

COMPLIANCE REVIEW REPORT

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

Compliance Review Division
State Personnel Board
April 25, 2025

TABLE OF CONTENTS

INTRODUCTION	1
EXECUTIVE SUMMARY	2
BACKGROUND	4
SCOPE AND METHODOLOGY	4
FINDINGS AND RECOMMENDATIONS	6
EXAMINATIONS.....	6
APPOINTMENTS.....	8
EQUAL EMPLOYMENT OPPORTUNITY	9
PERSONAL SERVICES CONTRACTS	10
MANDATED TRAINING	12
COMPENSATION AND PAY	13
LEAVE	24
POLICY AND PROCESSES.....	29
DEPARTMENTAL RESPONSE.....	32
SPB REPLY	32

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

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Substantial Compliance	Ethics Training Was Not Provided for All Filers ¹
Mandated Training	Substantial Compliance	Sexual Harassment Prevention Training Was Not Provided for All Supervisors ²
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

¹ Repeat finding. The OEHHA's March 28, 2022, Compliance Review Report identified ethics training was not provided to 12 of 43 existing filers. Additionally, ethics training was not provided to 13 of 21 new filers within 6 months of their appointment. The OEHHA's February 12, 2019, Compliance Review Report identified ethics training was not provided to 1 of 120 existing filers, and 13 of 32 new filers within 6 months of their appointment.

² Repeat Finding. The OEHHA's March 28, 2022, Compliance Review Report identified 9 of 10 new supervisors did not receive sexual harassment prevention training within 6 months of their appointment. Additionally, 1 of 11 existing supervisors did not receive sexual harassment prevention training every 2 years.

Area	Severity	Finding
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay ³
Compensation and Pay	Very Serious	Incorrect Authorization of Pay Differentials ⁴
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely ⁵
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees Timely ⁶

³ Repeat Finding. The OEHHA's March 28, 2022, Compliance Review Report identified one of one employee reviewed was incorrectly authorized to receive bilingual pay.

⁴ Repeat Finding. The OEHHA's March 28, 2022, Compliance Review Report identified 37 of 78 employees were incorrectly authorized to receive a pay differential.

⁵ Repeat Finding. The OEHHA's March 28, 2022, Compliance Review Report identified the department had not implemented a monthly internal audit process to verify all leave input is keyed accurately and timely. Additionally, the OEHHA's February 12, 2019, Compliance Review Report identified the department had not implemented a monthly internal audit process to verify all leave input is keyed accurately and timely.

⁶ Repeat Finding. The OEHHA's March 28, 2022, Compliance Review Report identified 10 of 37 employees reviewed did not receive performance appraisals. Additionally, the OEHHA's February 12, 2019, Compliance Review Report identified six of nine employees reviewed did not receive performance appraisals.

BACKGROUND

The OEHHA's principal mission is to protect and enhance the health of Californians and the state's environment through scientific evaluations that inform, support, and guide regulatory decisions and other actions. The OEHHA performs risk assessments for various regulatory programs under the California Environmental Protection Agency, as well as other state and local agencies, and provides these programs with scientific tools and information upon which to base risk-management decisions.

Distinct programs focus on assessing hazards and health risks, including risks to children and other sensitive sub-populations, from exposure to chemicals in air, drinking water, food, pesticides, consumer products, and fish and shellfish, as well as health and environmental impacts from climate change. The OEHHA also evaluates community pollution burdens and vulnerabilities that guide the state's efforts to invest in disadvantaged communities and reduce exposures and risks to residents.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the OEHHA's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁷. The primary objective of the review was to determine if the OEHHA's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the OEHHA's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRD examined the documentation that the OEHHA provided, which included examination plans, examination bulletins, job analyses, and scoring results.

The OEHHA did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the OEHHA's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRD examined the documentation that the OEHHA provided, which included Notice of

⁷ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

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

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

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

During the compliance review period, the OEHHA did not issue or authorize red circle rate requests, or arduous pay.

