

# **COMPLIANCE REVIEW REPORT**

## **DEPARTMENT OF STATE HOSPITALS**

Compliance Review Unit  
State Personnel Board  
April 1, 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 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." The SPB and the 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 the 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, the 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 the SPB's 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 Department of State Hospitals (DSH) 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                 | Substantial Compliance | Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely   |
| Appointments                 | Technical              | Appointment Documentation Was Not Kept for the Appropriate Amount of Time <sup>1</sup>                               |
| Appointments                 | In Compliance          | Unlawful Appointment Investigations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines |
| 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            | Very Serious           | Ethics Training Was Not Provided for All Filers <sup>2</sup>   |
| Mandated Training            | Very Serious           | Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs  |

<sup>1</sup> Repeat finding. The DSH's February 4, 2021, compliance review report identified 4 of 50 appointment files did not contain NOPA's. The DSH's November 9, 2017, compliance review report identified 69 of 232 appointment files did not contain job bulletins.

<sup>2</sup> Repeat finding. The DSH's February 4, 2021, compliance review report identified 12 of 121 new filers and 43 of 425 existing filers were not provided ethics training. The DSH's November 9, 2017, compliance review report identified 32 of 83 new filers and 20 of 110 existing filers were not provided ethics training.

| Area                 | Severity               | Finding   |
|----------------------|------------------------|---|
| Mandated Training    | Very Serious           | Sexual Harassment Prevention Training Was Not Provided for All Employees <sup>3</sup>                                   |
| Compensation and Pay | Substantial Compliance | Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment            |
| Compensation and Pay | Very Serious           | Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines        |
| Compensation and Pay | In Compliance          | Arduous Pay Authorization Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines              |
| Compensation and Pay | Very Serious           | Incorrect Authorization of Bilingual Pay  |
| Compensation and Pay | In Compliance          | Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines        |
| Compensation and Pay | In Compliance          | Out of Class Pay 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 CalHR Policies and Guidelines |
| Leave                | Serious                | Administrative Time Off Was Not Properly Documented   |
| Leave                | Serious                | Department Did Not Certify That All Leave Records Were Reviewed   |
| Leave                | Substantial Compliance | Incorrect Application of State Service and Leave Transaction  |
| Policy               | In Compliance          | Nepotism Policy Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines                        |
| Policy               | In Compliance          | Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines          |
| Policy               | Serious                | Performance Appraisals Were Not Provided to All Employees   |
|                      |                        |   |

<sup>3</sup> Repeat finding. The DSH's February 4, 2021, compliance review report identified 12 of 121 new supervisors and 43 of 425 existing supervisors were not provided sexual harassment prevention training. The DSH's November 9, 2017, compliance review report identified 87 of 270 new supervisors and 64 of 606 existing supervisors were not provided sexual harassment prevention training.

## **BACKGROUND**

The DSH oversees the California state hospital system, managing five state hospitals (Atascadero, Coalinga, Metropolitan, Napa and Patton) that provides mental health services to patients admitted into the DSH's facilities.

The DSH employs nearly 13,000 staff and strives to provide effective treatment in a safe environment and in a fiscally responsible manner. Additionally, the DSH provides services in contracted jail-based competency treatment, community-based restoration, community inpatient facilities and pre-trial felony mental health diversion programs, and the conditional release program.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the DSH's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>4</sup>. The primary objective of the review was to determine if the DSH's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the DSH's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the DSH provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the DSH's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the DSH's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the DSH provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CRU also reviewed the DSH's policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations.

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<sup>4</sup> Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

The DSH's appointments were also selected for review to ensure the DSH applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the DSH provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: arduous pay, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the DSH did not issue or authorize any red circle rate requests.

The review of the DSH'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 DSH's PSC's were also reviewed.<sup>5</sup> It was beyond the scope of the compliance review to make conclusions as to whether the DSH's justifications for the contracts were legally sufficient. The review was limited to whether the DSH's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The DSH'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, and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the DSH'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 CRU selected a small cross-section of the DSH's units to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the DSH's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the

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<sup>5</sup>If 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.

CRU reviewed a selection of the DSH's employees who used Administrative Time Off (ATO) to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of the DSH's positive paid employees whose hours are tracked during the compliance review period to ensure that they adhered to procedural requirements.

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

The DSH declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the DSH's written response on March 5, 2025, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Examinations**

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, February 1, 2023, through August 1, 2023, the DSH conducted 374 examinations. The CRU reviewed 20 of those examinations, which are listed below:



| Classification                          | Exam Type                | Exam Components                                | Final File Date | No. of Apps |
|---|--------------------------|--|-----------------|-------------|
| Assistant Seamer                        | Departmental Open        | Training and Experience (T&E) <sup>6</sup>     | 7/7/2023        | 2           |
| Automotive Equipment Operator II        | Open                     | T&E  | 7/7/2023        | 6           |
| Behavior Specialist I                   | Open                     | T&E  | 2/17/2023       | 3           |
| CEA A, Chief Financial Officer          | CEA                      | Statement of Qualifications (SOQ) <sup>7</sup> | 4/14/23         | 6           |
| Chief of Plant Operations III           | Open                     | T&E  | 6/2/23          | 2           |
| Communications Operator                 | Open                     | T&E  | 2/3/23          | 27          |
| Consulting Psychologist                 | Open                     | T&E  | 7/21/23         | 4           |
| Hospital Police Lieutenant              | Departmental Open        | Written <sup>8</sup>                           | 1/27/23         | 30          |
| Hospital Police Officer                 | Departmental Open        | Written  | 6/9/23          | 81          |
| Hospital Police Sergeant                | Departmental Open        | Written  | 1/27/23         | 35          |
| Librarian (Residential Care Centers)    | Open                     | T&E  | 3/3/23          | 1           |
| Locksmith I                             | Open                     | T&E  | 7/7/23          | 2           |
| Nurse Practitioner (Safety)             | Open                     | T&E  | 7/7/23          | 5           |
| Psychiatric Technician Trainee (Safety) | Departmental Open        | T&E  | 6/16/23         | 37          |
| Registered Dietitian (Safety)           | Open                     | T&E  | 7/7/23          | 3           |
| Sexually Violent Predator Evaluator     | Departmental Promotional | T&E  | 3/31/23         | 6           |
| Sheetfed Offset Press Operator III      | Open                     | T&E  | 5/5/23          | 1           |

<sup>6</sup> The Training and Experience examination is administered either online or in writing and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

<sup>7</sup> 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.

<sup>8</sup> A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

| Classification                | Exam Type | Exam Components | Final File Date | No. of Apps |
|-------------------------------|-----------|-----------------|-----------------|-------------|
| Supervisor of Building Trades | Open      | T&E             | 2/3/23          | 4           |
| Television Assistant          | Open      | T&E             | 2/3/23          | 2           |
| Truck Driver                  | Open      | T&E             | 2/3/23          | 2           |

|                      |                      |  |
|----------------------|----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 1</b> | <b>EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b> |
|----------------------|----------------------|--|

The CRU reviewed 1 departmental promotional examination, 18 open examinations, and 1 CEA examination, which the DSH administered to create eligible lists from which to make appointments. The DSH published and distributed examination bulletins containing the required information for all examinations. Applications received by the DSH 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 CRU found no deficiencies in the examinations that the DSH 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, February 1, 2023, through August 1, 2023, the DSH conducted 56 permanent withhold actions. The CRU reviewed 28 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   |
|--|---------|-----------------------------|-----------------------------|---------------------------------------|
| Accountant I (Specialist)              | 0PB31   | 4/4/23                      | 7/5/23                      | Failed to Meet Minimum Qualifications |
| Accountant I (Specialist)              | 0PB31   | 4/6/23                      | 7/10/23                     | Failed to Meet Minimum Qualifications |
| Accountant I (Specialist)              | 0PB31   | 4/13/23                     | 7/26/23                     | Failed to Meet Minimum Qualifications |
| Accountant Trainee                     | 9PB31   | 4/5/23                      | 7/28/23                     | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 1/25/23                     | 4/28/23                     | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 1/24/23                     | 5/10/23                     | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 2/5/23                      | 7/21/23                     | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 3/20/23                     | 7/24/23                     | Failed to Meet Minimum Qualifications |
| Associate Governmental Program Analyst | 9PB04   | 3/10/23                     | 7/31/23                     | Failed to Meet Minimum Qualifications |
| Carpenter I                            | 0PBCU   | 3/20/23                     | 6/14/23                     | Failed to Meet Minimum Qualifications |
| Custodian Supervisor I                 | 0PBBR   | 1/13/23                     | 6/23/23                     | Failed to Meet Minimum Qualifications |
| Hospital Police Officer                | 8MHTG   | 11/15/22                    | 4/28/23                     | Disqualified During Background Check  |
| Hospital Police Officer                | 8MHTG   | 10/17/22                    | 5/19/23                     | Disqualified During Background Check  |
| Hospital Police Officer                | 8MHTG   | 1/17/22                     | 6/26/23                     | Disqualified During Background Check  |
| Hospital Police Officer                | 8MHTG   | 9/15/22                     | 4/25/23                     | Disqualified During Background Check  |
| Hospital Police Officer                | 8MHTG   | 1/17/22                     | 6/30/23                     | Disqualified During Background Check  |
| Hospital Police Officer                | 8MHTG   | 12/15/22                    | 3/8/23                      | Disqualified During Background Check  |

| Exam Title  | Exam ID | Date List Eligibility Began | Date List Eligibility Ended | Reason Candidate Placed on Withhold   |
|---|---------|-----------------------------|-----------------------------|---------------------------------------|
| Hospital Police Officer                           | 8MHTG   | 9/15/22                     | 3/20/23                     | Disqualified During Background Check  |
| Hospital Police Officer                           | 8MHTG   | 8/15/22                     | 5/19/23                     | Disqualified During Background Check  |
| Hospital Police Officer                           | 8MHTG   | 3/15/23                     | 7/19/23                     | Disqualified During Background Check  |
| Investigator                                      | 1PB02   | 11/10/22                    | 5/24/23                     | Failed to Meet Minimum Qualifications |
| Office Technician (Typing)                        | 4PB2402 | 1/3/23                      | 7/26/23                     | Failed to Meet Minimum Qualifications |
| Personnel Specialist                              | 1PB12   | 8/27/22                     | 4/21/23                     | Failed to Meet Minimum Qualifications |
| Program Assistant                                 | 4MHAK   | 4/6/23                      | 7/10/23                     | Failed to Meet Minimum Qualifications |
| Program Assistant, Mental Disabilities – (Safety) | 4MHAK   | 8/5/22                      | 5/22/23                     | Failed to Meet Minimum Qualifications |
| Staff Services Manager I                          | 9PB19   | 2/17/23                     | 5/10/23                     | Failed to Meet Minimum Qualifications |
| Staff Services Manager I                          | 9PB19   | 11/22/22                    | 6/7/23                      | Failed to Meet Minimum Qualifications |
| Staff Services Manager I                          | 2PBCY   | 11/8/22                     | 7/24/23                     | Failed to Meet Minimum Qualifications |

|                      |  |
|----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b> |
|----------------------|--|

The CRU 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 appointments 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).)

