



COMPLIANCE REVIEW REPORT

CALIFORNIA AIR RESOURCES BOARD

Compliance Review Unit
State Personnel Board
March 17, 2023

TABLE OF CONTENTS

INTRODUCTION	1
EXECUTIVE SUMMARY	2
BACKGROUND	3
SCOPE AND METHODOLOGY	4
FINDINGS AND RECOMMENDATIONS	6
EXAMINATIONS.....	6
APPOINTMENTS.....	9
EQUAL EMPLOYMENT OPPORTUNITY	13
MANDATED TRAINING	18
COMPENSATION AND PAY	20
LEAVE.....	26
POLICY AND PROCESSES	37
DEPARTMENTAL RESPONSE.....	40
SPB REPLY	40

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 California Air Resources Board (CARB)'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
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not provided for All Appointments Reviewed ¹
Appointments	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
Equal Employment Opportunity	Very Serious	A Disability Advisory Committee Has Not Been Established
Personal Services Contracts	Serious	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Very Serious	Ethics Training Was Not Provided For All Filers ²
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided For All Supervisors
Compensation and Pay	In Compliance	Salary Determinations Complied With Civil Service Laws, Board Rules, and CalHR Policies And Guidelines
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay

¹ Repeat Finding. August 27, 2019, the CARB's compliance review report identified five missing probation reports. Additionally, May 25, 2016, CARB's compliance report identified that it did not prepare, complete, and/or retain required probationary reports for 4 of the 38 appointments reviewed.

² Repeat Finding. August 27, 2019, the CARB's compliance review report identified 4 of 19 new filers did not receive ethics training within six months of their appointment.

Area	Severity	Finding
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Serious	Department Did Not Properly Monitor Time Worked for All Permanent Intermittent Positive Paid Employees
Leave	Serious	Department Did Not Retain Positive Paid Employee Time and Attendance Records
Leave	Serious	Administrative Time Off Was Not Properly Documented
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Very Serious	Incorrect Application of State Service and Leave Transactions
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 ³

BACKGROUND

The CARB is part of the California Environmental Protection Agency, and its mission is to promote and protect public health, welfare, and ecological resources through effective reduction of air pollutants while recognizing and considering effects on the economy. The CARB is the lead agency for climate change programs and oversees all air pollution control efforts in California to attain and maintain health-based air quality standards.

The CARB consists of approximately 1,655 employees, distributed throughout 15 divisions, including CARB Board members. The CARB Board consists of 16 members of whom 12 are appointed by the Governor and confirmed by the state Senate. The 12 members include 5 who serve on local air districts, 4 experts in fields that shape air quality rules, 2 public members, along with the Chair who serves as the only full-time member.

³ Repeat Finding. August 27, 2019, the CARB's compliance report identified that the Department did not provide performance appraisals to 21 of 50 employees reviewed at least once in each twelve calendar months after the completion of the employee's probationary period.

The other 4 members include 2 who represent environmental justice communities and 2 nonvoting members appointed for Legislative oversight, from the Senate and Assembly.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CARB's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁴. The primary objective of the review was to determine if the CARB'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 CARB'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 CARB provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CARB's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD. 678), class specifications, and withhold letters.

A cross-section of the CARB'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 CARB 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 CARB did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CARB did not make any additional appointments during the compliance review period.

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

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

specific documentation for the following personnel functions related to compensation and pay: bilingual pay, monthly pay differentials, and alternate range movements.

During the compliance review period, the CARB did not issue or authorize hiring above minimum requests, red circle rate requests, arduous pay, or out-of-class assignments.

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

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

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

⁵If 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.

