



COMPLIANCE REVIEW REPORT

OFFICE OF THE STATE PUBLIC DEFENDER

Compliance Review Division
State Personnel Board
July 9, 2025

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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 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 the State Public Defender (OSPD) 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
Examinations	In Compliance	Permanent Withhold Actions 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	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	In Compliance	Mandated Training Complied with Statutory Requirements
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
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
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

Area	Severity	Finding
Leave	In Compliance	Leave Auditing and Timekeeping 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

BACKGROUND

The OSPD is a small executive branch agency reporting directly to the Governor. The core mission of the OSPD centers on providing advocacy for the underrepresented, particularly those facing capital sentences, while empowering the broader defense community to ensure effective and equitable representation for all.

The OSPD is strategically structured into two mission-centric divisions: the Appellate Division and the Indigent Defense Improvement Division. The Appellate Division is committed to providing representation to people sentenced to death in California. Additionally, the Appellate Division actively manages several key programs, including the Amicus program, the Systemic Litigation program, and the Non-Capital Litigation program.

The Indigent Defense Improvement Division supports public defense systems throughout California by providing in-depth training, capacity building, research, and data support to defense teams, offices, and county leaders.

The OSPD employs approximately 98 employees throughout the state of California.

SCOPE AND METHODOLOGY

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

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

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 OSPD'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 OSPD provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRD also reviewed the OSPD's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the OSPD'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 OSPD provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The OSPD did not conduct any unlawful appointment investigations during the compliance review period.

The OSPD's appointments were also selected for review to ensure the OSPD applied salary regulations accurately and correctly processed employees' compensation and pay. The CRD examined the documentation that the OSPD 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: monthly pay differentials, and alternate range movements.

The review of the OSPD'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.

The OSPD's PSC's were also reviewed.² It was beyond the scope of the compliance review to make conclusions as to whether the OSPD's justifications for the contracts were legally sufficient. The review was limited to whether the OSPD's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The OSPD'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 leadership and development training, that all employees were provided sexual harassment prevention training, and that all officials with authority to represent the state in a tribal government-to-government consultation were provided tribal consultations training within statutory timelines.

The CRD reviewed the OSPD'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 OSPD's units in order to ensure they maintained accurate and timely leave accounting records. The CRD reviewed a selection of the OSPD employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRD reviewed a selection of OSPD positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements. During the compliance review period, the OSPD did not have any employees with non-qualifying pay period transactions.

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

The CRD received and carefully reviewed the OSPD's written response on June 26, 2025, which is attached to this final compliance review report.

²If 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.

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, January 31, 2024, through January 30, 2025, the OSPD conducted one examination. The CRD reviewed the examination, which is listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
CEA B, Director Indigent Defense Improvement Division	CEA	Statement of Qualifications (SOQ) ³	3/11/2024	12

³ 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.

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRD reviewed one open examination which the OSPD administered in order to create eligible lists from which to make appointments. The OSPD published and distributed examination bulletins containing the required information for all examinations. Applications received by the OSPD 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 OSPD conducted during the compliance review period.

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond or fails to establish that s/he meets the minimum qualification(s), the candidate’s name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate’s subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the period under review, January 31, 2024, through January 30, 2025, the OSPD conducted 19 permanent withhold actions. The CRD reviewed 12 of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Legal Analyst	6PB11	11/14/2023	2/28/2024	Failed to Meet Minimum Qualifications (MQ's)
Legal Analyst	6PB11	2/13/2023	2/28/2024	Failed to Meet MQ's
Legal Analyst	6PB11	10/6/2023	2/28/2024	Failed to Meet MQ's
Legal Analyst	6PB11	1/6/2024	2/28/2024	Failed to Meet MQ's
Legal Analyst	6PB11	9/18/2023	2/28/2024	Failed to Meet MQ's
Legal Analyst	6PB11	1/28/2024	2/28/2024	Failed to Meet MQ's
Legal Analyst	6PB11	7/6/2024	8/21/2024	Failed to Meet MQ's
Legal Analyst	6PB11	4/16/2024	7/2/2024	Failed to Meet MQ's
Legal Analyst	6PB11	8/1/2024	9/9/2024	Failed to Meet MQ's
Legal Analyst	6PB11	11/16/2023	7/5/2024	Failed to Meet MQ's
Senior Personnel Specialist	5PB10	5/28/2023	5/1/2024	Failed to Meet MQ's
Senior Personnel Specialist	5PB10	10/4/2023	5/1/2024	Failed to Meet MQ's