For the purposes of temporary appointments, an employment list is considered not to exist where there is an open eligible list that has three or fewer names of persons willing to accept appointment and no other employment list for the classification is available. (Cal. Code Regs., tit. 2, § 265.) In such a situation, an appointing power may make a temporary appointment in accordance with section 265.1 (*Ibid.*) A Temporary Authorization Utilization (TAU) appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII.) In addition, when a temporary appointment is made to a permanent position, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment. (Gov. Code, § 19058.)

During the period under review, July 1, 2022, through December 31, 2022, the DSH made 1,310 appointments. The CRU reviewed 92 of those appointments, which are listed below:

| Classification  | Appointment Type   | Tenure       | Time Base | No. of Appts. |
|---|--------------------|--------------|-----------|---------------|
| Accounting Officer (Specialist)                                       | Certification List | Permanent    | Full Time | 1             |
| Associate Budget Analyst  | Certification List | Permanent    | Full Time | 1             |
| Associate Governmental Program Analyst                                | Certification List | Permanent    | Full Time | 3             |
| Associate Management Auditor  | Certification List | Permanent    | Full Time | 1             |
| Attorney III  | Certification List | Permanent    | Full Time | 1             |
| Building Maintenance Worker   | Certification List | Permanent    | Full Time | 1             |
| Carpenter Supervisor  | Certification List | Permanent    | Full Time | 1             |
| Clinical Psychology Intern  | Certification List | Limited Term | Full Time | 1             |
| Clinical Social Worker, Health/Correctional Facility (HCF) – (Safety) | Certification List | Permanent    | Full Time | 1             |
| Consulting Psychologist   | Certification List | Limited Term | Full Time | 1             |
| Cook Specialist I   | Certification List | Permanent    | Full Time | 1             |

| Classification   | Appointment Type   | Tenure       | Time Base | No. of Appts. |
|--|--------------------|--------------|-----------|---------------|
| Dietetic Technician (Safety)   | Certification List | Limited Term | Full Time | 1             |
| Emergency Services Coordinator, Office Of Emergency Services                           | Certification List | Permanent    | Full Time | 1             |
| Food Service Technician I  | Certification List | Permanent    | Full Time | 1             |
| Health Record Technician I   | Certification List | Permanent    | Full Time | 2             |
| Health Record Technician II (Supervisor)   | Certification List | Permanent    | Full Time | 1             |
| Health Services Specialist (Safety)  | Certification List | Permanent    | Full Time | 1             |
| Hospital Police Officer  | Certification List | Permanent    | Full Time | 1             |
| Information Technology Associate   | Certification List | Permanent    | Full Time | 1             |
| Maintenance Mechanic   | Certification List | Permanent    | Full Time | 2             |
| Nurse Practitioner (Safety)  | Certification List | Permanent    | Full Time | 1             |
| Office Technician (Typing)   | Certification List | Permanent    | Full Time | 2             |
| Office Technician (Typing)   | Certification List | Limited Term | Full Time | 1             |
| Painter I  | Certification List | Permanent    | Full Time | 1             |
| Plumber I  | Certification List | Permanent    | Full Time | 1             |
| Psychiatric Technician (Safety)  | Certification List | Permanent    | Full Time | 4             |
| Psychologist, (HCF) –(Safety)  | Certification List | Permanent    | Full Time | 1             |
| Psychologist (HCF) – (Safety)  | Certification List | Limited Term | Full Time | 2             |
| Radiologic Technologist (Safety)   | Certification List | Permanent    | Full Time | 1             |
| Registered Nurse (Safety)  | Certification List | Permanent    | Full Time | 5             |
| Rehabilitation Therapist, State Facilities, Music (Safety)                             | Certification List | Permanent    | Full Time | 1             |
| Research Data Specialist I   | Certification List | Permanent    | Full Time | 1             |
| Research Data Specialist III   | Certification List | Permanent    | Full Time | 1             |
| Respiratory Care Practitioner, Departments of Mental Health and Developmental Services | Certification List | Permanent    | Full Time | 1             |
| Senior Psychiatric Technician (Safety)   | Certification List | Limited Term | Full Time | 1             |
| Senior Psychiatric Technician (Safety)   | Certification List | Permanent    | Full Time | 2             |
| Senior Psychiatrist (Supervisor)   | Certification List | Permanent    | Full Time | 2             |
| Staff Psychiatrist (Safety)  | Certification List | Permanent    | Full Time | 1             |
| Staff Services Analyst   | Certification List | Permanent    | Full Time | 5             |

| Classification                            | Appointment Type         | Tenure       | Time Base | No. of Appts. |
|---|--------------------------|--------------|-----------|---------------|
| Staff Services Management Auditor         | Certification List       | Permanent    | Full Time | 1             |
| Staff Services Manager I                  | Certification List       | Permanent    | Full Time | 1             |
| Staff Services Manager II (Supervisory)   | Certification List       | Permanent    | Full Time | 1             |
| Stationary Engineer                       | Certification List       | Permanent    | Full Time | 1             |
| Stock Clerk                               | Certification List       | Permanent    | Full Time | 1             |
| Supervising Registered Nurse (Safety)     | Certification List       | Permanent    | Full Time | 1             |
| Unit Supervisor (Safety)                  | Certification List       | Limited Term | Full Time | 1             |
| Unit Supervisor (Safety)                  | Certification List       | Permanent    | Full Time | 2             |
| Psychiatric Technician (Safety)           | Demotion                 | Permanent    | Full Time | 1             |
| Associate Governmental Program Analyst    | Reinstatement            | Permanent    | Full Time | 1             |
| Chief of Plant Operation I                | Reinstatement            | Permanent    | Full Time | 1             |
| Consulting Psychologist                   | Reinstatement            | Limited Term | Full Time | 1             |
| Custodian I                               | Reinstatement            | Limited Term | Full Time | 1             |
| Food Service Technician I                 | Reinstatement            | Permanent    | Full Time | 1             |
| Hospital Police Officer                   | Reinstatement            | Permanent    | Full Time | 1             |
| Office Technician (Typing)                | Reinstatement            | Permanent    | Full Time | 2             |
| Psychiatric Technician (Safety)           | Reinstatement            | Permanent    | Full Time | 1             |
| Registered Nurse (Safety)                 | Reinstatement            | Permanent    | Full Time | 2             |
| Staff Psychiatrist (Safety)               | Reinstatement            | Permanent    | Full Time | 1             |
| Staff Services Analyst                    | Reinstatement            | Limited Term | Full Time | 1             |
| Registered Nurse (Safety)                 | Training and Development | Permanent    | Full Time | 1             |
| Associate Governmental Program Analyst    | Transfer                 | Permanent    | Full Time | 1             |
| Chief Psychologist, Correctional Facility | Transfer                 | Permanent    | Full Time | 1             |
| Clinical Social Worker (HCF) – (Safety)   | Transfer                 | Permanent    | Full Time | 2             |
| Legal Secretary                           | Transfer                 | Permanent    | Full Time | 1             |
| Psychiatric Technician (Safety)           | Transfer                 | Permanent    | Full Time | 2             |
| Registered Nurse (Safety)                 | Transfer                 | Permanent    | Full Time | 2             |
| Staff Services Manager I                  | Transfer                 | Permanent    | Full Time | 1             |

|                               |   |
|-------------------------------|---|
| <b>SUBSTANTIAL COMPLIANCE</b> | <b>FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY</b> |
|-------------------------------|---|

**Summary:** The DSH did not provide 10 probationary reports of performance for 8 of the 92 appointments reviewed by the CRU. Additionally, the DSH did not provide three probationary reports of performance in a timely manner, as reflected in the table below.

| Classification   | Appointment Type   | No. of Appointments | Total No. of Missing Probation Reports |
|--|--------------------|---------------------|--|
| Clinical Social Worker (Safety)                              | Certification List | 1                   | 1                                      |
| Emergency Services Coordinator, Office of Emergency Services | Certification List | 1                   | 1                                      |
| Maintenance Mechanic   | Certification List | 1                   | 2                                      |
| Office Technician (Typing)                                   | Certification List | 1                   | 2                                      |
| Painter I  | Certification List | 1                   | 1                                      |
| Psychiatric Technician (Safety)                              | Transfer           | 1                   | 1                                      |
| Staff Services Analyst                                       | Certification List | 1                   | 1                                      |
| Stock Clerk  | Certification List | 1                   | 1                                      |

| Classification   | Appointment Type   | No. of Appointments | Total No. of Late Probation Reports |
|--|--------------------|---------------------|-------------------------------------|
| Health Record Technician I                                 | Certification List | 1                   | 1                                   |
| Rehabilitation Therapist, State Facilities, Music (Safety) | Certification List | 1                   | 1                                   |
| Staff Services Manager II (Supervisory)                    | Certification List | 1                   | 1                                   |

**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:** Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to address full compliance in the future; therefore, no corrective action is required.

|                                |  |
|--------------------------------|--|
| <b>SEVERITY:<br/>TECHNICAL</b> | <b>FINDING No. 4 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME</b> |
|--------------------------------|--|

**Summary:** Of the 92 appointments reviewed, the DSH did not retain 15 NOPAs and 3 duty statements. This is the third consecutive time this has been a finding.