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

The OEHHA's PSC's were also reviewed.⁸ It was beyond the scope of the compliance review to make conclusions as to whether the OEHHA's justifications for the contracts were legally sufficient. The review was limited to whether the OEHHA's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The OEHHA's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, that all supervisors, managers, and those serving in Career Executive Assignments (CEA) were provided

⁸If 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.

leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRD reviewed the OEHHA's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRD selected a small cross-section of the OEHHA'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 OEHHA'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 CRD reviewed a selection of the OEHHA employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRD reviewed a selection of OEHHA positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

On April 3, 2025, an exit conference was held with the OEHHA to explain and discuss the CRD's initial findings and recommendations. The CRD received and carefully reviewed the OEHHA's written response on April 8, 2025 which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the

examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, August 1, 2023, through April 30, 2024, the OEHHHA conducted seven examinations. The CRD reviewed six of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA A, Deputy Director, Division of Scientific Programs	CEA	Statement of Qualifications (SOQ) ⁹	Continuous	17
CEA B, Deputy Director, Division of Scientific Programs	CEA	SOQ	Continuous	15
Associate Toxicologist	Departmental Open	Training and Experience (T&E) ¹⁰	Continuous	12
Senior Toxicologist	Departmental Open	T&E	Continuous	7
Staff Toxicologist (Specialist)	Departmental Open	T&E	Continuous	15
Supervising Toxicologist (Managerial)	Departmental Open	T&E	Continuous	4

⁹ In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

¹⁰ The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

IN COMPLIANCE	FINDING NO. 1	EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
---------------	----------------------	--

The CRD reviewed six open examinations which the OEHHA administered to create eligible lists from which to make appointments. The OEHHA published and distributed examination bulletins containing the required information for all examinations. Applications received by the OEHHA were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRD found no deficiencies in the examinations that the OEHHA conducted during the compliance review period.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) 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, September 1, 2023, through February 29, 2024, the OEHHA made 17 appointments. The CRD reviewed 7 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Toxicologist	Certification List	Permanent	Full Time	1
Business Service Assistant (Specialist)	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Environmental Program Manager I (Supervisory)	Certification List	Permanent	Full Time	2
Research Scientist IV (Epidemiology/Biostatistics)	Certification List	Permanent	Full Time	1
Senior Environmental Scientist (Supervisory)	Certification List	Permanent	Full Time	1
Staff Toxicologist (Specialist)	Transfer	Permanent	Full Time	1

IN COMPLIANCE	FINDING NO. 2 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
----------------------	--

The OEHHA 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 six list appointments reviewed, the OEHHA 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 CRD reviewed one OEHHA appointment 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 OEHHA verified the eligibility of each candidate to their appointed class.

The CRD found no deficiencies in the appointments that the OEHHA initiated during the compliance review period. Accordingly, the CRD found that the OEHHA's appointments processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

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).)

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like OEHHA, the EEO Officer may be the Personnel Officer.

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

IN COMPLIANCE	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 OEHHA's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the OEHHA. The OEHHA also provided evidence of its efforts to promote EEO in its hiring and employment practices 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, 2023, through April 30, 2024, the OEHHHA had 11 PSC's that were in effect. The CRD reviewed 10 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
California State University, Sacramento	Climate Change Indicators Report, Webinars and Tribal Perspectives Video	\$129,859	Yes	No
California State University, Sacramento	Tribal Engagement on Pesticide Illness Education	\$75,000	Yes	No
University of California, Los Angeles	CES Data Evaluation	\$228,324	Yes	No
University of California, San Francisco	Biomonitoring	\$359,749	Yes	Yes
Cal Interpreting & Translations	Translation and Interpretation Services	\$170,520	Yes	No
University of California, Davis	Writing and Editing Training Courses	\$48,978	Yes	No
Capio Group	IT Consulting for AB 2238 Statewide Extreme Heat Ranking System Project	\$407,066	Yes	No

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
California Council on Science and Technology	Placement of Science and Technology Policy Fellow	\$49,999	Yes	No
University of California, San Francisco	Cumulative Risk Assessment for OEHHA Decision Making	\$110,913	Yes	No
Crusade	OEHHA Websites Maintenance and Operation	\$100,000	Yes	No

SEVERITY: SERIOUS	FINDING NO. 4 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
------------------------------	--

Summary: The OEHHA did not notify unions prior to entering into 9 of the 10 PSC's reviewed.

