



COMPLIANCE REVIEW REPORT

LITTLE HOOVER COMMISSION

Compliance Review Unit
State Personnel Board
October 27, 2021

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INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Little Hoover Commission's (Commission) 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
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed
Appointments	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
Equal Employment Opportunity	Very Serious	A Disability Advisory Committee Has Not Been Established
Equal Employment Opportunity	Very Serious	Equal Employment Opportunity Officer Is Not at the Managerial Level and Duty Statement Does Not Reflect EEO Duties
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and 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
Leave	Very Serious	Incorrectly Posted Leave Usage and/or Leave Credit
Policy	Very Serious	Department Does Not Maintain a Current Written Nepotism Policy

Area	Severity	Finding
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

BACKGROUND

The Little Hoover Commission, formally known as the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, is an independent state oversight agency created in 1962. The Commission's mission is to investigate state government operations and policy, and – through reports and legislative proposals – make recommendations to the Governor and Legislature to promote economy, efficiency and improved service in state operations.

Additionally, the Commission has a statutory obligation to review and make recommendations on all proposed government reorganization plans. The Commission has broad and independent authority to evaluate the structure, organization, operation and function of every department and agency in the executive branch of state government, along with the policies and methods for appropriating and administering funds. The Commission's members are appointed by the Governor and legislative leadership. The Commission has a staff of seven total employees.

The Department of General Services (DGS) performs human resources operations for the Commission.

SCOPE AND METHODOLOGY

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

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

The Commission did not conduct any examinations or permanent withhold actions during the compliance review period.

A Commission's appointment was selected for review. The CRU examined the documentation that the Commission and DGS provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions, vacancy postings, certification lists, employment history records, correspondence, and probation reports. The Commission did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the Commission did not make any additional appointments during the compliance review period.

During the review period, the Commission made one appointment, which was selected for review to ensure the DGS, on behalf of the Commission, applied salary regulations accurately and correctly processed the employee's compensation and pay. The CRU examined the documentation that the DGS provided, which included the employee's employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. During the compliance review period, the DGS, on behalf of the Commission, did not issue or authorize hiring above minimum requests, red circle rate requests, arduous pay, bilingual pay, monthly pay differentials, alternate range movements or out-of-class assignments.

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

The Commission's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors, managers, and those in Career Executive Assignments (CEA) were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the DGS's monthly internal audit process of the Commission's employees to verify all leave input into any leave accounting system was keyed accurately and timely; and to ensure the DGS certified that all leave records have been reviewed and corrected if necessary. The DGS, on behalf of the Commission, did not track any temporary intermittent employees by actual time worked during the compliance review period. Additionally, the Commission did not have any employees with non-qualifying pay

period transactions, and did not authorize Administrative Time Off during the compliance review period.

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

On October 18, 2021, an exit conference was held with the Commission and DGS to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the Commission's written response on October 18, 2021, 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.) 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, May 1, 2020, through April 30 2021, the Commission made one appointment, which is listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Project Manager I, Little Hoover Commission	Certification List	Permanent	Full time	1

SEVERITY: SERIOUS	FINDING NO. 1 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary: The Commission did not provide two probationary reports of performance for the appointment reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Project Manager I, Little Hoover Commission	Certification List	1	2

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

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that

the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: The Commission states that they were unaware that probationary reports of performance were required for new appointees.

Corrective Action: The Commission provides that it has taken steps to achieve compliance in this area. Within 90 days of the date of this report, the Commission must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 19172.

SEVERITY: TECHNICAL	FINDING No. 2 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
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Summary: The Commission failed to retain personnel records such as NOPA's, duty statements, job announcements/bulletins, and/or applications. For the one appointment reviewed, the Commission did not retain one NOPA.

Criteria: As specified in section 26 of the Board's Regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.)

Severity: Technical. Without documentation, the CRU could not verify if the appointment was properly conducted.