**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 appointments were properly conducted.

**Cause:** The DSH states that during the pandemic, the State Controller's Office (SCO) transitioned to digital distribution of the NOPAs which caused confusion for the DSH when transitioning to electronic documentation and obtaining signatures. Additionally, the DSH experienced a high turnover and vacancy rate of Personnel Specialists which contributed to missing NOPAs, duty statements and filing backlog and diminished ability to adequately follow up with

employees that did not sign and return the appointment documentation timely.

**Corrective Action:** The DSH asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DSH must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26. Furthermore, as this is the third consecutive time the DSH has been out of compliance in this area, it is the expectation that the DSH make meaningful progress in achieving compliance as required by regulation.

#### Additional Appointments

Additional appointments occur when a state civil service employee is appointed to more than one position in state service.

On January 30, 2013, the CalHR issued PML 2013-007, which stated that, effective immediately, departments are no longer authorized to make any new additional appointments without the CalHR's authorization. Additionally, on April 25, 2013, the CalHR issued PML 2013-015, stating, effective immediately, departments are no longer authorized to make any additional appointments for managers and supervisors. However, PML 2014-002 specifically provides an exception to Bargaining Units 16<sup>9</sup> and 19<sup>10</sup>, and allows departments to appoint eligible permanent full-time employees to additional appointments to fill advertised vacancies or when management determines there are additional workload needs.

The CRU reviewed 10 out of 153 additional appointments, which are listed below:

| Current Classification                | Additional Appointment                                       | Time Base of Additional Appointment | Monthly Salary (per hour) of Additional Appointment |
|---------------------------------------|--|-------------------------------------|---|
| Clinical Social Worker (HCF) – Safety | Clinical Social Worker (Health/Correctional Facility)-Safety | Limited Term                        | \$8,987   |

<sup>9</sup> Physicians, Dentists and Podiatrists

<sup>10</sup> Health and Social Services/Professional

| Current Classification                           | Additional Appointment                                       | Time Base of Additional Appointment | Monthly Salary (per hour) of Additional Appointment |
|--|--|-------------------------------------|---|
| Clinical Social Worker (HCF) – Safety            | Clinical Social Worker (Health/Correctional Facility)-Safety | Limited Term                        | \$8,238   |
| Cook Specialist II                               | Food Service Technician II                                   | Limited Term                        | \$3,848   |
| Dental Assistant (Safety)                        | Food Service Technician I                                    | Limited Term                        | \$3,663   |
| Health Record Technician I                       | Food Service Technician I                                    | Limited Term                        | \$3,369   |
| Hospital General Services Administrator II       | Food Service Technician I                                    | Limited Term                        | \$3,663   |
| Psychologist (Safety)                            | Psychologist (Health Facility-Clinical-Safety)               | Limited Term                        | \$11,095  |
| Program Director, Mental Disabilities – (Safety) | Psychiatric Technician (Safety)                              | Limited Term                        | \$6,101   |
| Psychologist (Safety)                            | Psychologist (Health Facility-Clinical-Safety)               | Limited Term                        | \$11,095  |
| Supervising Registered Nurse (Safety)            | Registered Nurse (Safety)                                    | Limited Term                        | \$10,373  |

### Unlawful Appointment Investigations

Departments that entered into an Unlawful Appointment Investigation Delegation Agreement between their executive management and the CalHR have the authority to manage their own unlawful appointment investigations. The Delegation Agreement defines the reporting requirements, responsibilities, obligations, and expectations of the department in this process. The delegation agreement mandates that departments maintain up-to-date records on each unlawful appointment investigation including, at a minimum: the specific facts surrounding the appointment in question, a description of the circumstances which may have resulted in the unlawful appointment, copies of relevant appointment documents, and any documentation which may demonstrate that the agency and employee acted in good faith when the appointment was offered and accepted. Departments must also maintain a tracking system to monitor its unlawful appointments.

During the period under review, February 1, 2023, through August 1, 2023, the DSH conducted four unlawful appointment investigations. The CRU reviewed three of those unlawful appointment investigations, which are listed below:

| Classification          | Date Investigation Initiated | Date Investigation Concluded |
|-------------------------|------------------------------|------------------------------|
| Hospital Police Officer | 7/27/23                      | 8/31/2023                    |
| Hospital Police Officer | 7/27/23                      | 8/24/2023                    |
| Investigator            | 7/27/23                      | 8/31/2023                    |

|                      |   |
|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING No. 5 UNLAWFUL APPOINTMENT INVESTIGATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---|

The DSH's unlawful appointment investigations were found to comply with the rules set forth in the signed Delegation Agreement with the CalHR.

### **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).)

|                      |  |
|----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING No. 6 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES</b> |
|----------------------|--|

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines,

the CRU determined that the DSH's EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the DSH. The DSH 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 the 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, February 1, 2023, through August 1, 2023, the DSH had 205 PSC's that were in effect. The CRU reviewed 30 of those, which are listed below:

| Vendor                              | Services                           | Contract Amount | Justification Identified? | Union Notification? |
|-------------------------------------|------------------------------------|-----------------|---------------------------|---------------------|
| Arrowhead Evaluation Services, Inc. | Fit for duty exams                 | \$9,999.99      | Yes                       | Yes                 |
| Charles Chalekson, M.D.             | Plastic and reconstructive surgery | \$50,000        | Yes                       | Yes                 |

| Vendor                                     | Services  | Contract Amount | Justification Identified? | Union Notification? |
|--|---|-----------------|---------------------------|---------------------|
| Coastal Anesthesiology Medical Associates  | Anesthetist services  | \$60,000        | Yes                       | Yes                 |
| County of San Bernardino                   | Program to restore competency to individuals standing trial | \$75,445,851    | Yes                       | Yes                 |
| Dr. Anthony Scott Nguyen PC                | Podiatric surgery services                                  | \$2,870,000     | Yes                       | Yes                 |
| Emeryville Occupational Medical Center     | Respirator testing  | \$180,000       | Yes                       | Yes                 |
| Emeryville Occupational Medical Center     | Respirator testing  | \$2,097,865     | Yes                       | Yes                 |
| EMSL Analytical, Inc                       | Air samples   | \$5,000         | Yes                       | Yes                 |
| Eye Care Center of Napa Valley             | Optometry services  | \$358,020       | Yes                       | Yes                 |
| Family and Industrial Medical Center       | Medical clearance physicals & fit for duty exams            | \$1,069,886     | Yes                       | Yes                 |
| Forensic Nursing Specialists, Inc.         | Forensic evidentiary examinations for patients              | \$9,999.99      | Yes                       | Yes                 |
| Fresno Clinical Research Center            | Gastrointestinal procedures                                 | \$2,400,000     | Yes                       | Yes                 |
| Gateways Hospital and Mental Health Center | Outpatient mental health treatment and services             | \$16,252,338.37 | Yes                       | Yes                 |
| Healthcare Staffing Professionals, Inc.    | Speech pathologist services                                 | \$699,240.96    | Yes                       | Yes                 |
| John Bellone, Ph.D.                        | Psychological testing                                       | \$131,700       | Yes                       | Yes                 |
| Lady Family Mortuary                       | Cremation services  | \$42,150        | Yes                       | Yes                 |

| Vendor   | Services                              | Contract Amount | Justification Identified? | Union Notification? |
|--|---------------------------------------|-----------------|---------------------------|---------------------|
| Marion Regional Medical Center                 | Outpatient chemotherapy services      | \$300,000       | Yes                       | Yes                 |
| Napa Valley PSI                                | Storage space and warehouse services  | \$318,892       | Yes                       | Yes                 |
| Nephrology Medical Group dba Kidney Specialist | Wound care surgery services           | \$400,000       | Yes                       | Yes                 |
| Nephrology Medical Group, Inc                  | Wound care services                   | \$50,000        | Yes                       | Yes                 |
| On-Site Mobile Medical Services                | Mobile clinic services                | \$68,241,140    | Yes                       | Yes                 |
| Oso Home Care                                  | Intravenous therapy                   | \$9,999.99      | Yes                       | Yes                 |
| Pinnacle Health Services                       | Temporary nursing staff               | \$40,513,884    | Yes                       | Yes                 |
| Prahalad B. Jajodia MD., Inc.                  | General surgeon services              | \$300,000       | Yes                       | Yes                 |
| Prahalad B. Jajodia MD., Inc.                  | Oral and maxillofacial services       | \$250,000       | Yes                       | Yes                 |
| Prahalad B. Jajodia MD., Inc.                  | Pulmonary sleep studies               | \$50,000        | Yes                       | Yes                 |
| Premier Physician Alliance, Inc                | Multiple physician specialty services | \$2,500,000     | Yes                       | Yes                 |
| Shannon Ordon                                  | Forensic evaluations                  | \$480,000       | Yes                       | Yes                 |
| Vegas Automotive                               | Smog services                         | \$9,999         | Yes                       | Yes                 |
| West Star Environmental Inc                    | Fuel dispenser services               | \$39,800        | Yes                       | Yes                 |

|                      |  |
|----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 7 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS</b> |
|----------------------|--|

The total dollar amount of all the PSC's reviewed was \$215,135,766.31. It was beyond the scope of the review to make conclusions as to whether the DSH's justifications for the

contract were legally sufficient. For all PSC's reviewed, the DSH 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 DSH 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 DSH's 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 the CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*)

New employees must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two hours of sexual harassment prevention training and non-supervisors one hour of sexual



harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

The Board may conduct reviews of any appointing power's personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

CRU reviewed the DSH's mandated training program that was in effect during the compliance review period, August 1, 2021, through July 31, 2023.

|   |                      |  |
|---|----------------------|--|
| <b>SEVERITY:</b><br><b>VERY SERIOUS</b> | <b>FINDING No. 8</b> | <b>ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS</b> |
|---|----------------------|--|

**Summary:** The DSH did not provide ethics training to 37 of 83 existing filers. Additionally, the DSH did not provide ethics training to 20 of 52 new filers within 6 months of their appointment. This is the third consecutive time this has been a finding.