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

On February 23, 2023, an exit conference was held with the CARB to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CARB's written response on February 27, 2023, 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, December 1, 2020, through August 31, 2021, the CARB conducted nine examinations. The CRU reviewed all of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps.
Career Executive Assignment (CEA) A, Chief, Administrative Services Division	CEA	Statement of Qualifications (SOQ) ⁶	8/09/2021	11
CEA B, Chief, Industrial Strategies Division	CEA	SOQ	6/11/2021	9
CEA B, Deputy Executive Officer, Climate Change and Research	CEA	SOQ	2/12/2021	10
CEA B, Deputy Executive Officer, Internal Operations	CEA	SOQ	4/16/2021	5
CEA B, Deputy Executive Officer, Mobile Sources and Incentives	CEA	SOQ	3/30/2021	10
CEA B, Director, Office of Community Air Protection	CEA	SOQ	11/30/2020	6
Assistant Division Chief, Air Resources Board	Promotional	Training and Experience (T&E) ⁷	7/16/2020	15
Automotive Emission Test Specialist II	Open	T&E	1/29/2021	6
Automotive Emission Test Specialist III	Open	T&E	1/29/2021	4

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed one departmental promotional and eight open examinations which the CARB administered in order to create eligible lists from which to make appointments. The CARB published and distributed examination bulletins containing the required information for all examinations. Applications received by the CARB were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process.

⁶ 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.

⁷ 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.

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 CARB 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, December 1, 2020, through August 31, 2021, the CARB conducted 15 permanent withhold actions. The CRU reviewed 14 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
Accounting Analyst	5PB38	4/14/2021	4/14/2022	Failed to Meet Minimum Qualifications (MQs)
Accounting Officer (Specialist)	0PBAG	4/20/2021	4/20/2022	Failed to Meet MQs
Accountant Trainee	9PB31	5/07/2020	5/07/2021	Failed to Meet MQs

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Accountant Trainee	9PB31	10/28/2021	10/28/2022	Failed to Meet MQs
Accountant Trainee	9PB31	6/11/2021	6/11/2022	Failed to Meet MQs
Accountant Trainee	9PB31	4/24/2020	4/27/2021	Failed to Meet MQs
Air Pollution Specialist	3PB05	1/30/2020	1/30/2021	Failed to Meet MQs
Air Pollution Specialist	3PB05	3/03/2021	3/03/2022	Failed to Meet MQs
Air Resources Engineer	3PB06	2/04/2021	2/01/2022	Failed to Meet MQs
Associate Accounting Analyst	5PB39	3/20/2021	3/20/2022	Failed to Meet MQs
Associate Governmental Program Analyst (AGPA)	5PB39	11/18/2020	11/18/2021	Failed to Meet MQs
Office Technician (Typing)	4PB2402	9/29/2020	9/29/2022	Failed to Meet MQs
Senior Accounting Officer (Specialist)	0PBAK	10/20/2020	10/20/2021	Failed to Meet MQs
Senior Accounting Officer (Specialist)	0PBAK	11/03/2020	11/03/2021	Failed to Meet MQs

IN COMPLIANCE	FINDING NO. 2	PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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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, be designed, and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, September 1, 2020, through May 31, 2021, the CARB made 109 appointments. The CRU reviewed 33 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
CEA B, Director, Office of Community Air Protection	CEA	Non-Tenure	Full Time	1
CEA B, Executive Director for Environmental Justice	CEA	Non-Tenure	Full Time	1
Accounting Administrator II	Certification List	Permanent	Full Time	1
Air Pollution Specialist	Certification List	Permanent	Full Time	1
Air Resource Engineer	Certification List	Permanent	Full Time	3
Air Resource Supervisor I	Certification List	Permanent	Full Time	6
Air Resource Supervisor II	Certification List	Permanent	Full Time	3
Air Resource Technician II	Certification List	Permanent	Full Time	1
Assistant Division Chief, Air Resources Board	Certification List	Permanent	Full Time	1
AGPA	Certification List	Permanent	Full Time	2
Information Technology Associate	Certification List	Permanent	Full Time	1
Senior Accounting Officer (Specialist)	Certification List	Permanent	Full Time	2
Staff Air Pollution Specialist	Certification List	Permanent	Full Time	2
Air Pollution Specialist	Transfer	Permanent	Full Time	2
Air Resources Engineer	Transfer	Permanent	Full Time	3
Air Resources Technician II	Transfer	Permanent	Full Time	1
Information Technology Associate	Transfer	Permanent	Full Time	1
Staff Services Analyst	Transfer	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary: The CARB did not provide 3 probationary reports of performance for 3 of the 33 appointments reviewed by the CRU, as reflected in the table below. This is the third consecutive time the CARB has had this finding.