Cause: The Commission states that their staff inadvertently failed to retain one NOPA.

Corrective Action: Within 90 days of the date of this report, the Commission must submit to the SPB a written corrective action response which 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 relevant documentation demonstrating

that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; and cooperate with the CalHR, in accordance with Civil Code section 1798.24, subdivisions (o) and (p), by providing access to all required files, documents and data necessary to carry out these mandates. (*Ibid.*) In addition, the appointing power must appoint, at the managerial level, an EEO Officer, who shall report directly to, and be under the supervision of, the director of the department to develop, implement, coordinate, and monitor the department's EEO program. (Gov. Code, § 19795, subd. (a).)

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like the Commission, 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).)

SEVERITY: VERY SERIOUS	FINDING NO. 3 A DISABILITY ADVISORY COMMITTEE HAS NOT BEEN ESTABLISHED
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Summary: The Commission does not have an active DAC.

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

who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

Severity: Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any underrepresentation. The lack of a DAC may limit an agency's ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.

Cause: The Commission states that, they were unaware of the requirement to establish a DAC, given their department's small size.

Corrective Action: The Commission provides that it has taken steps to achieve compliance in this area. Within 90 days of the date of this report, the Commission must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure the establishment of a DAC, comprised of members who have disabilities or who have an interest in disability issues.

SEVERITY: VERY SERIOUS	FINDING NO. 4 EQUAL EMPLOYMENT OPPORTUNITY OFFICER IS NOT AT THE MANAGERIAL LEVEL AND DUTY STATEMENT DOES NOT REFLECT EEO DUTIES
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Summary: The Commission's EEO Officer is an Associate Governmental Program Analyst (AGPA). This is a rank and file classification not at the managerial level. Although the Commission's EEO program outlines the roles and responsibilities of the EEO Officer, the AGPA duty statement provided by the Commission does not contain EEO Officer related duties.

Criteria: 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).) The EEO Officer shall, among other duties, analyze and report on appointments of employees, bring issues of concern regarding EEO to the appointing power and recommend appropriate action, and perform other duties necessary for the effective implementation of the agency EEO plans. (*Ibid*)

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

Cause: The Commission states that the AGPA assumed the EEO Officer duties during a period of time when managerial level staff positions were vacant. The Commission will transfer the EEO duties to the Deputy Executive Director.

Corrective Action: Within 90 days of the date of this report, the Commission must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code 19795, subdivision (a). In addition, the Commission must submit an update duty statement for the EEO Officer. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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.)

Additionally, new supervisors 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 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 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 Commission’s mandated training program that was in effect during the compliance review period, August 1, 2019, through July 31, 2021. The Commission’s sexual harassment prevention training was found to be in compliance, while the Commission’s ethics training was found to be out of compliance.

SEVERITY: VERY SERIOUS	FINDING No. 5 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The Commission did not provide ethics training to their one existing filer. The Commission did not report any new filers within the compliance review period.

Criteria: 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 Commission states that their Executive Director was unaware of the requirement for ethics training.

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

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 rate² 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, May 1, 2020, through April 30, 2021, the DGS made one appointment on behalf of the Commission. The CRU reviewed the appointment to determine if the DGS, on behalf of the Commission, applied salary regulations accurately and correctly processed the employee's compensation, which is listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Project Manager I, Little Hoover Commission	Certification List	Permanent	Full time	\$7,777

IN COMPLIANCE	FINDING NO. 6 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the salary determination that was reviewed. The DGS, on behalf of the Commission, appropriately calculated and keyed the salary for the appointment and correctly determined the employee's anniversary date ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

² "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).

Leave

Leave Auditing and Timekeeping

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

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

During the period under review, February 1, 2021, through April 30, 2021, the DGS, on behalf of the Commission, reported one unit comprised of seven active employees. The pay period and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
March 2021	100	7	7	0

SEVERITY: SERIOUS	FINDING NO. 7 DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY
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Summary: The DGS, on behalf of the Commission, 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 Commission states that it relies on the DGS to verify all leave input is keyed accurately and timely. The DGS states it has a monthly internal process for time reported in draft format, but due to high turnover and special projects, it was placed on hold.