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

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

**Cause:** Although the DSH has a Learning Management System (LMS), there was no standardized process statewide to ensure communication from the Human Resources/Filing Officer to the training departments regarding new filers required to take the training. At the time, the training departments did not have a designated individual to track completion within the required time.

**Corrective Action:** The DSH asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DSH must submit

to the SPB documentation which demonstrates the corrections the department has implemented to demonstrate conformity with Government Code section 11146.3. Furthermore, as this is the third consecutive time the DSH has been out of compliance in this area, it is the expectation that the DSH make meaningful progress in achieving compliance as required by statute.

|                                   |   |
|-----------------------------------|---|
| <b>SEVERITY:<br/>VERY SERIOUS</b> | <b>FINDING No. 9      SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS</b> |
|-----------------------------------|---|

**Summary:** The DSH did not provide basic supervisory training to 43 of 110 new supervisors; manager training to 6 of 19 new managers; and CEA training to 2 of 10 new CEAs within 12 months of appointment respectively.

**Criteria:** Each department must provide its new supervisors with a minimum of 80 hours of supervisory training within the probationary period. (Gov. Code, § 19995.4, subd. (b).)

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

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

**Severity:** Very Serious. The department does not ensure its leaders are properly trained. Without proper training, leaders may not properly carry out their leadership roles, including managing employees.

**Cause:** The DSH states it has established a Memorandum of Understanding (MOU) with CalHR to deliver an 80-hour Supervisory Development Program (SDP). However, there is currently no standardized process on how Human Resources communicates who is required to take the training and how this training is implemented across the DSH. Some locations have faced challenges in scheduling supervisors to ensure compliance with California Government Code (GC), Section

19995.4. It is the responsibility of the training departments at the DSH to track the training for supervisors, managers, and CEAs.

**Corrective Action:** The DSH asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DSH must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that new supervisors are provided supervisory training within 12 months of appointment as required by Government Code section 19995.4.

|                                   |   |
|-----------------------------------|---|
| <b>SEVERITY:<br/>VERY SERIOUS</b> | <b>FINDING NO. 10    SEXUAL HARASSMENT PREVENTION TRAINING WAS<br/>NOT PROVIDED FOR ALL EMPLOYEES</b> |
|-----------------------------------|---|

**Summary:** The DSH did not provide sexual harassment prevention training to 12 of 100 new supervisors within 6 months of their appointment. Additionally, the DSH did not provide sexual harassment prevention training to 17 of 150 existing supervisors every 2 years. This is the third consecutive time this has been a finding.

Furthermore, the DSH did not provide sexual harassment prevention training to 16 of 100 existing non-supervisors every 2 years.

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

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

**Cause:** The DSH states that although employees are notified upon hire, during onboarding and new employee orientation of the mandatory training requirements, not all employees complete the training as

required. The DSH's Office of Human Rights (OHR) oversees the Sexual Harassment Prevention (SHP) Training compliance, and due to staff turnover and use of manual record-keeping methods there were delays in OHR sending staff reminders to complete the training within the required timeframe.

**Corrective Action:** The DSH asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DSH must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure that new supervisors, managers, and CEAs are provided leadership and development training within 12 months of appointment as required by Government Code section 19995.4. Furthermore, as this is the third consecutive time the DSH has been out of compliance in this area, it is the expectation that the DSH make meaningful progress in achieving compliance as required by statute.

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by the CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>11</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, July 1, 2022, through December 31, 2022, the DSH made 1,310 appointments. The CRU reviewed 41 of those appointments to determine if the DSH applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

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<sup>11</sup> "Rate" is any one of the salary rates in the resolution by the CalHR which establishes the salary ranges and step Permanent s of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

| Classification   | Appointment Type   | Tenure       | Time Base | Salary (Monthly Rate) |
|--|--------------------|--------------|-----------|-----------------------|
| Office Technician (Typing)                                   | Certification List | Permanent    | Full Time | \$3,369               |
| Senior Psychiatric Technician (Safety)                       | Certification List | Limited Term | Full Time | \$7,037               |
| Health Record Technician II (Supervisor)                     | Certification List | Permanent    | Full Time | \$4,753               |
| Emergency Services Coordinator, Office of Emergency Services | Certification List | Permanent    | Full Time | \$5,974               |
| Unit Supervisor (Safety)                                     | Certification List | Limited Term | Full Time | \$8,292               |
| Research Data Specialist III                                 | Certification List | Permanent    | Full Time | \$8,751               |
| Registered Nurse (Safety)                                    | Certification List | Permanent    | Full Time | \$8,703               |
| Clinical Social Worker (HCF) – (Safety)                      | Certification List | Permanent    | Full Time | \$6,568               |
| Staff Services Manager I                                     | Certification List | Permanent    | Full Time | \$6,563               |
| Building Maintenance Worker                                  | Certification List | Permanent    | Full Time | \$4,274               |
| Health Services Specialist (Safety)                          | Certification List | Permanent    | Full Time | \$10,578              |
| Registered Nurse (Safety)                                    | Certification List | Permanent    | Full Time | \$8,703               |
| Respiratory Care Practitioner                                | Certification List | Permanent    | Full Time | \$3,995               |
| Associate Governmental Program Analyst                       | Certification List | Permanent    | Full Time | \$5,652               |
| Plumber I  | Certification List | Permanent    | Full Time | \$5,107               |
| Stock Clerk  | Certification List | Permanent    | Full Time | \$3,035               |
| Maintenance Mechanic   | Certification List | Permanent    | Full Time | \$5,111               |
| Registered Nurse (Safety)                                    | Certification List | Permanent    | Full Time | \$8,703               |
| Research Data Specialist I                                   | Certification List | Permanent    | Full Time | \$6,363               |
| Staff Services Manager II (Supervisory)                      | Certification List | Permanent    | Full Time | \$8,561               |
| Painter I  | Certification List | Permanent    | Full Time | \$4,647               |
| Food Services Technician I                                   | Certification List | Permanent    | Full Time | \$2,929               |
| Staff Services Analyst                                       | Certification List | Permanent    | Full Time | \$4,428               |
| Associate Budget Analyst                                     | Certification List | Permanent    | Full Time | \$5,518               |
| Health Record Technician I                                   | Certification List | Permanent    | Full Time | \$4,022               |
| Office Technician (Typing)                                   | Certification List | Limited Term | Full Time | \$3,369               |
| Nurse Practitioner (Safety)                                  | Certification List | Permanent    | Full Time | \$10,827              |
| Unit Supervisor (Safety)                                     | Certification List | Permanent    | Full Time | \$8,292               |
| Hospital Police Officer                                      | Certification List | Permanent    | Full Time | \$4,943               |
| Information Technology Associate                             | Certification List | Permanent    | Full Time | \$6,706               |

| Classification                         | Appointment Type   | Tenure       | Time Base | Salary (Monthly Rate) |
|--|--------------------|--------------|-----------|-----------------------|
| Associate Management Auditor           | Certification List | Permanent    | Full Time | \$6,082               |
| Office Technician (Typing)             | Reinstatement      | Permanent    | Full Time | \$4,217               |
| Legal Secretary                        | Transfer           | Permanent    | Full Time | \$3,812               |
| Registered Nurse (Safety)              | Reinstatement      | Permanent    | Full Time | \$10,373              |
| Custodian I                            | Reinstatement      | Limited Term | Full Time | \$3,073               |
| Staff Services Manager I               | Transfer           | Permanent    | Full Time | \$8,153               |
| Staff Services Analyst                 | Reinstatement      | Limited Term | Full Time | \$4,516               |
| Hospital Police Officer                | Reinstatement      | Permanent    | Full Time | \$5,723               |
| Food Service Technician I              | Reinstatement      | Permanent    | Full Time | \$3,663               |
| Chief of Plant Operation I             | Reinstatement      | Permanent    | Full Time | \$6,700               |
| Associate Governmental Program Analyst | Transfer           | Permanent    | Full Time | \$5,518               |

|                               |   |
|-------------------------------|---|
| <b>SUBSTANTIAL COMPLIANCE</b> | <b>FINDING NO. 11 INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT</b> |
|-------------------------------|---|

**Summary:** The CRU found 4 errors in the 41 salary determinations reviewed.

| Classification               | Description of Findings   | Criteria  |
|------------------------------|---|---|
| Associate Management Auditor | Incorrect salary determination resulted in the employee being overcompensated; should have received the minimum of range. | Cal. Code Regs., tit. 2, section 599.676            |
| Building Maintenance Worker  | Incorrect anniversary date resulted in the employee being overcompensated.  | Cal. Code Regs., tit. 2, section 599.676            |
| Legal Secretary              | Incorrect salary determination resulted in the employee being undercompensated.   | Cal. Code Regs., tit. 2, section 599.674, subd. (c) |
| Stock Clerk                  | Incorrect salary determination resulted in the employee being overcompensated. Incorrect anniversary date                 | Cal. Code Regs., tit. 2, section 599.674, subd. (a) |