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Accounting Administrator II	Certification List	1	1

Classification	Appointment Type	Number of Appointments	Total Number of Missing Probation Reports
Air Pollution Specialist	Certification List	3	0
Air Resources Engineer	Certification List	6	0
Air Resources Supervisor I	Certification List	6	0
Air Resources Supervisor II	Certification List	3	0
Air Resources Technician II	Certification List	2	0
Assistant Division Chief, Air Resources Board	Certification List	1	0
AGPA	Certification List	2	1
CEA B	Certification List	2	0
Information Technology Associate	Certification List	2	0
Senior Accounting Officer (Specialist)	Certification List	2	0
Staff Air Pollution Specialist	Certification List	2	1
Staff Services Analyst	Certification List	1	0

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 CARB states that it attempted to remind managers and supervisors of their employees serving a probation period. Despite multiple reminders, not all managers and supervisors completed the required probationary reports.

Corrective Action: Within 90 days of the date of this report, the CARB 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 19172. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: TECHNICAL	FINDING NO. 4 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
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Summary: The CARB failed to retain personnel records such as NOPA's, duty statements, job announcements/bulletins, and applications. Of the 33 appointments reviewed, the CARB did not retain 12 NOPAs.

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: Due to a high vacancy rate, employee turnover, and the transition to a telework environment during the pandemic, the CARB acknowledges there was a failure to ensure that all appointment documentation was filed correctly and promptly in personnel records of employees.

Corrective Action: Within 90 days of the date of this report, the CARB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

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

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

SEVERITY: VERY SERIOUS	FINDING NO. 5 A DISABILITY ADVISORY COMMITTEE HAS NOT BEEN ESTABLISHED
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Summary: The CARB does not have an active DAC.

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

final committee is comprised of members who have disabilities or who have an interest in disability issues. (Gov. Code, § 19795, subd. (b)(2).)

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

Cause: The CARB states that due to the main DAC employee leaving the department, alternative employees in leadership positions from the DAC were not selected and did not volunteer. While a monthly DAC was not occurring, EEO personnel were attending the State Disability Advisory Committee (SDAC) to keep up with current events and information.

SPB Reply: It is laudable that CARB personnel attend SDAC meetings. However, that does not mitigate the need for the CARB to have its own DAC to inform the head of the agency on issues of concern for employees with disabilities.

Corrective Action: Within 90 days of the date of this report, the CARB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure the establishment of a DAC, comprised of members who have disabilities or who have an interest in disability issues. Copies of relevant documentation demonstrating that the corrective action has been implemented, including the new DAC roster, agenda, and meeting minutes, must be included with the corrective action response.

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, December 1, 2020, through August 31, 2021, the CARB had 59 PSC's that were in effect. The CRU reviewed 23 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Rice Lake Weighing Systems	Quality Assurance	12/1/2020 - 11/30/2021	\$6,105.00	Yes	No
AccuGov, Inc.	Cylinder Rental	12/1/2020 - 12/1/2023	\$2,190.00	Yes	No
Petroleum Analyzer Company, LP	Mobile Laboratory	1/15/2021 - 2/28/2022	\$1,400.00	Yes	No
Rice Lake Weighing Systems	Gas Emission Testing	2/22/2021 - 6/30/2021	\$5,410.00	Yes	No
Energy and Environmental Economics, Inc.	Scenario Modeling and Evaluation	12/14/2020 - 5/14/2023	\$675,000.00	Yes	No
Quantum Fuel Systems, LLC	Visual Inspection	12/14/2020 - 4/15/2021	\$640.00	Yes	No
Heidi Kolbe & Company, Inc.	Facilitation Services	12/14/2020 - 11/30/2021	\$9,999.00	Yes	No