IN COMPLIANCE	FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRD found no deficiencies in the permanent withhold actions undertaken by the department 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, January 31, 2024, through January 30, 2025, the OSPD made 26 appointments. The CRD reviewed 10 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
CEA B, Director Indigent Defense Improvement Division	CEA	CEA	Full Time	1
Attorney	Certification List	Limited Term	Full Time	1
Attorney III	Certification List	Permanent	Full Time	1
Attorney IV	Certification List	Permanent	Full Time	2
Attorney Supervisor	Certification List	Permanent	Full Time	1
Office Technician	Certification List	Permanent	Full Time	1
Senior Legal Analyst	Certification List	Permanent	Full Time	1
Attorney	Transfer	Limited Term	Full Time	1
Research Data Specialist II	Transfer	Limited Term	Full Time	1

IN COMPLIANCE	FINDING NO. 3 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The OSPD 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 eight list appointments reviewed, the OSPD 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 two OSPD appointments made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Regs., tit. 2, § 425.) The OSPD verified the eligibility of each candidate to their appointed class.

The CRD found no deficiencies in the appointments that the OSPD initiated during the compliance review period. Accordingly, the CRD found that the OSPD’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).)

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. 4 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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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 CRD determined that the OSPD'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 Director of the OSPD. The OSPD 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, January 31, 2024, through January 30, 2025, the OSPD had 18 PSC's that were in effect. The CRD reviewed 14 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Unexpected Virtual Tours & Training, LLC	Racial Equity Training	\$198,949	Yes	Yes
GSL Data Solutions, LLC	Media File Digitization Services	\$200,000	Yes	Yes
Saddle Point System	Binding Machine Maintenance	\$1,785	Yes	Yes
Confidential Expert Witness ⁴	Legal Expert Witness	\$5,400	Yes	Yes

⁴ Pursuant to the State Contracting Manual, Volume 1, Chapter 3, Section 7 B., union notification is not required for expert witnesses or consultations in connection with a confidential investigation or any confidential component of a pending or active legal action.

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Confidential Expert Witness	Legal Expert Witness	\$5,000	Yes	Yes
Confidential Expert Witness	Legal Expert Witness	\$23,500	Yes	Yes
Maya Prabhu	Legal Training	\$3,000	Yes	Yes
Adam Murphy	Legal Training	\$1,000	Yes	Yes
Alexis Hoag-Fordjour	Legal Training	\$1,000	Yes	Yes
Daniel Harawa	Legal Training	\$1,000	Yes	Yes
Kristin Henning	Legal Training	\$3,500	Yes	Yes
Homebase	Training and Consulting	\$9,995	Yes	Yes
Jennifer Hansen	Course Material Update	\$4,495	Yes	Yes
Confidential	Legal Expert Witness	\$15,500	Yes	Yes

IN COMPLIANCE	FINDING NO. 5 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC’s reviewed was \$474,124. It was beyond the scope of the review to make conclusions as to whether the OSPD justifications for the contract were legally sufficient. For all PSC’s reviewed, the OSPD provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, the OSPD complied with proper notification to all organizations that represent state employees who perform or could perform the type or work contracted as required by California Code of Regulations section 547.60.2. Accordingly, the OSPD PSC’s complied with civil service laws and board rules.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as “filers”) because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months

of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a) 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 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 Legislature encourages the state and its agencies to consult on a government-to-government basis with federally recognized tribes and with nonfederally recognized tribes and tribal organizations in order to allow tribal officials the opportunity to provide meaningful and timely input in the development of policies, programs, and projects that have tribal implications. (Gov. Code, § 11019.81, sub. (c).) Each official specified in Government Code section 11019.81 subdivision (f)⁵ shall complete tribal consultations training by January 1, 2025, or, for officials appointed after that date, within six months of