Corrective Action: Within 90 days of the date of this report, the Commission 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.

SEVERITY: VERY SERIOUS	FINDING NO. 8 INCORRECTLY POSTED LEAVE USAGE AND/OR LEAVE CREDIT
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Summary: The DGS, on behalf of the Commission, did not correctly enter four of seven timesheets into the Leave Accounting System (LAS) during the March 2021 pay period. As a result, four employees retained their prior leave balance despite having used leave credits.

Criteria: Departments shall create a monthly internal audit process to verify

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

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

Cause: The Commission states that they rely on the DGS to enter their timesheets into the Leave Accounting System. The DGS acknowledges this finding, and states it was made due to human error as well as the DGS Personnel Specialist recently receiving the Commission as a roster assignment.

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

Policy and Processes

Nepotism

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

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

SEVERITY: VERY SERIOUS	FINDING NO. 9 DEPARTMENT DOES NOT MAINTAIN A CURRENT WRITTEN NEPOTISM POLICY
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Summary: The Commission does not maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees.

Criteria: It is the policy of the State of California to recruit, hire and assign all employees on the basis of fitness and merit in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204). All department policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring, and assigning employees on the basis of merit. (*Ibid.*)

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

Cause: The Commission states that they were unaware of the requirement for a written nepotism policy.

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

Workers’ Compensation

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under

workers' compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, 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 COMPLIANCE	FINDING NO. 10 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the DGS, on behalf of the Commission, provides notice to the Commission employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. The Commission did not receive any workers' compensation claims during the review period.

Performance Appraisals

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

The CRU selected two permanent Commission 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. 11 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The Commission did not provide annual performance appraisals to the two employees reviewed after the completion of the employee’s probationary period.

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

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

Cause: The Commission states that they were unaware that annual performance appraisals were required.

Corrective Action: Within 90 days of the date of this report, the Commission 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

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

SPB REPLY

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

October 18, 2021

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

Re: Response to Draft State Personnel Board Compliance Report

Dear Ms. Ambrose,

The Department of General Services (DGS) and Little Hoover Commission (Commission) are in receipt of the draft State Personnel Board's (SPB) Compliance Review Report for the Commission. DGS provides contracted human resources services for the Commission. Based on the compliance review conducted by the Compliance Review Unit (CRU) of the Commission's personnel practices in the areas of Examinations, Appointments, Equal Employment Opportunity (EEO), Personal Services Contracts, Mandated Training, Compensation and Pay, Leave, and Policy and Processes, DGS and the Commission provide the following response to each of the findings presented by SPB.

Finding No. 1 – Probationary Evaluations Were Not Provided for all Appointments Reviewed

Response: The Commission was unaware that probationary reports of performance were required for new appointees. The Commission's Executive Director is working on a performance appraisal for the employee cited in Finding No. 1. The employee has completed a self-evaluation, as recommended by the Department of General Services, and the Executive Director hopes to complete the employee's evaluation by the end of October 2021. Additionally, the Executive Director has initiated performance evaluations for all other non-Exempt staff members. Given the small size of the Commission's staff, seven (7) total employees including the Executive Director, the Commission has few new hires, but in the future, the Commission will conduct required probationary reports of performance for any new appointees.

Finding No. 2 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Response: Commission staff inadvertently failed to retain one (1) Notice of Personnel Action (NOPA). Commission staff will retain all required documents in the future.

Finding No. 3 – A Disability Advisory Committee Has Not Been Established

Response: The Commission was unaware that it needed to establish a Disability Advisory Committee (DAC) given the agency's small size. On September 20, 2021, the Executive Director provided information to all staff members seeking volunteers to serve on the DAC. On October 8, 2021, the Executive Director appointed himself and two (2) other staff members, Tamar Foster and Sherry McAlister, to serve as the DAC. A meeting of the DAC has been scheduled for November 1, 2021. In the future, the DAC will meet regularly.