Criteria: Before a state agency executes a contract or amendment to a contract for personal services conditions specified within Government Code section 19130, subdivision (b), the agency shall notify all organizations that represent state employees who perform or could perform the type of work that is called for within the contract, unless exempted under Government code section 19132, subdivision (b)(1). (Cal. Code Regs., tit. 2, § 547.60.2.)

Severity: Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for the type of work that their members could perform.

Cause: The OEHHA states that due to human error, notice was not sent timely to the unions. This has been addressed with staff training, and a process has been implemented that includes a staff checklist and manager approval of all personal services contracts as part of contract execution.

Corrective Action: Departments are responsible for notifying all organizations that represent state employees who perform or could perform the type of work to be contracted prior to executing a PSC. The PSC's reviewed

during this compliance review involved several services and functions which various rank-and-file civil service classifications perform. The OEHHA asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OEHHA must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with the requirements of California Code of Regulations section 547.60.2.

Mandated Training

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a) and (b), & 19995.4, subd. (b).) Additionally, the training must be successfully completed within the term of the employee’s probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).)

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.*)

New employees must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two

hours of sexual harassment prevention training and non-supervisors one hour of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

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 CRD reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRD reviewed the OEHHA's mandated training program that was in effect during the compliance review period, May 1, 2022, through April 30, 2024. The OEHHA's supervisory training was found to be in compliance, while the OEHHA's ethics training and sexual harassment prevention training was found to be out of compliance.

SUBSTANTIAL COMPLIANCE	FINDING No. 5 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
-------------------------------	--

Summary: The OEHHA provided ethics training to all 101 existing filers. However, the OEHHA did not provide ethics training to 2 of 18 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: Substantial Compliance. The department has achieved 90% or more compliance in this area; therefore, no corrective action is required.

SUBSTANTIAL COMPLIANCE	FINDING No. 6 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS
-------------------------------	---

Summary: The OEHHA provided sexual harassment prevention training to all 20 existing supervisors every 2 years. However, the OEHHA did not

provide sexual harassment prevention training to 1 of 5 new supervisors within 6 months of their appointment.

In addition, the OEHHA did not provide sexual harassment training to 2 of 144 existing non-supervisors every 2 years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

Severity: Substantial Compliance. The department has achieved 90% or more compliance in this area; therefore, no corrective action is required.

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 rate¹¹ 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, September 1, 2023, through February 29, 2024, the OEHHA made seven appointments. The CRD reviewed three of those appointments to determine if the OEHHA applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

¹¹ "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)
Associate Toxicologist	Certification List	Permanent	Full Time	\$7,366
Environmental Program Manager I (Supervisory)	Certification List	Permanent	Full Time	\$11,946
Staff Toxicologist (Specialist)	Transfer	Permanent	Full Time	\$9,334

IN COMPLIANCE	FINDING NO. 7 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	---

The CRD found no deficiencies in the salary determinations that were reviewed. The OEHHA 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, September 1, 2023, through February 29, 2024, the OEHHA employees made one alternate range movement within a classification. The CRD reviewed the alternate range movement to determine if the OEHHA applied salary regulations accurately and correctly processed the employee's compensation, which is listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Environmental Specialist	A	B	Full Time	\$4,352

IN COMPLIANCE	FINDING No. 8 ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
----------------------	---