⁵ Within the executive branch, the following officials have authority to represent the state in a tribal government-to-government consultation: the governor, the attorney general, each constitutional officer and statewide elected official, the director of each state agency and department, the chair and executive officer of each state commission and task force, and the chief counsel of any state agency. (Gov. Code, § 11019.81, sub. (f) (1).) Each authorized official may formally designate another agency official to conduct preliminary tribal consultations, and each designated official may have the authority to act on behalf of the state during a government-to-government consultation. (Gov. Code, § 11019.81, sub. (f) (2).)

their appointment or confirmation of appointment, whichever is later. (Gov. Code, § 11019.81, sub. (h).) Each official shall retake the training annually. (*Ibid.*)

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the 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 OSPD’s mandated training program that was in effect during the compliance review period, February 1, 2023, through January 30, 2025.

IN COMPLIANCE	FINDING NO. 6	MANDATED TRAINING COMPLIED WITH STATUTORY REQUIREMENTS
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The OSPD provided ethics training to its 8 new filers within 6 months of appointment and, for 61 existing filers, “at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter.” The OSPD also provided supervisory training to its four new supervisors within 12 months of appointment. In addition, the OSPD provided sexual harassment prevention training its 4 new supervisors within 6 months of appointment, and sexual harassment prevention training to its 23 existing supervisors every 2 years. Furthermore, the OSPD provided sexual harassment prevention training to all 70 of the 70 existing non-supervisors every 2 years. Lastly, the OSPD provided tribal consultations training to all new officials within six months of their appointment or confirmation, and to all existing officials annually. Thus, the OSPD complied with mandated training requirements within statutory timelines.

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 rate⁶ 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, February 1, 2024, through January 30, 2025, the OSPD made 26 appointments. The CRD reviewed five of those appointments to determine if the OSPD applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Attorney	Certification List	Permanent	Full Time	\$7,737
Attorney Supervisor	Certification List	Permanent	Full Time	\$12,761
Office Technician	Certification List	Permanent	Full Time	\$3,609
Senior Legal Analyst	Certification List	Permanent	Full Time	\$5,967
Attorney	Transfer	Limited Term	Full Time	\$8,708

IN COMPLIANCE	FINDING NO. 7 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the salary determinations that were reviewed. The OSPD 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

⁶ “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).

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, February 1, 2024, through January 30, 2025, the OSPD employees made four alternate range movements within a classification. The CRD reviewed all four of those alternate range movements to determine if the OSPD applied salary regulations accurately and correctly processed each employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Attorney	A	B	Full Time	\$8,957
Attorney	A	B	Full Time	\$8,957
Attorney	A	B	Full Time	\$8,708
Attorney	A	B	Full Time	\$8,708

IN COMPLIANCE	FINDING NO. 8 ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD determined that the alternate range movements the OSPD made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

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, February 1, 2024, through January 30, 2025, the OSPD authorized one pay differential.⁷ The CRD reviewed the pay differential to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

Classification	Pay Differential	Monthly Amount
Legal Secretary	141	Two Steps

IN COMPLIANCE	FINDING NO. 9	PAY DIFFERENTIAL AUTHORIZATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the pay differentials that the OSPD authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

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 days⁸ worked and paid absences⁹, 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

⁷ For the purposes of CRD’s review, only monthly pay differentials were selected for review at this time.

⁸ For example, two hours or ten hours count as one day.

⁹ For example, vacation, sick leave, compensating time off, etc.

