

COMPLIANCE REVIEW REPORT

AGRICULTURAL LABOR RELATIONS

BOARD

Compliance Review Unit
State Personnel Board
September 3, 2021

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INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Agricultural Labor Relations Board (ALRB)'s personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed ¹
Appointments	Very Serious	Equal Employment Opportunity Questionnaires Were Not Separated from Applications
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	Serious	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

¹ Repeat finding. March 27, 2017, the ALRB's compliance review report identified 3 missing probation reports of the 10 appointment files reviewed. In addition, March 11, 2015, the ALRB's compliance review report identified 2 missing probation reports of the 13 appointment files reviewed.

Area	Severity	Finding
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or 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
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees

BACKGROUND

The Agricultural Labor Relations Board (ALRB) was created in 1975 with the enactment of the Agricultural Labor Relations Act (ALRA), a landmark California law that extended collective bargaining rights and protections to agricultural employees who are excluded from the coverage of the federal National Labor Relations Act.

The ALRA authorizes the ALRB to oversee and protect the rights of agricultural employees to organize themselves in negotiating the terms and conditions of their employment, including whether or not to have labor unions represent them. The ALRB's authority is divided between a five-member Board and a General Counsel, all of whom are appointed by the Governor and subject to confirmation by the Senate. Together, the five-member Board and General Counsel work to ensure fair labor practices and workplace protections for California's agricultural workers.

The Board and General Counsel are headquartered in Sacramento and maintain regional offices in California's agricultural centers, including Salinas, Visalia, Santa Rosa, Oxnard, and Indio.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the ALRB's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if the ALRB'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 ALRB's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the ALRB provided, which included examination plans, examination bulletins, job analyses, and scoring results.

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

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

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

The ALRB's appointments were also selected for review to ensure the ALRB applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the ALRB provided, which included

² Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

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: bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments.

During the compliance review period, the ALRB did not issue or authorize hiring above minimum requests, red circle rate requests, or arduous pay.

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

The ALRB's PSC's were also reviewed.³ It was beyond the scope of the compliance review to make conclusions as to whether the ALRB's justifications for the contracts were legally sufficient. The review was limited to whether the ALRB's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The ALRB's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors, managers, and CEAs were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the ALRB'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 ALRB's units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the ALRB employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of ALRB positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

³If 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.

During the compliance review period, the ALRB did not have any employees with non-qualifying pay period transactions.

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

On July 28, 2021, an exit conference was held with the ALRB to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the ALRB's written response on August 17, 2021, 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, June 1, 2019, through May 31, 2020, the ALRB conducted one examination. The CRU reviewed that one examination, which is listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA)	CEA	Statement of Qualifications (SOQ) ⁴	10/6/2019	19

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

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section

⁴ 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.

does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, January 1, 2019, through December 31, 2019, the ALRB made 26 appointments. The CRU reviewed 10 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Field Examiner I, Agricultural Labor Relations Board	Certification List	Permanent	Full Time	1
Field Examiner II, Agricultural Labor Relations Board	Certification List	Permanent	Full Time	1
Field Examiner III, Agricultural Labor Relations Board	Certification List	Permanent	Full Time	1
Senior Legal Typist	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Senior Legal Typist	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1

SERIOUS	FINDING NO. 2 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary: The ALRB did not provide 22 probationary reports of performance for 8 of the 10 appointments reviewed by the CRU, as reflected in the table below. This is the third consecutive time this has been a finding for the ALRB.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Associate Governmental Program Analyst	Certification List	1	1
Attorney	Certification List	1	3

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Field Examiner I, Agricultural Labor Relations Board	Certification List	1	3
Field Examiner II, Agricultural Labor Relations Board	Certification List	1	3
Field Examiner III, Agricultural Labor Relations Board	Certification List	1	3
Senior Legal Typist	Certification List	1	3
Staff Services Manager I	Certification List	1	3
Senior Legal Typist	Transfer	1	3

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

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

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

Cause: The ALRB states that high staff turnover and lack of training resulted in supervisors and managers inadvertently not being held accountable for completing probationary evaluations. The ALRB Human Resources Office will develop and provide training to all managers and the ALRB has created procedures identifying roles and responsibilities for probationary evaluations.