**Criteria:** Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

**Severity:** Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to address full compliance in the future; therefore, no corrective action is required.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, July 1, 2022, through December 31, 2022, the DSH employees made 207 alternate range movements within a classification. The CRU reviewed 30 of those alternate range movements to determine if the DSH 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) |
|---|-------------|---------------|-----------|-----------------------|
| Psychologist (Safety)                         | U           | V             | Full Time | \$10,781              |
| Senior Psychiatric Technician (Safety)        | T           | U             | Full Time | \$7,484               |
| Vocational Instructor (Printing/Graphic Arts) | A           | F             | Full Time | \$8,756               |
| Psychiatric Technician (Safety)               | S           | T             | Full Time | \$6,465               |
| Information Technology Associate              | C           | D             | Full Time | \$6,282               |
| Staff Services Analyst                        | B           | C             | Full Time | \$4,881               |
| Clinical Social Worker (Safety)               | U           | V             | Full Time | \$8,987               |
| Psychiatric Technician (Safety)               | T           | U             | Full Time | \$6,702               |
| Staff Services Analyst                        | B           | C             | Full Time | \$5,027               |
| Communications Operator                       | A           | B             | Full Time | \$4,733               |
| Psychiatric Technician (Safety)               | S           | T             | Full Time | \$6,321               |
| Legal Secretary                               | A           | B             | Full Time | \$4,001               |
| Personnel Specialist                          | A           | B             | Full Time | \$4,037               |
| Psychologist (Safety)                         | U           | V             | Full Time | \$10,781              |
| Information Technology Associate              | B           | C             | Full Time | \$5,426               |

| Classification                         | Prior Range | Current Range | Time Base | Salary (Monthly Rate) |
|--|-------------|---------------|-----------|-----------------------|
| Investigator                           | A           | B             | Full Time | \$6,682               |
| Information Technology Specialist I    | B           | C             | Full Time | \$8,560               |
| Investigator                           | A           | B             | Full Time | \$6,682               |
| Psychiatric Technician (Safety)        | S           | T             | Full Time | \$6,465               |
| Psychologist (Safety)                  | U           | V             | Full Time | \$9,940               |
| Psychiatric Technician (Safety)        | S           | T             | Full Time | \$6,037               |
| Clinical Social Worker (Safety)        | U           | V             | Full Time | \$7,501               |
| Personnel Specialist                   | A           | B             | Full Time | \$4,037               |
| Psychiatric Technician (Safety)        | S           | T             | Full Time | \$6,465               |
| Psychiatric Technician (Safety)        | T           | U             | Full Time | 6,568                 |
| Senior Psychiatric Technician (Safety) | S           | T             | Full Time | \$6,975               |
| Psychiatric Technician (Safety)        | S           | T             | Full Time | \$6,465               |
| Psychiatric Technician (Safety)        | S           | T             | Full Time | \$6,175               |
| Psychiatric Technician (Safety)        | T           | U             | Full Time | \$6,702               |
| Psychiatric Technician (Safety)        | T           | U             | Full Time | \$6,544               |

|                                   |  |
|-----------------------------------|--|
| <b>SEVERITY:<br/>VERY SERIOUS</b> | <b>FINDING NO. 12 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|-----------------------------------|--|

**Summary:** The CRU found 6 errors in the 30 alternate range movements reviewed:

| Classification                          | Description of Findings   | Criteria  |
|---|---|---|
| Clinical Social Worker (HCF) – (Safety) | Incorrect salary determination resulting in the employee being undercompensated. A valid certificate in psychiatry was not provided.  | Cal. Code Regs., tit. 2, section 599.681 and Alternate Range Criteria 448 |
| Information Technology Specialist I     | Employee did not meet alternate range criteria resulting in overcompensation.   | Alternate Range Criteria 484  |
| Investigator                            | Range change was keyed early which resulted in the employee being overcompensated.  | Cal. Code Regs., tit. 2, section 599.676                                  |
| Psychiatric Technician (Safety)         | Incorrect salary determination resulted in the employee being undercompensated. Employee received a range change the same day as a GEN; salary was calculated using an incorrect pay range. | Cal. Code Regs., tit. 2, section 599.676                                  |



| Classification                   | Description of Findings  | Criteria                                 |
|----------------------------------|--|--|
| Psychiatric Technician (Safety)  | Incorrect salary determination resulted in the employee being undercompensated. Employee received a range change the same day as a GEN; salary was calculated using wrong pay range. | Cal. Code Regs., tit. 2, section 599.676 |
| Staff Services Analyst (General) | Range change was keyed early which resulted in the employee being overcompensated.   | Cal. Code Regs., tit. 2, section 599.676 |

**Criteria:** Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)

Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

**Severity:** Very Serious. In six circumstances, the DSH failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules not in accordance with the CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

**Cause:** The DSH states it employs individuals represented by 17 of the 21 collective bargaining units; a very complex payroll that includes bi-weekly payroll and a variety of pay differentials, stipends, and other manual processes. The DSH attributes this finding to the complexity of some alternate range criteria (ARC) for many hospital classifications; especially those with licensure requirements. In addition, the DSH experienced vacancies within units that determine the ARC and as a result new staff may not have been provided adequate training to accurately determine range placement. In addition, the SCO had limited available formal training opportunities during this time and staff were unable to undergo proper training as a result.

**Corrective Action:** Within 90 days of the date of this report, the DSH must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The DSH must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### Arduous Pay

Effective July 1, 1994, appointing authorities were provided the discretion to provide additional compensation for employees exempt from the Fair Labor Standards Act (FLSA) who perform arduous work that exceeds the normal demands of state service employment. (Human Resources Manual Section 1702.) The work must be extraordinarily demanding, time-consuming, and significantly exceed employees' normal work week. The employee cannot be entitled to receive any other sort of compensation such as overtime. Eligible employees are FLSA-exempt employees who do not receive compensation in recognition of hours worked in excess of 40 hours per week. The duration of the arduous period must be at least two weeks or more. (*Ibid.*)

Excluded and represented employees who are FLSA-exempt and assigned to Work Week Group E are eligible to receive up to four months of pay per fiscal year, or per event for emergencies, if the following conditions are met:<sup>12</sup>

- There is a nonnegotiable deadline or extreme urgency;
- work exceeds normal work hours and normal productivity;
- work is unavoidable;
- work involves extremely heavy workload;
- employee is eligible for no other compensation, and
- the circumstances that support this pay differential are documented.

Departments have delegated authority to approve arduous pay for excluded employees who are FLSA-exempt, but the CalHR's approval is required for any arduous pay issued to represented employees.

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<sup>12</sup> Applicable Memorandum of Understandings or Bargaining Unit Agreements detail other specific criteria.

Although departments have delegated authority to approve arduous pay,<sup>13</sup> they are required to fill out CalHR Form 777, documenting the circumstances, assessment and rationale behind all arduous pay approvals. A new Form 777 should be filled out for every employee receiving the pay differential, every time an employee is approved to receive a new pay differential, and every time an employee wants to extend their arduous pay. Extensions are only granted in rare circumstances. Departments must keep the Form 777 on file and retain the form for five years after the approval date. (*Ibid.*)

During the period under review, July 1, 2022, through December 31, 2022, the DSH issued Arduous Pay to 16 employees. The CRU reviewed three arduous pay authorizations, listed below, to ensure compliance with applicable CalHR policies and guidelines:

| Classification                          | Bargaining Unit | Work Week Group | Time Base | Total Compensation | No. of Months Received |
|---|-----------------|-----------------|-----------|--------------------|------------------------|
| Chief, Protective Services and Security | M07             | E               | Full Time | \$1,800            | 3                      |
| Information Technology Manager II       | M01             | E               | Full Time | \$2,400            | 4                      |
| Attorney, Assistant Chief Counsel       | M02             | SE              | Full Time | \$2,400            | 4                      |

|                      |                       |  |
|----------------------|-----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 13</b> | <b>ARDUOUS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|-----------------------|--|

The CRU found that the arduous pay authorizations that the DSH made during the compliance review period, satisfied civil service laws, Board rules and the CalHR's policies and guidelines.

### Bilingual Pay

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

<sup>13</sup> Pay Letter 94-32 established Pay Differential 62 regarding arduous pay for Bargaining Units 1, 7, 9, 17, 19, and 21, and Excluded employees.

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

During the period under review, July 1, 2022, through December 31, 2022, the DSH issued bilingual pay to 179 employees. The CRU reviewed 25 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

| Classification  | Bargaining Unit | Time Base | No. of Appts. |
|---|-----------------|-----------|---------------|
| Associate Governmental Program Analyst                    | R01             | Full Time | 1             |
| Behavioral Specialist I                                   | R19             | Full Time | 1             |
| Clinical Social Worker (HCF) – (Safety)                   | R19             | Full Time | 2             |
| Communications Operator                                   | R07             | Full Time | 1             |
| Hospital Police Officer                                   | R07             | Full Time | 1             |
| Investigator  | R07             | Full Time | 1             |
| Licensed Vocational Nurse (Safety)                        | R20             | Full Time | 1             |
| Property Controller II                                    | R04             | Full Time | 1             |
| Psychiatric Technician (Safety)                           | R18             | Full Time | 6             |
| Psychologist (Safety)                                     | R19             | Full Time | 1             |
| Rehabilitation Therapist, State Facilities (Music-Safety) | R19             | Full Time | 2             |
| Rehabilitation Therapist, State Facilities (Music-Safety) | R19             | Full Time | 1             |
| Senior Psychiatric Technician (Safety)                    | R18             | Full Time | 3             |
| Senior Psychologist (Specialist) - (Health Facility)      | R19             | Full Time | 1             |
| Supervising Rehabilitation Therapist                      | S19             | Full Time | 1             |
| Unit Supervisor (Safety)                                  | S18             | Full Time | 1             |

|                                   |   |
|-----------------------------------|---|
| <b>SEVERITY:<br/>VERY SERIOUS</b> | <b>FINDING No. 14    INCORRECT AUTHORIZATION OF BILINGUAL PAY</b> |
|-----------------------------------|---|