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
International Council on Clean Transportation	Zero-Emission Vehicle Alliance	1/1/2021 - 12/31/2021	\$30,000.00	Yes	No
VELOZ	Creative multimedia campaign	2/1/2021 - 12/31/2021	\$50,000.00	Yes	No
Automotive Tests and Development Services	Vehicle Repair Durability Testing	1/27/2021 - 4/1/2023	\$9,990.00	Yes	No
Peak Scientific, Inc.	Hydrogen Generators Maintenance Plan	2/1/2021 - 1/31/2024	\$41,205.60	Yes	No
Gerstel, Inc.	Equipment relocation	3/15/2021 - 12/31/2021	\$9,400.00	Yes	No
Industrial Economics	Ecosystem Services Valuation	3/1/2021 - 11/30/2023	\$249,802.50	Yes	No
Fuller Forklift Service	Forklift Maintenance and Repair	3/1/2021 - 2/28/2022	\$5,000.00	Yes	No
Scientific Repair, Inc.	Maintenance Calibration and repair	3/1/2021 - 2/29/2024	\$45,000.00	Yes	No
Quantum Fuel Systems, LLC	(HyStEP) Device	6/1/2021 - 5/31/2022	\$37,000.00	Yes	No
Paul Cropper dba Cropper Consulting	Carbon Analyzer Installation and Training	3/15/2021 - 1/14/2022	\$9,437.00	Yes	No
TRICORD Consulting	Transmission and Storage Facilities	3/24/2021 - 6/30/2023	\$300,000.00	Yes	No
Aramark Uniform & Career Apparel, LLC	Clean Lab Coats	3/30/2021 - 3/29/2024	\$5,563.08	Yes	No
Transcat, Inc.	Calibration and Certification	4/1/2021 - 3/31/2022	\$4,283.20	Yes	No

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
KG Industries	Transport Old Trailers	4/1/2021 - 3/31/2024	\$7,775.00	Yes	No
Mesa Laboratories, Inc.	Environmental testing	5/1/2021 - 4/30/2022	\$24,093.00	Yes	No
Micro Precision Calibration, Inc.	Balance and Weight Calibration Certification	4/1/2021 - 9/30/2021	\$5,471.04	Yes	No

SEVERITY: SERIOUS	FINDING NO. 6 UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
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Summary: The CARB did not notify unions prior to entering into any of the 23 PSC's reviewed.

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 CARB acknowledges that they did not notice unions prior to entering PSCs on a consistent basis.

Corrective Action: Departments are responsible for notifying all organizations that represent state employees who perform or could perform the type of work to be contracted prior to executing a PSC. The PSCs reviewed during this compliance review involved several services and functions which various rank-and-file civil service classifications perform. Within 90 days of the date of this report, the CARB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of California Code of Regulations section 547.60.2. 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 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.

The CRU reviewed the CARB’s mandated training program that was in effect during the compliance review period, September 1, 2019, through August 31, 2021. The CARB’s ethics training and sexual harassment prevention training were found to be out of compliance.

SEVERITY: VERY SERIOUS	FINDING NO. 7 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The CARB provided ethics training to 120 of 120 existing filers. However, the CARB did not provide ethics training to 21 of 65 new filers within six months of their appointment. This is the second consecutive time the CARB has had this 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: Due to a high vacancy rate, employee turnover, and the transition to a telework environment during the pandemic, CARB acknowledges that it did not provide ethics training to 21 of 65 filers within 6 months of their appointment.

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

SEVERITY: VERY SERIOUS	FINDING NO. 8 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS
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Summary: The CARB did not provide sexual harassment prevention training to 29 of 33 new supervisors within 6 months of their appointment. In addition, the CARB did not provide sexual harassment prevention training to 17 of 157 existing supervisors every 2 years.

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

Severity: Very Serious. The department does not ensure that all new and existing supervisors 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 CARB states its EEO Office had one staff member responsible for manually tracking the sexual harassment prevention training for CARB; in addition to having multiple competing priorities that prevented reminders from being sent out and tracked.