Corrective Action: The ALRB provides it has taken steps to create probationary evaluation procedures and develop training to ensure timely completion of probationary reports. As ALRB has been found to be out of compliance in this area during three consecutive reviews, it is essential that ALRB make meaningful progress to achieve compliance in this area.

Within 90 days of the date of this report, the ALRB must submit to the SPB a written corrective action response which addresses the corrections the ALRB has implemented, including providing copies of the training curriculum it states it will develop and provide, to ensure conformity with Government Code section 19172.

VERY SERIOUS	FINDING NO. 3	EQUAL EMPLOYMENT OPPORTUNITY QUESTIONNAIRES WERE NOT SEPARATED FROM APPLICATIONS
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Summary: Out of 10 appointments reviewed, 1 appointment file included applications where EEO questionnaires were not separated from the STD. 678 employment application.

Criteria: Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status). Applicants for employment in state civil service are

asked to voluntarily provide ethnic data about themselves where such data is determined by the CalHR to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD. 678) states, “This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions.”

Severity: Very Serious. The applicant’s protected classes were visible, subjecting the agency to potential liability.

Cause: The ALRB states that failure to remove the EEO questionnaire was an inadvertent oversight. The ALRB states that going forward this form will be confidentially destroyed after it is keyed.

Corrective Action: The ALRB provides it has taken steps to ensure that EEO information is removed from all applications. Within 90 days of the date of this report, the ALRB must submit to the SPB a written corrective action response which outlines the corrections the department implemented to ensure that future EEO questionnaires are separated from all applications. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, June 1, 2019, through May 31, 2020, the ALRB conducted one unlawful appointment investigation. The CRU reviewed the unlawful appointment investigation, which is listed below:

Classification	Date Investigation Initiated	Date Investigation Concluded
Attorney	01/10/2020	03/25/2020

IN COMPLIANCE	FINDING NO. 4 UNLAWFUL APPOINTMENT INVESTIGATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The ALRB’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).)

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

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

IN COMPLIANCE	FINDING NO. 5 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the ALRB’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 ALRB. The ALRB also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

For cost-savings PSC’s, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, June 1, 2019, through May 31, 2020, the ALRB had two PSC’s that were in effect. The CRU reviewed two of those, which are listed below:

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
California Reporting, LLC	Certified Electronic Reporter and Transcriber Services	02/2018 - 11/2020	\$150,000	Yes	No
Excel Interpreting, LLC	Certified Interpreter and Document Translation Services	07/2018 - 06/2020	\$162,275	Yes	No

SERIOUS	FINDING NO. 6 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The ALRB did not notify unions prior to entering into any of its reviewed PSC's.

Criteria: The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

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

Cause: The ALRB states that staff in Business Services were unaware the unions were to be notified of PSC's. The ALRB states it has updated the current contract procedures to notify all 12 employee organizations of potential PSC's when the ALRB is unable to identify if a state classification is able to perform the type of work to be contracted.

Corrective Action: The ALRB provides it has taken steps to notify unions of PSC's. Within 90 days of the date of this report, the ALRB must submit to the SPB a written corrective action response which addresses the corrections the department implemented to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has

been implemented must be included with the corrective action response.

Mandated Training

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

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

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

The CRU reviewed the ALRB’s mandated training program that was in effect during the compliance review period, June 1, 2018, through May 31, 2020. The ALRB’s sexual harassment prevention training was found to be in compliance, while the ALRB’s ethics training was found to be out of compliance.

VERY SERIOUS	FINDING NO. 7	ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The ALRB did not provide ethics training to 6 of 22 existing filers. In addition, the ALRB did not provide ethics training to four of nine new filers within six months of their appointment.