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 1,500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

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 OSPD had two positive paid employees whose hours were tracked. The CRD reviewed both 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
Attorney Supervisor	Retired Annuitant	Fiscal Year 23/24	208 Hours
Student Assistant	Temporary	Fiscal Year 23/24	1,181 Hours

IN COMPLIANCE	FINDING NO. 10	POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the positive paid employees reviewed during the compliance review period. The OSPD 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, November 1, 2023, through October 31, 2024, the OSPD authorized one ATO transaction. The CRD reviewed the ATO transaction to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Legal Analyst	11/20/23 thru 11/22/23	24 Hours

IN COMPLIANCE	FINDING NO. 11 ADMINISTRATIVE TIME OFF AUTHORIZATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD found no deficiencies in the ATO transactions reviewed during the compliance review period. The OSPD 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, August 1, 2023, through October 31, 2024, the OSPD reported six units. The CRD reviewed four units within one pay period to ensure compliance with applicable laws, regulations and CalHR policy and guidelines.

IN COMPLIANCE	FINDING NO. 12 LEAVE ACCOUNTING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD reviewed leave records from one leave period to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRD found no deficiencies. The OSPD utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

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. 13 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD verified that the policy was disseminated to all staff and emphasized the OSPD's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the OSPD'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 office to discuss the status of volunteers. (*Ibid.*)

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

IN COMPLIANCE	FINDING NO. 14 WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRD verified that the OSPD 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 OSPD 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 18 permanent OSPD 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. 15 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The OSPD did not provide annual performance appraisals to 3 of 18 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 employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The OSPD states that despite notifying all staff outlining the purpose and importance of completing annual performance appraisals, including a deadline of January 31st, and reminder emails being sent; some supervisors and managers still did not complete their staff’s annual performance appraisals timely due to an inadequate

escalation process and lack of accountability of supervisors and managers.

Corrective Action: Within 90 days of the date of this report, the OSPD 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 OSPD's response is attached as Attachment 1.

SPB REPLY

Based upon the OSPD's written response, the OSPD will comply with the corrective action 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 action specified must be submitted to the CRD.



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June 26, 2025

Alton Ford
Compliance Review Manager
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Alton Ford,

The State Personnel Board (SPB) Compliance Review Unit (CRU) conducted a routine compliance review of the OSPD personnel practices in the areas of examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSCs), mandated training, compensation and pay, leave, and policy and processes. The primary objective of the review was to determine if OSPD personnel practices, policies and procedures complied with state civil service laws and board regulations and to recommend corrective action where deficiencies were identified. The OSPD appreciates SPB's review and the opportunity to respond to its finding of non-compliance, which is included below.

FINDING NO. 15 - Performance appraisals were not provided to all employees.

Severity: Serious

Summary indicates the OSPD did not provide annual performance appraisals to 3 of 18 employees reviewed after the completion of the employee's probation period.

Cause: OSPD sends an Annual Performance Appraisal notification to all staff each year outlining the purpose and importance of completing performance appraisals for employees. Despite the notice including a deadline of January 31 and reminder e mails being sent, some supervisors and managers still did not complete their staff's annual performance appraisals timely. The missing performance appraisals are due to an inadequate escalation process and lack of accountability of supervisors and managers.

Response: OSPD will build a 30-day buffer into the deadline included on the Annual Performance Appraisal notification for all staff each year. This buffer will allow OSPD to get ahead of potential compliance issues and inform executive management 30 days prior to the deadline.

The OSPD appreciates the work of the CRU as well as their professionalism and technical assistance during the review. Additionally, OSPD takes the reported deficiency very seriously and has implemented corrective action to strengthen oversight and compliance in the sited area as indicated in our response above. If you have any questions or concerns, please contact Olivia Maloney, Human Resources Manager at (916) 322-5795 or Olivia.Maloney@ospd.ca.gov.

Sincerely,
Charlene Bennett
Head of Administration