**Summary:**                      The CRU identified 14 errors in the 25 bilingual pay authorizations reviewed:

| Classification                                     | Description of Findings   | No. Reviewed |
|--|---|--------------|
| Associate Governmental Program Analyst             | Department failed to supply supporting documentation demonstrating the need for bilingual services. Duty statement does not show that bilingual skills are used at least 10%. | 1            |
| Communications Operator                            | Department failed to supply supporting documentation demonstrating the need for bilingual services. Duty statement does not show that bilingual skills are used at least 10%. | 1            |
| Investigator                                       | Department failed to supply supporting documentation demonstrating the need for bilingual services. Duty statement does not show that bilingual skills are used at least 10%. | 1            |
| Licensed Vocational Nurse (Safety)                 | Department failed to supply supporting documentation demonstrating the need for bilingual services. Duty statement does not show that bilingual skills are used at least 10%. | 1            |
| Property Controller II                             | Department failed to supply supporting documentation demonstrating the need for bilingual services. Duty statement does not show that bilingual skills are used at least 10%. | 1            |
| Psychiatric Technician (Safety)                    | Department failed to supply supporting documentation demonstrating the need for bilingual services. Duty statement does not show that bilingual skills are used at least 10%. | 3            |
| Senior Psychiatric Technician (Safety)             | Department failed to supply supporting documentation demonstrating the need for bilingual services. Duty statement does not show that bilingual skills are used at least 10%. | 3            |
| Senior Psychologist (Health Facility) (Specialist) | Department failed to supply supporting documentation demonstrating the need for bilingual services. Duty statement does not show that bilingual skills are used at least 10%. | 1            |
| Supervising Rehabilitation Therapist               | Department failed to supply supporting documentation demonstrating the need for bilingual services. Duty statement does not show that bilingual skills are used at least 10%. | 1            |
| Unit Supervisor (Safety)                           | Department failed to supply supporting documentation demonstrating the need for bilingual services.   | 1            |

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

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

**Severity:** Very Serious. Failure to comply with the state civil service pay plan by incorrectly applying compensation rules in accordance with the CalHR’s policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay.

**Cause:** The DSH states there was no standardized process statewide to appropriately determine and properly document bilingual needs of the patients. Being a 24/7 operational facility, having designated bilingual positions that cover all three shifts proved challenging. Staff are redirected to different shifts and/or units to meet staffing needs; therefore, the bilingual pay differential was maintained with the individual, not necessarily with the position. The bilingual pay differential was based on the supervisor certifying the need.

**Corrective Action:** The DSH asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the DSH must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 7296, and/or Pay Differential 14.

### 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 justify the additional pay, by documenting 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, July 1, 2022, through December 31, 2022, the DSH authorized 275 pay differentials.<sup>14</sup> The CRU reviewed 25 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

| Classification                  | No. of Positions | Pay Differential | Monthly Amount |
|---------------------------------|------------------|------------------|----------------|
| Automotive Equipment Operator I | 1                | 409              | 5%             |
| Chief Physician and Surgeon     | 1                | 413              | 12%            |
| Dental Assistant (Safety)       | 2                | 38               | \$125          |
| Fire Fighter                    | 1                | 244              | \$125          |
| Investigator                    | 1                | 244              | \$75           |
| Investigator                    | 1                | 244              | \$125          |
| Investigator                    | 2                | 245              | 9%             |
| Investigator                    | 1                | 245              | 6%             |
| Laboratory Assistant            | 1                | 296              | \$125          |
| Materials and Stores Specialist | 1                | 409              | 5%             |
| Painter I                       | 1                | 409              | 5%             |
| Painter Supervisor              | 1                | 409              | 5%             |
| Physician and Surgeon (Safety)  | 2                | 413              | 7%             |
| Physician and Surgeon (Safety)  | 3                | 413              | 12%            |
| Plumber Supervisor              | 1                | 233              | \$100          |
| Registered Nurse (Safety)       | 1                | 161              | \$150          |

<sup>14</sup> For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

| Classification      | No. of Positions | Pay Differential | Monthly Amount |
|---------------------|------------------|------------------|----------------|
| Stationary Engineer | 1                | 435              | \$100          |
| Stationary Engineer | 1                | 436              | 5%             |
| Stationary Engineer | 2                | 436              | 9%             |

|                      |                       |   |
|----------------------|-----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 15</b> | <b>PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|-----------------------|---|

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

#### Out-of-Class Assignments and Pay

For excluded<sup>15</sup> and most rank-and-file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

<sup>15</sup> “Excluded employee” means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.



During the period under review, July 1, 2022, through December 31, 2022, the DSH issued OOC pay to 510 employees. The CRU reviewed 19 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and the CalHR's policies and guidelines. These are listed below:

| Classification                         | Bargaining Unit | Out-of-Class Classification                            | Time Frame         |
|--|-----------------|--|--------------------|
| Associate Governmental Program Analyst | R01             | Staff Services Manager I                               | 9/1/22 – 12/29/22  |
| Behavioral Specialist I                | R19             | Program Assistant                                      | 9/16/22 – 10/23/22 |
| Chief of Plant Operation I             | S12             | Chief of Plant Operations III                          | 7/7/22 – 7/6/23    |
| Clinical Social Worker -Safety         | R19             | Supervising Psychiatric Social Worker I                | 12/29/22 – 4/17/23 |
| Food Service Technician I              | R15             | Food Service Supervisor I                              | 12/11/22 – 4/9/23  |
| Food Service Technician I              | R15             | Food Service Supervisor I                              | 10/2/22 – 1/29/23  |
| Hospital Police Lieutenant             | S07             | Supervising Special Investigator I                     | 12/2/22 – 3/1/23   |
| Laboratory Assistant                   | R11             | Office Technician (Typing)                             | 11/14/22 – 2/11/23 |
| Psychiatric Technician (Safety)        | R18             | Senior Psychiatric Technician                          | 6/7/22 – 9/15/23   |
| Psychiatric Technician (Safety)        | R18             | Senior Psychiatric Technician                          | 7/16/22 – 10/13/22 |
| Psychiatric Technician (Safety)        | R18             | Senior Psychiatric Technician                          | 11/20/22 – 3/19/23 |
| Psychiatric Technician (Safety)        | R18             | Senior Psychiatric Technician                          | 11/6/22 – 3/5/23   |
| Psychiatric Technician (Safety)        | R18             | Senior Psychiatric Technician                          | 11/6/22 – 11/30/22 |
| Registered Nurse (Safety)              | R17             | Health Services Specialist (Safety) (CNS) Risk Manager | 5/13/22 – 8/9/22   |
| Senior Psychiatric Technician (Safety) | R18             | Unit Supervisor  | 11/15/22 – 1/11/23 |
| Senior Psychiatric Technician (Safety) | R18             | Unit Supervisor  | 12/14/22 – 1/6/23  |
| Staff Services Analyst                 | R01             | Associate Governmental Program Analyst                 | 8/4/22 – 8/29/22   |

| Classification                          | Bargaining Unit | Out-of-Class Classification | Time Frame        |
|---|-----------------|-----------------------------|-------------------|
| Supervising Psychiatric Social Worker I | S19             | Program Director            | 12/7/22 – 3/1/23  |
| Unit Supervisor (Safety)                | S18             | Program Assistant           | 6/30/22 – 7/26/22 |

|                      |                       |   |
|----------------------|-----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 16</b> | <b>OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|-----------------------|---|

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

## **Leave**

### **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 days<sup>16</sup> worked and paid absences<sup>17</sup>, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-day 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.*)

<sup>16</sup> For example, two hours or ten hours count as one day.

<sup>17</sup> For example, vacation, sick leave, compensating time off, etc.

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

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 DSH had 476 positive paid employees whose hours were tracked. The CRU reviewed 25 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

| Classification                         | Tenure            | Time Frame       | Hours Worked <sup>18</sup> |
|--|-------------------|------------------|----------------------------|
| Administrative Assistant I             | Retired Annuitant | 7/1/21 – 6/30/22 | 959.5                      |
| Assistive Technology Specialist        | Retired Annuitant | 7/1/21 – 6/30/22 | 940                        |
| Associate Governmental Program Analyst | Retired Annuitant | 7/1/21 – 6/30/22 | 1,140                      |
| Food Service Technician I              | Retired Annuitant | 7/1/21 – 6/30/22 | 956.5                      |
| Legal Analyst                          | Retired Annuitant | 7/1/21 – 6/30/22 | 780                        |
| Nursing Consultant, Program Review     | Retired Annuitant | 7/1/21 – 6/30/22 | 955                        |
| Psychiatric Technician (Safety)        | Retired Annuitant | 7/1/21 – 6/30/22 | 1875                       |
| Psychiatric Technician (Safety)        | Retired Annuitant | 7/1/21 – 6/30/22 | 2,774.35                   |
| Registered Nurse (Safety)              | Retired Annuitant | 7/1/21 – 6/30/22 | 1,844.75                   |

<sup>18</sup> Executive Order N-25-20 signed by Governor Newsom on March 12, 2020, suspended work hour limitations on retired annuitants' hours due to the Covid-19 emergency. This expired on March 31, 2022. Appointing authorities whose employees exceeded the established work hour limitations were required to notify the CalHR of such. If a positive paid employee's hours exceeded limitations, and there was no notification to the CalHR, then that would result in a finding.