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

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

Cause: The ALRB states that Conflict of Interest filers are notified of their responsibility to complete ethics training. However, the ALRB did not have an effective process in place outlining responsibilities to monitor the completion of the ethics training for filers. Since the review, the Human Resources Manager has been delegated responsibility to ensure the requirements are met. In addition, the ALRB states the department has implemented a tracking system to monitor the completion of ethics training.

Corrective Action: The ALRB provides it has taken steps to monitor the completion of ethics training. Within 90 days of this report, the ALRB must submit to the SPB a written correction action response which addresses the corrections the department implemented to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁵ 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

⁵ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

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, January 1, 2019, through December 31, 2019, the ALRB made 26 appointments. The CRU reviewed five of those appointments to determine if the ALRB applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Field Examiner I, Agricultural Labor Relations Board	Certification List	Permanent	Full Time	\$4,236
Field Examiner III, Agricultural Labor Relations Board	Certification List	Permanent	Full Time	\$6,639
Senior Legal Typist	Certification List	Permanent	Full Time	\$3,795
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,224
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$3,823

IN COMPLIANCE	FINDING NO. 8 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the salary determinations that were reviewed. The ALRB appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria.

(CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, January 1, 2019, through December 31, 2019, the ALRB employees made 6 alternate range movements within a classification. The CRU reviewed 6 of those alternate range movements to determine if the ALRB applied salary regulations accurately and correctly processed each employee's compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Attorney	C	D	Full Time	\$7,836
Attorney	A	B	Full Time	\$6,118
Field Examiner I, Agricultural Labor Relations Board	A	B	Full Time	\$4,236
Field Examiner I, Agricultural Labor Relations Board	A	B	Full Time	\$4,381
Field Examiner I, Agricultural Labor Relations Board	A	B	Full Time	\$4,381
Staff Services Analyst (General)	A	B	Full Time	\$3,450

IN COMPLIANCE	FINDING NO. 9 ALTERNATIVE RANGE MOVEMENTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU determined that the alternate range movements the ALRB made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

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

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is

granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, January 1, 2019, through December 31, 2019, the ALRB issued bilingual pay to 34 employees. The CRU reviewed 17 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Collective Bargaining Identifier	Time Base	No. of Appts.
Associate General Counsel, Unfair Labor Practices, Agricultural Labor Relations Board	M02	Full Time	1
Attorney	R02	Full Time	4
Attorney IV	R02	Full Time	1
Field Examiner I, Agricultural Labor Relations Board	R01	Full Time	2
Field Examiner II, Agricultural Labor Relations Board	R01	Full Time	2
Field Examiner III, Agricultural Labor Relations Board	R01	Full Time	2
Legal Analyst	R01	Full Time	1
Legal Secretary	R04	Full Time	1
Senior Legal Typist	R04	Full Time	3

VERY SERIOUS	FINDING NO. 10	INCORRECT AUTHORIZATION OF BILINGUAL PAY
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Summary: The CRU found 17 errors in the ALRB's authorization of bilingual pay:

Classification	Number of Positions	Description of Finding(s)	Criteria
Associate General Counsel, Unfair Labor Practices, Agricultural Labor Relations Board	1	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Attorney	4	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Attorney IV	1	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Field Examiner I, Agricultural Labor Relations Board	2	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Field Examiner II, Agricultural Labor Relations Board	2	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Field Examiner III, Agricultural Labor Relations Board	2	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Legal Analyst	1	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Legal Secretary	1	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Senior Legal Typist	3	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14

Criteria: For any state agency, a “qualified” bilingual employee, person, or interpreter is someone who CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or

certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296, subd. (a)(3).) An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

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

Cause: The ALRB states that high staff turnover resulted in the Human Resources Office processing bilingual pay requests incorrectly. The ALRB states that all positions receiving bilingual pay will be audited to ensure the positions require the use of bilingual skills 10 percent of the time. In addition, the ALRB states it will ensure all incumbents in bilingual positions have passed the fluency exam, the STD. 897 forms are completed, and the duty statements are updated to reflect the bilingual duties.