The CRD determined that the alternate range movements the OEHHA 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, September 1, 2023, through February 29, 2024, the OEHHA issued bilingual pay to one employee. The CRD reviewed the bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines. This is listed below:

Classification	Collective Bargaining Identifier	Time Base	No. of Appts.
Senior Toxicologist	S10	Full Time	1

SEVERITY: VERY SERIOUS	FINDING No. 9 INCORRECT AUTHORIZATION OF BILINGUAL PAY
-----------------------------------	---

Summary: The CRD found one error in the one bilingual pay authorization reviewed:

Classification	Description of Findings	Criteria
Senior Toxicologist	Department failed to supply supporting documentation demonstrating the need for bilingual services.	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)(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. Failure to comply with the state civil service pay plan by incorrectly applying compensation rules in accordance with CalHR’s policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay.

Cause: The OEHHA states that the bilingual pay differential was carried over from the employee’s previous position in error; as the employee’s current position is not designated to receive bilingual pay.

Corrective Action: Within 90 days of the date of this report, the OEHHA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 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 unit 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, September 1, 2023, through February 29, 2024, the OEHHA authorized 24 pay differentials.¹² The CRD reviewed 14 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Environmental Program Manager I (Supervisory)	Educational Pay	2%
Senior Toxicologist	Educational Pay	3%
Associate Toxicologist	Educational Pay	3%
Research Scientist IV (Chemical Sciences)	Educational Pay	3%
Supervising Toxicologist (Managerial)	Educational Pay	3%
Staff Toxicologist (Specialist)	Educational Pay	3%
Associate Toxicologist	Educational Pay	3%
Research Scientist IV (Epidemiology/Biostatistics)	Educational Pay	3%

¹² For the purposes of CRD's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Staff Toxicologist (Specialist)	Educational Pay	3%
Research Scientist III (Epidemiology/Biostatistics)	Educational Pay	3%
Senior Toxicologist	Educational Pay	3%
Research Scientist IV (Chemical Sciences)	Educational Pay	3%
Research Scientist I (Epidemiology/Biostatistics)	Educational Pay	2%
Environmental Program Manager I (Supervisory)	Educational Pay	2%

SEVERITY: VERY SERIOUS	FINDING NO. 10 INCORRECT AUTHORIZATION OF PAY DIFFERENTIALS
-----------------------------------	--

Summary: The CRD found 2 errors in the 14 pay differentials reviewed:

Classification	Area	Description of Findings	Criteria
Research Scientist I (Epidemiology/Biostatistics)	Educational Pay	Employee's classification is not eligible to receive the educational pay differential. Employee was overcompensated.	Pay Differential 434
Supervising Toxicologist (Managerial)	Educational Pay	Department did not provide educational certification or any other documentation to support eligibility.	Pay Differential 434

Criteria: A pay differential may be appropriate 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. 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. (CalHR Classification and Pay Manual Section 230.)

Severity: Very Serious. The OEHHA failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in civil

service employees receiving incorrect and/or inappropriate compensation.

Cause: The OEHHA states that it provided incorrect information to the CRD to substantiate educational pay for the Research Scientist I¹³ position; and missed sending the transcripts for the correct staff person.

Corrective Action: Within 90 days of the date of this report, the OEHHA must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 434 and ensure that employees are compensated correctly and that transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Out-of-Class Assignments and Pay

For excluded¹⁴ 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).)

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

¹³ The OEHHA erroneously referred to this position as a Research Scientist IV position in its department response. The position with the problematic pay differential was a Research Scientist I.

¹⁴ "Excluded employee" means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

to correct the situation before the time period outlined in applicable law, policy or MOU expires. (Classification and Pay Guide Section 375.)