| Classification                         | Tenure            | Time Frame          | Hours Worked <sup>18</sup> |
|--|-------------------|---------------------|----------------------------|
| Senior Accounting Officer (Specialist) | Retired Annuitant | 7/1/21 – 6/30/22    | 658                        |
| Senior Psychiatrist (Specialist)       | Retired Annuitant | 7/1/21 – 6/30/22    | 237.75                     |
| Senior Psychiatrist (Specialist)       | Retired Annuitant | 7/1/21 – 6/30/22    | 696                        |
| Staff Psychiatrist (Safety)            | Retired Annuitant | 7/1/21 – 6/30/22    | 1,880                      |
| Staff Services Manager I               | Retired Annuitant | 7/1/21 – 6/30/22    | 1,874.5                    |
| Graduate Student Assistant             | Temporary         | 9/12/22 – 7/31/23   | 1,239                      |
| Student Assistant                      | Temporary         | 6/6/22 – 6/5/23     | 896                        |
| Student Assistant                      | Temporary         | 3/1/22 – 3/1/23     | 1,296                      |
| Student Assistant                      | Temporary         | 8/1/22 – 7/31/23    | 1,231                      |
| Student Assistant                      | Temporary         | 5/9/22 – 5/8/23     | 1,270                      |
| Student Assistant                      | Temporary         | 10/17/22 – 7/31/23  | 952                        |
| Student Assistant                      | Temporary         | 3/9/22 – 3/8/23     | 1,426                      |
| Student Assistant                      | Temporary         | 3/2/22 – 3/1/23     | 1,171                      |
| Student Assistant                      | Temporary         | 1/12/22 – 1/11/23   | 1,398                      |
| Student Assistant                      | Temporary         | 6/22/22 – 6/21/23   | 1,271                      |
| Student Assistant                      | Temporary         | 11/15/21 – 11/15/22 | 1,137                      |

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| <b>IN COMPLIANCE</b> | <b>FINDING NO. 17 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---|

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The DSH provided sufficient justification and adhered to applicable laws, regulations and the CalHR's 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, May 1, 2022, through April 30, 2023, the DSH authorized 532 ATO transactions. The CRU reviewed 25 of these ATO transactions to ensure compliance with applicable laws, regulations, and the CalHR's policy and guidelines, which are listed below:

| Classification                         | Time Frame                | Amount of Time on ATO |
|--|---------------------------|-----------------------|
| Associate Governmental Program Analyst | 12/19/22 – 12/21/22       | 24 hours              |
| Clinical Social Worker                 | 5/1/22 – 6/29/22          | 44 days               |
| Chief of Plant Operation III           | 7/6/22 – 8/1/22           | 152 hours             |
| Custodian I                            | 2/27/23 – 3/1/23          | 26.5 hours            |
| Hospital Police Officer                | 4/29/23                   | 8 hours               |
| Hospital Police Officer                | 8/30/22 – 8/31/22         | 10.25 hours           |
| Hospital Police Officer                | 4/29/23 – 4/30/22         | 16 hours              |
| Program Director                       | 12/22/22 – 12/24/22       | 16 hours              |
| Psychiatric Technician Assistant       | 10/20/22 – 10/23/22       | 20 hours              |
| Psychiatric Technician (Safety)        | 6/10/23 – 6/11/23         | 16 hours              |
| Psychiatric Technician (Safety)        | 7/13/22 – 7/15/22         | 24 hours              |
| Psychiatric Technician (Safety)        | 11/22/22 – 5/19/23        | 864 hours             |
| Psychiatric Technician (Safety)        | 8/11/22 – 8/21/22         | 72 hours              |
| Psychiatric Technician (Safety)        | 10/26/22 – 10/30/22       | 40 hours              |
| Psychiatric Technician (Safety)        | 1/1/23 – 3/4/23           | 38 days               |
| Psychiatric Technician (Safety)        | 7/9/22 – 12/4/22          | 104 days              |
| Registered Dietician                   | 12/30/22 – 1/17/23        | 18 days               |
| Registered Nurse (Safety)              | 6/30/2022 – 7/15/22       | 16 days               |
| Rehabilitation Therapist               | 3/2/23, 3/3/23 and 3/6/23 | 3 days                |
| Rehabilitation Therapist               | 9/21/22 – 9/28/22         | 5 days                |
| Senior Psychiatric Technician          | 5/16/23 – 5/22/23         | 5 days                |
| Staff Psychiatrist                     | 7/1/22 – 7/8/22           | 5 days                |
| Staff Services Manager I               | 9/22/22 – 9/29/22         | 5 days                |
| Staff Services Manager I               | 05/19/22 – 05/31/22       | 64 hours              |
| Supervising Registered Nurse           | 7/29/22 – 8/4/22          | 5 days                |

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| <b>SEVERITY:<br/>SERIOUS</b> | <b>FINDING No. 18 ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED</b> |
|------------------------------|---|

**Summary:** The DSH did not grant ATO in conformity with the established policies and procedures. Of the 25 ATO authorizations reviewed by the CRU, 2 were found to be out of compliance for failing to key ATO into the leave accounting system, and 1 was keyed erroneously.

- Criteria:** Appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. (*Ibid.*)
- Severity:** Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by the CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.
- Cause:** The DSH acknowledges that 2 of the 25 ATO authorizations reviewed were out of compliance due to administrative keying errors. The DSH states that ATO requests were approved appropriately; however, they were not keyed correctly and not monitored appropriately to be adjusted for holidays.
- Corrective Action:** Within 90 days of the date of this report, the DSH 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 19991.10 and Human Resources Manual Section 2121. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### 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, February 1, 2023, through April 30, 2023, the DSH reported 114 units. The CRU reviewed 17 units within 3 pay periods to ensure compliance with applicable laws, regulations and the CalHR's policy and guidelines.

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|------------------------------|---|
| <b>SEVERITY:<br/>SERIOUS</b> | <b>FINDING NO. 19 DEPARTMENT DID NOT CERTIFY THAT ALL LEAVE RECORDS WERE REVIEWED</b> |
|------------------------------|---|

**Summary:** The DSH failed to certify that all leave records have been reviewed and corrected if necessary for 6 out of the 17 units/pay periods reviewed.

**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 input 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 DSH acknowledges it failed to certify that all leave records were reviewed and corrected for 6 of the 17 units reviewed for February, March, and April 2023 pay periods. The DSH attributes this to loss of knowledge within the Payroll & Benefits/Transactions Unit tied to the high turnover and vacancy rates of Personnel.

**Corrective Action:** Within 90 days of the date of this report, the DSH 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 is documented and that all leave input

is keyed accurately and timely. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.<sup>19</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full-time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>20</sup> shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

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<sup>19</sup> Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

<sup>20</sup> As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.



During the period under review, January 1, 2023, through June 30, 2023, the DSH had 18 employees with qualifying and non-qualifying pay period transactions. The CRU reviewed 26 transactions to ensure compliance with applicable laws, regulations and the CalHR's policy and guidelines, which are listed below:

| Type of Transaction       | Time base | No. Reviewed |
|---------------------------|-----------|--------------|
| Non-Qualifying Pay Period | Full Time | 20           |
| Qualifying Pay Period     | Full Time | 6            |

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| <b>SUBSTANTIAL COMPLIANCE</b> | <b>FINDING NO. 20 INCORRECT APPLICATION OF STATE SERVICE AND LEAVE TRANSACTION(S)</b> |
|-------------------------------|---|

**Summary:** The CRU found 1 error in the DSH's 26 state service transactions:

| Type of Transaction       | Time base | State Service Incorrectly Posted |
|---------------------------|-----------|----------------------------------|
| Non-Qualifying Pay Period | Full Time | 1                                |

**Criteria:** In the application of Government Code section 19837, an employee shall be considered to have a month of state service if the employee either: (1) has had 11 or more working days of service in a monthly pay period; or (2) would have had 11 or more working days of service in a monthly pay period but was laid off or on a leave of absence for the purpose of lessening the impact of an impending layoff. (Cal. Code Regs., tit.2, § 599.608.) Absences from state service resulting from permanent separation for more than 11 consecutive working days which fall into two consecutive pay periods shall disqualify one of the pay periods. (*Ibid.*)

Hourly or daily rate employees working in a state agency in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit.2, § 599.609.) When an employee has a break in service or changes to full-time, any combination of time worked which does not equal one qualifying month of full-time service shall not be accumulated or counted. (*Ibid.*)

**Severity:** Substantial Compliance. The department has achieved 90% or more compliance in this area and has provided a response sufficient to

address full compliance in the future; therefore, no corrective action is required.

## **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.*)

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| <b>IN COMPLIANCE</b> | <b>FINDING NO. 21</b> | <b>NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|-----------------------|---|

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

### **Workers' Compensation**

Employers shall provide to every new employee, either at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under workers' compensation law. (Cal. Code Regs., tit. 8, § 9880, subd. (a).) This notice shall

include the right to predesignate their personal physician or medical group; a form that the employee may use as an optional method for notifying the employer of the name of employee's "personal physician," as defined by Labor Code section 4600. (Cal. Code Regs., tit. 8, § 9880, subd. (c)(7) & (8).) Additionally, within one working day of receiving notice or knowledge that the employee has suffered a work-related injury or illness, employers shall provide a claim form and notice of potential eligibility for benefits to the injured employee. (Labor Code, § 5401, subd. (a).)

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

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

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| <b>IN COMPLIANCE</b> | <b>FINDING No. 22</b> | <b>WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|-----------------------|---|

The CRU verified that the DSH provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRU verified that when the DSH 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 CRU selected 100 permanent DSH employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

|                              |  |
|------------------------------|--|
| <b>SEVERITY:<br/>SERIOUS</b> | <b>FINDING NO. 23    PERFORMANCE APPRAISALS WERE NOT PROVIDED TO<br/>ALL EMPLOYEES</b> |
|------------------------------|--|

**Summary:** The DSH did not provide annual performance appraisals to 21 of 100 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 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 appraised of work performance issues and/or goals in a systematic manner.

**Cause:** The DSH states that despite the annual notice sent to all supervisors and managers, HR did not consistently send reminders or follow up, or supervisors and managers did not submit performance appraisals as required.

**Corrective Action:** Within 90 days of the date of this report, the DSH 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 DSH's Departmental Response is attached as Attachment 1.

### **SPB REPLY**

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

Human Resources Branch  
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[www.dsh.ca.gov](http://www.dsh.ca.gov)



March 5, 2025

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

Subject: Response to the State Personnel Board Compliance Review Report

Dear Ms. Ambrose,

The Department of State Hospitals (DSH) acknowledges the findings identified in the State Personnel Board (SPB) Compliance Review Report, received December 12, 2024. DSH would like to thank the Compliance Review Unit (CRU) for their professionalism and flexibility during this review and appreciates the opportunity to respond to the findings. DSH remains committed to regularly evaluating its practices and procedures to ensure compliance with all applicable laws, rules, and regulations.