Corrective Action: The ALRB provides it has taken steps to correctly process bilingual pay requests. Within 90 days of the date of this report, the ALRB must submit to the SPB a written corrective action response which addresses the corrections the department implemented to ensure conformity with Government Code section 7296, and Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same

class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, January 1, 2019, through December 31, 2019, the ALRB issued pay differentials⁶ to two employees. The CRU reviewed two of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Field Examiner I, Agricultural Labor Relations Board	GS	\$295.94
Hearing Officer II, Agricultural Labor Relations Board	8NJC	\$342.30

IN COMPLIANCE	FINDING NO. 11	PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differentials that the ALRB authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Leave

⁶ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

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 in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days⁷ worked and paid absences⁸, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

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

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year.

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June),

⁷ For example, two hours or ten hours count as one day.

⁸ For example, vacation, sick leave, compensating time off, etc.

regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

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

Classification	Tenure	Time Frame	Time Worked
Attorney IV	Retired Annuitant	07/01/2019-06/30/2020	931 Hours
Student Assistant	Temporary	03/08/2019-02/07/2020	167 Hours

IN COMPLIANCE	FINDING NO. 12	POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The ALRB provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

ATO is a form of paid administrative leave status initiated by appointing authorities for a variety of reasons. (Human Resources Manual Section 2121.) Most often, ATO is used when an employee cannot come to work because of a pending investigation, fitness for duty evaluation, or when work facilities are unavailable. (*Ibid.*) ATO can also be granted when employees need time off for reasons such as blood or organ donation, extreme weather preventing safe travel to work, states of emergency, voting, and when employees need time off to attend special events. (*Ibid.*)

During the period under review, March 1, 2019, through February 29, 2020, the ALRB placed two employees on ATO. The CRU reviewed two of those ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Field Examiner I, Agricultural Labor Relations Board	10/01/2019	1 day
Senior Legal Typist	10/01/2019	1 day

IN COMPLIANCE	FINDING NO. 13	ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The ALRB provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

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

During the period under review, January 1, 2019, through December 31, 2019, the ALRB reported 9 units comprised of 51.5 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
November 2019	240	11	11	0
December 2019	260	9	9	0

IN COMPLIANCE	FINDING NO. 14	LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The ALRB kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

Policy and Processes

Nepotism

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

IN COMPLIANCE	FINDING NO. 15	NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the policy was disseminated to all staff and emphasized the ALRB’s commitment to the state policy of recruiting, hiring and assigning employees on the basis

of merit. Additionally, the ALRB’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 ALRB did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 16	WORKERS’ COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the ALRB 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 ALRB 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 20 permanent ALRB employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Associate General Counsel, Unfair Labor Practices, Agricultural Labor Relations Board	02/01/2020
Associate General Counsel, Unfair Labor Practices, Agricultural Labor Relations Board	10/26/2020
Associate Governmental Program Analyst	10/24/2020
Attorney	07/25/2020
Attorney	10/03/2020
Attorney	10/25/2020
Attorney	01/05/2020
Attorney IV	06/12/2020
Attorney IV	09/01/2020
Field Examiner II, Agricultural Labor Relations Board	10/25/2020
Field Examiner II, Agricultural Labor Relations Board	03/15/2020
Field Examiner III, Agricultural Labor Relations Board	01/01/2020
Hearing Officer II, Agricultural Labor Relations Board	07/17/2020
Hearing Officer II, Agricultural Labor Relations Board	12/22/2020
Legal Secretary	01/01/2020
Legal Secretary	01/10/2020

Classification	Date Performance Appraisals Due
Senior Board Counsel, ALRB	02/07/2020
Senior Board Counsel, ALRB	03/14/2020
Senior Legal Typist	09/02/2020
Senior Legal Typist	06/04/2020

SERIOUS	FINDING NO. 17	PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The ALRB did not provide annual performance appraisals to 17 of 20 employees reviewed after the completion of the employee's probationary period.

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

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

Cause: The ALRB states that high staff turnover resulted in managers and supervisors inadvertently not being held accountable for completing performance appraisals. The ALRB has created procedures identifying roles and responsibilities for ensuring performance appraisals are completed.