During the period under review, September 1, 2023, through February 29, 2024, the OEHHA issued OOC pay to four employees. The CRD reviewed all 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
Research Scientist IV (Chemical Sciences)	R10	Senior Toxicologist	September 2023 – October 2023
Senior Toxicologist	S10	Supervising Toxicologist (Managerial)	October 2023 – December 2023
Senior Toxicologist	S10	Supervising Toxicologist (Managerial)	September 2023, December 2023 & January 2024
Supervising Toxicologist (Managerial)	M10	Chief, Air and Site Assessment and Climate Indicator Branch	November 2023 – January 2024

SEVERITY: VERY SERIOUS	FINDING NO. 11 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
-----------------------------------	--

Summary: The CRD found one error in the four OOC pay assignments reviewed:

Classification	Out-of-Class Classification	Description of Finding	Criteria
Supervising Toxicologist (Managerial)	Chief, Air and Site Assessment and Climate Indicator Branch	Managerial employee was not eligible to receive out-of-class pay until the 91 st day; and was over compensated. Accounts receivables have been established.	Pay Differential 101

Criteria: Employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in writing and the employee is given a copy of the assignment; and the

duties performed by the employee are not described in a training and development assignment or by the specification for the class to which the excluded employee is appointed and, are fully consistent with the types of jobs described in the specification for the higher classification; and the employee does not perform such duties for more than 120 days in a fiscal year. (Cal. Code Regs., tit. 2, § 599.810, subd. (b)(1)(3)(4).)

For managerial employees, managerial out-of-class compensation will commence on the 91st day. Compensation shall not exceed nine months. Managerial out-of-class compensation is not delegated to any appointing power. Requests for payment of managerial out of class must be submitted and approved by CalHR.

For excluded employees, there shall be no compensation for assignments that last for 15 consecutive working days or less. (Cal. Code Regs., tit. 2, § 599.810, subd. (c).) An excluded employee performing in a higher class for more than 15 consecutive working days shall receive the rate of pay the excluded employee would receive if appointed to the higher class for the entire duration of the assignment, not to exceed one year. (Cal. Code Regs., tit. 2, § 599.810, subd. (d).) An excluded employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the appointing power files a written statement with the CalHR certifying that the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. (Cal. Code Regs., tit. 2, § 599.810, subd. (e).)

Severity: Very Serious. The OEHHA failed to comply with the state civil service pay plan by incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines. This results in civil service employees receiving incorrect and/or inappropriate compensation.

Cause: The OEHHA states that overcompensation for the OOC was discovered shortly after payment to the employee. The OEHHA admits its mistake; as the employee is only entitled to pay beginning on the 91st day of the OOC. The employee was notified and accounts receivables established shortly thereafter and collected.

Corrective Action: The OEHHA asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OEHHA must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 101.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used 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 the working days of a month. When counting 189 days, every day worked, including partial days¹⁵ worked and paid absences¹⁶, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

¹⁵ For example, two hours or ten hours count as one day.

¹⁶ For example, vacation, sick leave, compensating time off, etc.

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

At the time of the review, the OEHHA had nine positive paid employees whose hours were tracked. The CRD reviewed seven of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
Associate Governmental Program Analyst	Retired Annuitant	Intermittent	633.50 Hours
Associate Personnel Analyst	Retired Annuitant	Intermittent	89.25 Hours
Attorney IV	Retired Annuitant	Intermittent	705.75 Hours
Information Officer II	Retired Annuitant	Intermittent	841.50 Hours
Senior Toxicologist	Retired Annuitant	Intermittent	951.45 Hours
Staff Toxicologist (Specialist)	Retired Annuitant	Intermittent	698.25 Hours
Supervising Toxicologist (Managerial)	Retired Annuitant	Intermittent	318.50 Hours

IN COMPLIANCE	FINDING NO. 12 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
----------------------	--

The CRD found no deficiencies in the positive paid employees reviewed during the compliance review period. The OEHHA provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

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, 2023, through January 31, 2024, the OEHHA authorized two ATO transactions. The CRD reviewed all of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Office Technician	8/21/2023	1 Hour
Staff Toxicologist (Specialist)	03/08/2023 - 03/10/2023	3 days