The following information describes the actions DSH has already taken or plans to take to improve practices related to findings identified in this report.

Please consider the following in response to the specific findings:

(Severity: Technical) Finding No 4: Appointment Documentation was not Kept for the Appropriate Amount of Time.

**Cause:** During the pandemic, the State Controller's Office (SCO) transitioned to digital distribution of the Notice of Personnel Actions (NOPA). This new process caused confusion for DSH when transitioning to the new process of electronic documentation and obtaining signatures. Additionally, DSH experienced a high turnover and vacancy rate of Personnel Specialists which contributed to missing NOPAs, duty statements and filing backlog and diminished ability to adequately follow up with employees that did not sign and return the appointment documentation timely.

**Response:** DSH Personnel Specialists have since acclimated and been properly trained on the process to download NOPAs from SCO's system to be distributed to Timekeepers, Attendance Clerks, or the employees directly. This training is also part of all new Personnel Specialists onboarding and training curriculum. Human Resources offices will provide periodic notices to inform and educate staff on the importance of returning signed Appointment Documentation. DSH will continue

with its current process to file an unsigned copy of the Appointment Documentation(s) in the Official Personnel File (OPF) and, once the signed Appointment Documents are returned, replace the unsigned version(s) in the OPF.

(Severity: Very Serious) Finding No. 8: Ethics Training was not Provided for all Filers.

**Cause:** Although DSH has a Learning Management System (LMS), there was no standardized process statewide to ensure communication from Human Resources/Filing Officer to the training departments regarding new filers required to take the training. It is currently the responsibility of the training departments at each location to track Ethics training for newly required Form 700 filers for completion within the first six months and biennial requirements. For biennial required filers, the notifications were sent to the employees but not to their supervisors. At the time, the training departments did not have a designated individual to track completion within the required time.

**Response:** Human Resources/Filing Officer will work in collaboration with the local training departments to ensure the flow of information in hiring, promotions, out of classification assignments and biennial Form 700 filers are being communicated to the designees who will track the information. The notification of training will be sent to the employee and supervisor. Ethics Training is in the department's LMS linked to the Department of Justice's Ethics Training Course. The training departments will track and request status updates from supervisors and employees to ensure completion within the 6-month requirement and/or biennially. DSH will include the Ethics Training Policy Directive 5306, which outlines the process, authority, roles and responsibilities, along with the reminders to reiterate the mandate and timely completion. Additionally, DSH will communicate the importance of timely completion of Ethics Training via bi-weekly meetings with the Human Resources Directors and send an annual email reminder from the Director's Office by the end of February of each year beginning in 2025.

(Severity: Very Serious) Finding No. 9: Supervisory Training was not Provided for all Supervisors, Managers, and CEAs.

**Cause:** DSH has established a Memorandum of Understanding (MOU) with CalHR to deliver an 80-hour Supervisory Development Program (SDP). However, there is currently no standardized process on how Human Resources communicates who is required to take the training and how this training is implemented across DSH. Options are available for utilizing CalHR's SDP through funding or participating in in person SDP classes offered at various facilities. Some locations have faced challenges in scheduling supervisors to ensure compliance with California Government Code (GC), Section 19995.4. It is the responsibility of the training departments at DSH to track the training for supervisors, managers, and Career Executive Assignments (CEA).

**Response:** Human Resources will collaborate with all training departments to

ensure the timely dissemination of information upon the hiring of a new supervisor, managerial and CEAs to comply with current policy. The training departments will coordinate with the new hire and their supervisor to facilitate enrollment in the SDP within the timeframe mandated by GC 19995.4. DSH will strive to offer live training in accordance with the MOU. If a new supervisor cannot attend the in-person SDP at their facility, arrangements will be made for them to participate in the training through CalLearns. DSH training departments will work collaboratively to support one another in delivering SDP training, ensuring compliance across DSH. Human Resources will collaborate with the training departments to ensure timely communication when employees are appointed to managerial or CEA positions. The training departments will assist the manager or CEA in enrolling and completing the mandatory 40-hour managerial training or 20-hour CEA training. Additionally, the training departments will maintain records of completion dates and certificates for all supervisory, managerial, and CEAs in DSH's LMS and use the LMS to facilitate future audits. DSH will send an email reminder reminding Managers, Supervisors, and CEAs of the biennial training requirements from the Director's Office – Office of Communications by February of each year beginning in 2025.

(Severity: Very Serious) Finding No. 10: Sexual Harassment Prevention Training was not Provided for all Employees.

**Cause:** Although DSH employees are notified upon hire, during onboarding and new employee orientation, of the mandatory training requirements, not all employees complete the training as required. DSH's Office of Human Rights (OHR) oversees the Sexual Harassment Prevention (SHP) Training compliance, and due to staff turnover and use of manual record-keeping methods there were delays in OHR sending staff reminders to complete the training within the required timeframe.

**Response:** DSH's OHR will work with Human Resources, who oversee the departments LMS, to determine best practices to automate, track, and report non-compliance. OHR will also establish additional communication strategies to remind staff of the training requirements that will include an annual email from the Director's Office – Office of Communications by the end of February of each year beginning in 2025.

(Severity: Very Serious) Finding No. 12: Alternate Range Movements did not Comply with Civil Service Laws, Rules, and CalHR Policies and Guidelines.

**Cause:** DSH employs individuals represented by 17 of the 21 collective bargaining units, a very complex payroll that includes bi-weekly payroll and a variety of pay differentials, stipends, and other manual processes. DSH attributes this finding to the complexity of some alternate range criteria (ARC) for many hospital classifications especially those with licensure requirements. In addition, DSH experienced vacancies within units that determine the ARC and as a result new staff may not have been provided adequate training to accurately determine range placement. In addition, SCO had limited available formal training opportunities

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during this time and staff were unable to undergo proper training as a result.

**Response:** DSH will request a focused training on salary determination and ARC placement from SCO. Staff assigned to conduct ARC placement and salary determinations will be provided this training. If SCO is unable to satisfy this request, DSH will schedule the training provided by SCO's Personnel and Payroll Services Division upon availability of their training schedule and any other applicable trainings. In addition, DSH will develop a standardized checklist that has all elements of the ARC and salary determination identified to ensure staff will determine and process the ARC/range and salary rate appropriately. In addition, the supervisor will review the ARC and salary determination to ensure accuracy.

(Severity: Very Serious) Finding No. 14: Incorrect Authorization of Bilingual Pay

**Cause:** There was no standardized process statewide to appropriately determine and properly document bilingual needs of the patients. Being a 24/7 operational facility, having designated bilingual positions that cover all three shifts proved challenging. Staff are redirected to different shifts and/or units to meet staffing needs; therefore, the bilingual pay differential was maintained with the individual, not necessarily with the position. The bilingual pay differential was based on the supervisor certifying the need.

**Response:** In 2024, DSH completed an internal audit to identify the bilingual needs for the department, for both public contact and patients, and developed a language to be added to duty statements of bilingual positions that includes the 10% required for performing bilingual services. A standardized procedure has been developed to properly document bilingual needs and testing of staff for bilingual fluency certification. Additionally, the DSH is in the process of updating the policy for Bilingual Services and developing an operational procedure for bilingual pay to ensure the pay differential is applied appropriately.

(Severity: Serious) Finding No. 18: Administrative Time Off was not Properly Documented.

**Cause:** DSH acknowledges, of the 25 Administrative Time Off (ATO) authorizations reviewed, two were found out of compliance due to administrative keying errors. The ATO request were approved appropriately; however, they were not keyed correctly and not monitored appropriately to be adjusted for holidays.

**Response:** DSH will develop an audit process policy to verify all leave (including ATO) is keyed accurately and timely. Additionally, DSH plans to update the Administrative Time Off policy directive to ensure the periodic auditing of leave usage/timesheets by April 1, 2025.

(Severity: Serious) Finding No. 19: Department did not Certify that All Leave Records were Reviewed.

**Cause:** DSH acknowledges it failed to certify that all leave records were reviewed and corrected for 6 of the 17 units reviewed for February, March, April 2023 pay periods. DSH attributes this to loss of knowledge within the Payroll & Benefits/Transactions Unit tied to the high turnover and vacancy rates of Personnel Specialists.

**Response:** DSH has experienced a high turnover and vacancy rate of Personnel Specialists, which has led to missed communication and errors in transferring knowledge to new staff related to the monthly internal auditing process. Due to staffing instabilities, HR Offices are faced with the challenge of proper training and knowledge transfer. DSH will develop a policy on the audit process to ensure verification of all leave is keyed accurately and timely and, in this policy, it will include a list of required trainings to ensure staff are thoroughly trained. This draft policy will be completed by April 1, 2025.

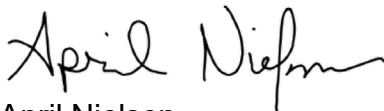
(Severity: Serious) Finding No. 23: Performance Appraisals were not Provided to All Employees.

**Cause:** Despite the annual notice sent to all supervisors and managers, in these instances, HR did not consistently send reminders or follow up, or supervisors and managers did not submit performance appraisals as required.

**Response:** DSH will evaluate and establish additional measures and processes to ensure future compliance throughout the department. DSH is currently developing a policy for completing Performance Appraisals.

Again, we appreciate the opportunity to provide a response to this report. Should you have any questions or need additional information, please contact my Assistant Chief, Mable Basquez at (916) 651-5662 or [Mable.Basquez@dsh.ca.gov](mailto:Mable.Basquez@dsh.ca.gov).

Sincerely,



April Nielsen  
Chief of Human Resources  
Administrative Services Division

cc: Sylvia Marquez, Staff Management Auditor, Office of Audits  
Carolina Zavala, Compliance Manager, Human Resources