete, and/or retain 10 required probationary reports of performance.

Classification	Appointment Type	No. of Appointments Missing Prob. Reports	No. of Missing Probation Reports
Attorney III	List Appointment	1	2
Associate Governmental Program Analyst	List Appointment	2	4
Staff Services Manager II	List Appointment	1	2
Associate Governmental Program Analyst	Transfer	1	1
Public Land Management Specialist	Transfer	1	1

Classification	Appointment Type	No. of Appointments Missing Prob. Reports	No. of Missing Probation Reports
<b>Total</b>		<b>6</b>	<b>10</b>

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

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

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

**Cause:** The WCB states that all supervisors are required to complete probationary evaluations for each appointment; however, this may not be consistently practiced by supervisors and managers.

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

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

**Summary:** The WCB failed to retain personnel records such NOPA's and applications. Specifically, of the 11 appointments reviewed, the WCB did not retain NOPA's in four files (Attorney III, Associate Governmental Program Analyst, Public Land Management Specialist, and Senior Environmental Scientist) nor did the WCB provide the applications for four positions (Attorney III, two Associate Governmental Program Analysts, and Environmental Scientist), including the hired applicant's application.

**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 records are created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Reg., 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 WCB states that it is departmental policy to retain all appointment documentation. However, due to staff shortages,

some documents may have been missed and not filed appropriately.

**Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the WCB 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 California Code of Regulations title 2, section 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.

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 Regulations**

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 WCB 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 WCB. In addition, the WCB has an established DAC, which reports to the Director on issues affecting persons with disabilities. The WCB also provided evidence of its efforts to promote EEO in its hiring and employment practices, to increase its hiring of persons with disabilities, and to offer upward mobility opportunities for its entry-level staff. Accordingly, the WCB’s EEO program complied with civil service laws and board rules.

**Mandated Training**

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

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

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

conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

Within 12 months of the initial appointment of an employee to a management or career executive assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subs. (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 WCB's mandated training program that was in effect during the compliance review period. The WCB's basic supervisory training was found to be in compliance. However, the WCB's ethics training and sexual harassment prevention training were found to be out of compliance.

**FINDING NO. 4 – Ethics Training Was Not Provided to all Filers Within the Prescribed Timeframe**

**Summary:** Although the WCB provided ethics training to its four existing filers and two new filers, the WCB failed to ensure that the new filers received the training within six 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 WCB states that all filers are required to take ethics training and all required employees have taken the training. A few new employees have missed the six-month timeframe due to inadequate monitoring and tracking.

**Action:** The WCB 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 WCB 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.

**FINDING NO. 5 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors Within the Prescribed Timeframe**

**Summary:** Although the WCB provided sexual harassment prevention training to its four existing supervisors and two new supervisors, the WCB failed to ensure that the new supervisors received the training within six months of their appointment.

**Criteria:** Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subd. (a).)

**Severity:** Very Serious. The department does not ensure its new supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce, impacts employee morale and productivity, and subjects the department to litigation.

**Cause:** The WCB states that all supervisors and managers are required to take Sexual Harassment Prevention Training and all required employees have taken the training during one of our Supervisory Training sessions. A few new employees may have missed the six month timeframe due to inadequate monitoring and tracking.

**Action:** The WCB must take appropriate steps to ensure that its supervisors are provided sexual harassment prevention 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 WCB must submit a written corrective action plan to ensure compliance with sexual harassment prevention 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 Reg., tit. 2, § 599.666). Several salary rules dictate how departments calculate and determine an employee’s salary rate<sup>3</sup> upon appointment depending on the appointment type, and the employee’s state employment pay history and tenure.

During the period under review, March 31, 2016, through March 31, 2017, the WCB made 11 appointments. The CRU reviewed five of those appointments to determine if the WCB applied salary regulations accurately and correctly processed employees’ compensation transactions. These appointments are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Attorney III	Certification List	Permanent	Full Time	\$8,032
Environmental Scientist	Certification List	Permanent	Full Time	\$5,116
Staff Services Manager II	Certification List	Permanent	Full Time	\$7,462
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,027
Public Land Management Specialist	Transfer	Permanent	Full Time	\$6,666

<sup>3</sup> “Rate” is any one of the salary rates in the resolution by CalHR, which establishes the salary ranges, and steps of the Pay Plan (CA CCR Section 599.666).

**FINDING NO. 6 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU found no deficiencies in the five salary determinations that the WCB made during the compliance review period. The WCB 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.

**Leave**

**Actual Time Worked**

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization (TAU) employee's time to ensure that the Constitutional limit of nine months in any 12 consecutive months is not exceeded (Cal. Const., art. VII, § 5.) The ATW method of counting time is used in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. Time is accrued by months so that the immediate prior 12-calendar months are the ones used to count the 194 working days. ATW includes any day on which the employee physically worked, regardless of the length of time worked on that day<sup>4</sup>, any day for which the employee is on paid absence<sup>5</sup>, and any holiday for which the employee receives either full or partial pay. If the employee works on the holiday, the day is counted only once regardless of the rate of pay<sup>6</sup>.