IN COMPLIANCE	FINDING No. 13	ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
----------------------	-----------------------	---

The CRD found no deficiencies in the ATO transactions reviewed during the compliance review period. The OEHHA provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Accounting

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

During the period under review, November 1, 2023, through January 31, 2024, the OEHHA reported 18 total units. The CRD reviewed 13 units within 3 pay periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

SEVERITY: SERIOUS	FINDING No. 14 DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY
------------------------------	--

Summary: The OEHHA failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely and to certify that all leave records have been reviewed and corrected if necessary.

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.) Departments are directed to create an audit process to verify all leave input is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall identify and record all errors found and shall certify that all leave records for the unit/pay period identified have been reviewed and all leave errors identified have been corrected. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

Severity: Serious. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. Failure to audit leave could put the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

Cause: The OEHHA states that its monthly internal process gives the responsible parties a 10-day turnaround to audit timesheets and complete the Leave Activity and Correction Certification form. This timeframe has caused OEHHA's collection of forms to be untimely.

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

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 a qualifying or non-qualifying pay period for state service and leave accruals.

Generally, 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.¹⁷ (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. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁸ 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, September 1, 2023, through May 7, 2024, the OEHHHA had two employees with qualifying and non-qualifying pay period transactions. The CRD

¹⁷ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

¹⁸ As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

reviewed these transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	No. Reviewed
Non-Qualifying	Full-Time	2

IN COMPLIANCE	FINDING NO. 15	SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
----------------------	-----------------------	---

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

Policy and Processes

Nepotism

It is the policy of the State of California to hire, transfer, and promote 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. (Cal. Code Regs., tit. 2, § 87.) (*Ibid.*) All appointing powers shall adopt an anti-nepotism policy that includes the following components: (1) a statement that the appointing power is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system; (2) a definition of "nepotism" as an employee's use of influence or power to hire, transfer, or promote an applicant or employee because of a personal relationship; (3) a definition of "personal relationship" as persons related by blood, adoption, current or former marriage, domestic partnership or cohabitation; (4) a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the applicant, as defined in section 83.6; (5) a statement that prohibits the direct or first-line supervision of an employee with whom the supervisor has a personal relationship, as defined in section 83.6; (6) a process for addressing issues of direct supervision when personal relationships between employees exist. (*Ibid.*)

IN COMPLIANCE	FINDING No. 16	NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
----------------------	-----------------------	--

The CRD verified that the policy was disseminated to all staff and emphasized the OEHHA's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the OEHHA'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, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work-related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

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

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

IN COMPLIANCE	FINDING No. 17	WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
----------------------	-----------------------	--

The CRD verified that the OEHHA provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRD verified that when the OEHHA 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, subdivision (a), appointing powers must “prepare performance reports.” Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

The CRD selected 27 permanent OEHHA employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 18 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES TIMELY
------------------------------	---

Summary: The OEHHA did not provide annual performance appraisals timely to 5 of 27 employees reviewed.

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 employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The OEHHA states that the annual performance appraisal process involves acknowledgement with a signature or initial from the second line supervisor prior to submission to the Human Resources Branch for filing to the employee’s Official Personnel File. The OEHHA states that the second line supervisor was on leave. Upon return, the performance appraisals were acknowledged and submitted to HRB within three weeks of the due date.

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

DEPARTMENTAL RESPONSE

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

SPB REPLY

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



Gavin Newsom, Governor
Yana Garcia, Secretary for Environmental Protection
David Edwards, Ph.D., Acting Director

April 18, 2025

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

Dear Ms. Ambrose:

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

OEHHA acknowledges the findings in the draft Compliance Review Report. Detailed below are the compliance findings along with OEHHA'S response to each finding.

FINDING NO. 4 - UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS

Summary: The OEHHA did not notify unions prior to entering into 9 of the 10 PSC's reviewed.