Finding No. 4 – Equal Employment Opportunity Officer Is Not at the Managerial Level and Duty Statement Does Not Reflect EEO Duties

Response: The Associate Governmental Program Analyst (AGPA) assumed the duties of the Equal Employment Opportunity (EEO) Officer after, in a period of approximately two (2) years, the previous Executive Director passed away, the long-time Deputy Executive Director retired, the subsequent Deputy Executive Director left abruptly, and the Interim Executive Director left abruptly. As a result, both the Executive Director and Deputy Executive Director were vacant for long periods of time, and the AGPA assumed the EEO duties. Amid these circumstances, there was an oversight, and these duties were not added to the duty statement. The Commission will transfer the EEO duties to the Deputy Executive Director and add these duties to that position's duty statement.

Finding No. 5 – Ethics Training Was Not Provided for All Filers

Response: The Executive Director, the one (1) existing filer identified by SPB, was unaware of the requirement for ethics training. The Executive Director completed the training on September 8, 2021, and will complete the training during each consecutive period of two (2) calendar years moving forward.

Finding No. 6 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

In Compliance

Finding No. 7 – Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely

Response: The Commission relies on DGS contracted human resources to verify all leave input is keyed accurately and timely. DGS agrees with CRU's finding and confirms it has a monthly internal process in draft format for time reported on an Absence and Additional Time Worked Report (Std. 634). Due to high turnover and special projects, DGS workload priorities had a shift in which this project was temporarily placed on hold. DGS will take action to finalize the draft within ninety (90) calendar days and implement in time for the January 2022 pay period.

Finding No. 8 – Incorrectly Posted Leave Usage and/or Leave Credit

Response: The Commission relies on DGS contracted human resources to enter timesheets into the Leave Accounting System. DGS acknowledges the finding, and it was made due to human error. DGS agrees four (4) of seven (7) Commission employees leave was not entered in the Leave Accounting System (LAS) in a timely manner for the March 2021 pay period, and the remaining three (3) employees were found in compliance and had no leave to report. The DGS Personnel Specialist stated it was an oversight due to recently receiving the Commission as a roster assignment. The issue has been corrected and leave for all four (4) employees has been entered in LAS.

Finding No. 9 – Department Does not Maintain a Current Written Nepotism Policy

Response: The Commission was unaware of the requirement for a written nepotism policy. The Commission staff are preparing a nepotism policy based on the existing DGS policy and will submit it for Commission approval at the next Commission business meeting. If adopted, the policy will then be circulated to all staff members.

Finding No. 11 – Performance Appraisals Were Not Provided to All Employees

Response: The Commission understood that performance appraisals were not required. The Commission has started to conduct performance appraisals for all staff members and moving forward, the Commission will conduct annual performance appraisals as required.

Conclusion

DGS and the Commission strive to ensure good employment practices and remain committed to working with the State Personnel Board. Thank you for the opportunity to discuss and respond to the draft Compliance Review Report.

If you have any questions, please contact Estela Gonzales, HR Chief, DGS by email at estela.gonzales@dgs.ca.gov or by phone at (916) 376-5411 and Ethan Rarick, Executive Director, LHC by email at ethan.rarick@lhc.ca.gov or by phone at (916) 445-0926.

Sincerely,



Estela Gonzales, Chief
Office of Human Resources
Department of General Services



Ethan Rarick
Executive Director
Little Hoover Commission

cc: Dorthia Lampley, Staff Services Manager III, DGS
Jennifer Gothier, Staff Services Manager II, DGS Classification and Pay
Estella Ceja, Staff Services Manager II, DGS Personnel Transactions Unit
Sherry McAlister, Administration Manager, Little Hoover Commission