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. Therefore, departments must monitor the actual number of days worked in order to ensure that they do not exceed 194 days in any 12-consecutive month period (CalHR Online Manual, section 1202).

<sup>4</sup> For example, two hours or ten hours counts as one day.

<sup>5</sup> For example, vacation, sick leave, compensating time off, etc.

<sup>6</sup> For example, straight time, time and one-half, double time, etc.

During the period under review, March 31, 2016 to March 31, 2017, the WCB reported one employee on ATW. The CRU reviewed the ATW appointment to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

Classification	Time Base	Time Frame	No. of Days on ATW
Seasonal Clerk	Intermittent	09/01/2016 - 09/21/2017	172

**FINDING NO. 7 – Actual Time Worked Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

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

Administrative Time Off

Administrative Time Off (ATO) is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. Additionally, ATO may be granted when employees need time off for any of the following: donating blood, extreme weather that makes getting to work impossible, and/or, when employees need time off to attend special events. Any ATO requests lasting over 30 days must be submitted and approved by CalHR. Approval will generally be given in 30 calendar day increments and any extension must be approved prior to the expiration of the 30 calendar days. Departments must properly document and track ATO for any length of time (PML, "Administrative Time Off (ATO) – Policy, Procedure and Documentation Requirements", 2012-008).

Employees may also be granted a paid leave of absence of up to five days by their appointing power when the employee works or resides in a county where a state of emergency has been proclaimed by the Governor (§ 599.785.5. Administrative Time Off - During State of Emergency).

During the period under review, March 31, 2016, through March 31, 2017, the WCB placed one employee on ATO. The CRU reviewed the employee placed on ATO to ensure the department complied with applicable laws, regulations, and CalHR policy and guidelines, which is listed below:

Classification	Time Frame	No. of Days on ATO
Staff Services Analyst	6/16/16 – 6/17/16	1

**FINDING NO. 8 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies with the one employee placed on ATO during the compliance review period. The WCB provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations, and CalHR policy and guidelines.

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction (Cal. Code Reg., 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, January 1, 2017, through March 31, 2017, the WCB reported one unit comprised of 29 active employees. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Number of Units Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
January 2017	29	29	29	0
February 2017	29	29	29	0
March 2017	29	29	29	0

**FINDING NO. 9 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

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

Leave Reduction Efforts

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

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 and are actively reducing hours.

As of March 31, 2016, the WCB reported one employee who exceeded established limits of vacation or annual leave. The CRU reviewed the employee’s leave reduction

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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 bargaining unit 5 the established limit is 816 hours.

plan to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which is listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit <sup>8</sup>	Leave Reduction Plan Provided
Career Executive Assignment (CEA)	M01	34	No

**FINDING NO. 10 – Leave Reduction Plans Were Not Provided to All Employees Whose Leave Balances Exceeded Established Limits**

**Summary:** The WCB did not provide a leave reduction plan for the one employee reviewed whose leave balances significantly exceeded established limits. Additionally, the WCB did not provide a general departmental policy addressing leave reduction.

**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 PML 2016-029, “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

<sup>8</sup> As of March 31, 2016.

employees who have significant ‘over-the-cap’ leave balances have a leave reduction plan in place and are actively reducing hours”.

**Severity:** Non-serious or Technical. California state employees have accumulated significant leave hours over the last several years 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. Another issue arises when employees separate from state service and departments are obligated to cash-out accrued leave credits at their current salary rates, which in most cases are higher than when much of the leave credits were earned. These payouts amount to millions of dollars each year, and represent an unfunded liability that must be paid from current-year funds. This puts a strain on departmental budgets as they must keep vital positions vacant, redirect from other funding sources, and/or request additional funds.

**Cause:** The WCB states that the department has not established a Leave Reduction Policy and historically has not monitored or tracked excess leave balances.

**Action:** It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the WCB submit to the SPB 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 (Cal HR Online Manual Section 1204).

**FINDING NO. 11 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

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

Worker’s Compensation

Pursuant to California Code of Regulations, title 8, section 9880, employers shall provide to every new employee at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers’ compensation law. This notice shall also contain a form that the employee can use to pre-designate their personal physician or medical group as defined by Labor Code section 4600. Additionally, employers shall also provide a claim form and notice of potential eligibility to their employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness (Labor Code § 5401).

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

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

**FINDING NO. 12 – Worker’s Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

After reviewing the WCB’s workers’ compensation process that was in effect during the compliance review period, the CRU verified that the WCB 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 WCB received workers’ compensation claims, the WCB properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code Section 19992.2, departments must “prepare performance reports.” Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

The CRU selected one permanent WCB employee 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. 13 – Performance Appraisals Not Provided to All Employees**

**Summary:** The WCB did not provide the performance appraisal for the one employee reviewed at least once in each twelve calendar months after the completion of the employee’s probationary period.