Corrective Action: The ALRB provides it has taken steps to create performance appraisal procedures. Within 90 days of the date of this report, the ALRB 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 ALRB's response is attached as Attachment 1.

SPB REPLY

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

AGRICULTURAL LABOR RELATIONS BOARD

DIVISION OF ADMINISTRATIVE SERVICES

1325 J STREET, SUITE 1900

SACRAMENTO, CA 95814

Internet: www.alrb.ca.gov

August 17, 2021

Diana Campbell
Compliance Review Manager
State Personnel Board
801 Capitol Mall, Suite 1200
Sacramento, CA 95814

Dear Ms. Campbell,

The Agricultural Labor Relations Board (ALRB) has received the draft Compliance Review Report prepared by the State Personnel Board's Compliance Review Unit. The ALRB strives to ensure compliance with all civil service laws and rules and works hard to maintain the integrity of the State's merit-based selection process. Generally, we find the report to be thorough and an accurate summary of the processes that existed during the time period reviewed. That said, we are committed to correcting the deficiencies noted in the report.

Finding No. 2: PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED**Cause:**

High staff turnover and lack of training resulted in supervisors and managers inadvertently not being held accountable for completing probationary evaluations.

Action:

ALRB acknowledges that managers and supervisors are responsible for providing probationary evaluations for all probationary staff. ALRB Human Resources Office will develop and provide training to all managers and supervisors emphasizing the importance of completing probationary evaluations. In addition, ALRB has created procedures identifying roles and responsibilities for probationary evaluations, to ensure conformity with the probationary requirements of California Code of Regulations (CCR) section 599.795 (Attachment A).

Finding No. 3: EQUAL EMPLOYMENT OPPORTUNITY QUESTIONAIRES WERE NOT SEPARATED FROM APPLICATIONS

Cause:

Removal of the EEO information was an inadvertent oversight.

Action:

ALRB will confidentially destroy this form after it is keyed.

Finding No. 6: UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS

Cause:

Current staff in Business Services were unaware the unions were to be notified of Personal Services Contracts.

Action:

ALRB acknowledges that to ensure compliance with Government Code (GC) section 19132 and AB 906, no state agency shall execute a Personal Services Contract until the organizations that represent the state employees who perform the type of work being contracted out have been notified and provided a full copy of the proposed contract.

ALRB has updated the current contract procedures to notify all 12 employee organizations (representing 21 bargaining units) of potential Personal Services Contracts when ALRB is unable to identify if a state classification is able to perform the type of work to be contracted (Attachment B).

Finding No. 7: ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS

Cause:

Conflict of Interest (COI) filers are notified of their responsibility to complete ethics training. However, ALRB did not have an effective process in place outlining responsibilities to monitor the completion of the ethics training for filers.

Action:

The Human Resources Manager has been delegated responsibility to ensure ALRB meets conformity with the requirements of GC section 11146.3, subdivision (b). In addition, ALRB has implemented a tracking system to monitor the completion of ethics

training. As of July 2021, ALRB has certificates of completion on file for all staff required to complete ethic's training (Attachment C).

Finding No. 10: INCORRECT AUTHORIZATION OF BILINGUAL PAY

Cause:

High staff turnover resulted in the Human Resources Office processing bilingual pay requests incorrectly.

Action:

ALRB will audit all positions receiving bilingual pay to ensure the positions require the use of bilingual skills 10 percent of the time. In addition, ALRB will ensure all incumbents in bilingual positions have passed the fluency exam, the Std. 897 forms are completed, and the duty statements are updated to reflect the bilingual duties.

Finding No. 17: PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES

Cause:

High staff turnover resulted in managers and supervisors inadvertently not being held accountable for completing performance appraisals.

Action:

ALRB acknowledges that managers and supervisors are responsible for providing performance appraisals for permanent employees at least once each twelve calendar months after an employee completes the probationary period for the class in which the employee is serving. ALRB has created procedures identifying roles and responsibilities for performance appraisals (Attachment A).

Sincerely,



Michelle Seifried
Human Resources Manager