Cause: Due to human error, notice was not sent timely to the unions. This has been addressed with staff training and a process has been implemented that includes a staff checklist and manager approval of all services contracts as part of contract execution.

FINDING NO. 9 - INCORRECT AUTHORIZATION OF BILINGUAL PAY

Summary: The CRD found one error in the one bilingual pay authorization reviewed:

Cause: The Bilingual Pay was a carryover code on the employee's Personnel Action Request (PAR) from the previous position. The employee's current position is not designated to receive Bilingual Pay.

FINDING NO. 10 - INCORRECT AUTHORIZATION OF PAY DIFFERENTIALS

Summary: The CRD found 2 errors in the 14 pay differentials reviewed:

Research Scientist IV (Epidemiology/Biostatistics)

Educational Pay

Employee's classification is not eligible to receive the educational pay differential.

Employee was overcompensated.

Pay Differential 434

Supervising Toxicologist (Managerial)

Educational Pay

Department did not provide educational certification or any other documentation to support eligibility.

Pay Differential 434

Cause: OEHHA mixed-up the staff person that information was to be provided for to substantiate Educational Pay for the Research Scientist IV position and missed sending the transcripts for the correct staff person.

OEHHA prior to becoming a department, was a section within the Department of Health Services (DHS) prior to the split of DHS. The Supervising Toxicologist was appointed in 1994 to the Staff Toxicologist classification with DHS/OEHHA. Transcripts were verified at that time by the exam analyst who has been with DHS/OEHHA since that time and retired in 2019. Because transcripts were verified at that time within the same exam unit with the same exam analyst, no verifications were made when the Supervising Toxicologist's prior participation with the Senior Toxicologist and subsequently the Supervising Toxicologist exams. All three exams were administered by DHS/OEHHA until they were recently transferred over to CalHR. The exam files from the 1990s are no longer available as they have been destroyed because the creation of the files was past the required retention period. At the time of the audit, the Supervising Toxicologist was retired, so there was no contact with the previous employee to obtain transcripts.

Summary: The CRD found one error in the four OOC pay assignments reviewed:

Classification Out-of-Class Classification Description of Finding Criteria

Supervising Toxicologist (Managerial)

Chief, Air and Site Assessment and Climate Indicator Branch

Managerial employee was not eligible to receive out-of-class pay until the 91st day; and was over compensated. Accounts receivables have been established.

Pay Differential 101

Suzanne M. Ambrose, Executive Officer

April 18, 2025

Page 3

Cause: OEHHA discovered shortly after payment of OOC for the employee, the first 90 days of pay was a mistake. The employee is only entitled to pay beginning with the 91st day of the OOC. The employee was notified with accounts receivables established shortly thereafter and collected.

FINDING NO. 14 - DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY

Summary: The OEHHA failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely and to certify that all leave records have been reviewed and corrected if necessary.

Cause: OEHHA's monthly internal process gives the responsible parties a 10-day turnaround to audit timesheets and complete the Leave Activity and Correction Certification form and return to the Human Resources Branch. This timeframe has caused OEHHA's collection of forms for all including those forms that require a completion/correction.

FINDING NO. 18 - PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES

Summary: The OEHHA did not provide annual performance appraisals timely to 5 of 27 employees reviewed.

Cause: OEHHA's Performance Appraisal Summary (PAS) process involves acknowledgement with a signature/initial from the second line supervisor prior to submittal of the PAS to the Human Resources Branch for filing to the employee's Official Personnel File. Unfortunately, the second line supervisor was on leave at the time the PASs was due. Upon the return, the PASs was acknowledged and submitted to HRB within three weeks of the due date.

Thank you for the opportunity to respond to the draft SPB Compliance Review Report. If there are any questions, please contact me at Cassandra.Willis@oehha.ca.gov or (916) 324-2234

Sincerely,

Cassandra Willis

Cassandra Willis, Chief
Human Resources Branch