Classification	Position #	Date Probation Ended	Date Performance Appraisal(s) due
Administrative Assistant	567-001-5361-001	5/16/2016	5/16/2017

- 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 WCB states that all supervisors are required to complete a performance appraisal for each employee; however, this may not be consistently practiced by new supervisors and managers.
- Action:** It is recommended that within 60 days of the Executive Officer’s approval of these findings and recommendations, the WCB submit to the SPB 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 WCB’s response is attached as Attachment 1.

### **SPB REPLY**

Based upon the WCB’s written response, the WCB will comply with the SPB’s recommendations and findings and provide the SPB with an action plan.

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



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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Attachment 1  
**EDMUND G. BROWN JR., Governor**  
**CHARLTON H. BONHAM, Director**



May 15, 2018

Suzy Ambrose, Executive Officer  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814

## **RESPONSE TO COMPLIANCE REVIEW REPORT – WILDLIFE CONSERVATION BOARD**

Dear Ms. Ambrose:

The California Department of Fish and Wildlife (CDFW), Human Resources Branch (HRB), has completed a thorough review of the State Personnel Board's Compliance Review Report for the Wildlife Conservation Board (WCB). Below are the actions CDFW and the WCB will take to ensure Department and WCB is in compliance and maintains the integrity of the State of California's merit system.

### **Finding 1: Probationary Evaluations Were Not Provided for All Appointments Reviewed**

### **Finding 13: Performance Appraisals Not Provided to All Employees**

The CDFW and WCB acknowledge that not all supervisors and managers consistently provide employees with performance appraisals and probationary evaluations.

CDFW's HRB has begun taking a more proactive approach to correct this issue. Supervisory Training is now offered twice a year in January and August. This training is designed for new supervisors and supervisors who may need a refresher and covers probationary evaluations and performance appraisals. Additionally, the HRB has increased its outreach efforts by regularly and consistently providing supervisors and managers with up to date HR information. This includes individualized training, monthly Human Resources Newsletters with pertinent HR information for new and veteran supervisors/managers alike, and increased production of HR reminder memos. It is HRB's objective to ensure all supervisors and managers are made aware of departmental deadlines for performance appraisals and that all supervisors and managers are made aware of their responsibility to complete probationary evaluations.

**Finding 2: Appointment Documentation was Not Kept for the Appropriate Amount of Time**

The CDFW and WCB acknowledge that not all supervisors and managers consistently retain all documentation associated with each appointment. Additionally, the Transactions Unit maintaining NOPAs has consistently been understaffed, which increased the chance of human error and missed documentation.

Rather than retaining physical copies of all documents, CDFW has begun moving towards an electronic system of document retention. This will reduce the number of missing or lost documents. With a properly staffed Transactions Unit and HRB's movement into an electronic system for document retention through ECOS, the CDFW anticipates improving compliance with Cal. Code Reg., tit. 2, Section 26.

**Finding 4: Ethics Training Was Not Provided to All Filers within the Prescribed Timeframe**

The CDFW and WCB acknowledge that Ethics Training opportunities may have been limited. The CDFW Office of Training and Development has taken over tracking of the Ethics Training for the CDFW and WCB to ensure all conflict of interest filers are completing Ethics Training as required and within the prescribed timeframe.

CDFW's Learning Management System (LEARN) dynamically assigns Ethics training to staff in the designated classifications. LEARN assigns training to both new employees and employees promoting in place. We are on a two year cycle. In 2019, LEARN will assign the training to all in the designated classifications.

**Finding 5: Sexual Harassment Prevention Training Was Not Provided for All Supervisors within the Prescribed Timeframe**

CDFW and WCB recognize that some WCB managers and supervisors may not have received the mandated Sexual Harassment Prevention Training within the first 6-months of their appointment. To ensure consistent compliance with this requirement, the Equal Employment Opportunity (EEO) Officer will assist WCB with effectively monitoring all current and new supervisory employees to ensure they receive the mandated training within the initial 6-month appointment window. The EEO now receives new hire and newly promoted supervisor and manager reports to use as another tool to monitor participation in Sexual Harassment Prevention Training.

**Finding 10: Leave Reduction Plans were not provided to all employees whose leave balances exceeded established limits**

The CDFW and WCB acknowledge that there is no departmental Leave Reduction Plan Policy.

Ms. Suzy Ambrose  
State Personnel Board – WCB Audit 2018  
May 15, 2018  
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The CDFW HRB has developed and will release this policy in 2018 following the guidelines set forth by the California Department of Human Resources. The HRB will monitor each plan for compliance and provide direction to supervisors and managers with staff exceeding leave balance established limits.

The CDFW and WCB would again like to thank the SPB Compliance Review team and appreciate the opportunity to respond to the findings. CDFW will continue to educate and train our managers on best hiring practices and requirements to ensure compliance with the State's civil service merit system.

If you have any questions or require additional information, please contact Terri Trim, Chief of the Human Resources Branch, at 916-653-4745.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gabe Tiffany", with a long, sweeping flourish extending to the right.

Gabe Tiffany, Deputy Director  
Administration Division