Corrective Action: Within 90 days of the date of this report, the CARB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors are provided supervisory training within twelve months of appointment as required by Government Code section 19995.4. 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 rate⁸ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, September 1, 2020, through May 31, 2021, the CARB made 33 appointments. The CRU reviewed 10 of those appointments to determine if the CARB applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Accounting Administrator II	List Appointment	Permanent	Full Time	\$7,544

⁸ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Air Pollution Specialist	List Appointment	Permanent	Full Time	\$7,821
Air Resources Engineer	List Appointment	Permanent	Full Time	\$8,751
Air Resources Supervisor I	List Appointment	Permanent	Full Time	\$11,323
Air Resources Supervisor I	List Appointment	Permanent	Full Time	\$10,270
Air Resources Supervisor I	List Appointment	Permanent	Full Time	\$11,323
Air Resources Supervisor I	List Appointment	Permanent	Full Time	\$9,766
Air Resources Supervisor II	List Appointment	Permanent	Full Time	\$12,834
Air Resources Supervisor II	List Appointment	Permanent	Full Time	\$12,834
Senior Accounting Officer (Specialist)	List Appointment	Permanent	Full Time	\$5,406

IN COMPLIANCE	FINDING NO. 9⁹	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 CARB appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Alternate Range Movement Salary Determination (within same classification)

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

During the period under review, September 1, 2020, through May 31, 2021, the CARB employees made 16 alternate range movements within a classification. The CRU reviewed 12 of those alternate range movements to determine if the CARB applied salary

⁹ In its draft report, the CRU found that the CARB had one salary miscalculation due to a rounding error. This finding has subsequently been removed as the CARB utilized a salary determination tool provided by the CalHR, which contained the error. The CRU will notify CalHR of this error.

regulations accurately and correctly processed each employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Air Pollution Specialist	Range B	Range C	Full Time	\$7498
Air Pollution Specialist	Range A	Range B	Full Time	\$5307
Air Pollution Specialist	Range A	Range B	Full Time	\$5307
Air Pollution Specialist	Range B	Range C	Full Time	\$6674
Air Pollution Specialist	Range A	Range B	Full Time	\$5307
Air Pollution Specialist	Range B	Range C	Full Time	\$6356
Air Pollution Specialist	Range B	Range C	Full Time	\$6674
Air Pollution Specialist	Range A	Range B	Full Time	\$5307
Air Pollution Specialist	Range B	Range C	Full Time	\$6356
Air Resources Engineer	Range C	Range D	Full Time	\$6661
Air Resources Engineer	Range B	Range C	Full Time	\$6661
Air Resources Engineer	Range C	Range D	Full Time	\$7821

IN COMPLIANCE	FINDING NO. 10 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 CARB made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

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

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

During the period under review, September 1, 2020, through May 31, 2021, the CARB issued bilingual pay to 48 employees. The CRU reviewed 25 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.
Air Pollution Specialist	R09	Full Time	15
Air Resources Engineer	R09	Full Time	1
Air Resources Field Representative II	R09	Full Time	3
Air Resources Field Representative III	R09	Full Time	2
Air Resources Supervisor I	R09	Full Time	1
Air Resources Technician II	R09	Full Time	2
Staff Services Analyst (General)	R09	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 11 INCORRECT AUTHORIZATION OF BILINGUAL PAY
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Summary: The CRU found 15 errors in the CARB’s authorization of bilingual pay:

Classification	# of Positions	Description of Findings	Criteria
Air Pollution Specialist	7	Department failed to provide supporting documentation that the employee has been tested and certified bilingual; and the department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Air Resources Field Representative II	3	Department failed to provide supporting documentation that the employee has been tested and certified bilingual; and the department failed to supply supporting documentation demonstrating the need for bilingual services..	Government Code section 7296 and Pay Differential 14

Classification	# of Positions	Description of Findings	Criteria
Air Resources Field Representative III	2	Department failed to provide supporting documentation that the employee has been tested and certified bilingual; and the department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Air Resources Supervisor I	1	Department failed to provide supporting documentation that the employee has been tested and certified bilingual; and the department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Air Resources Technician II	1	Department failed to provide supporting documentation that the employee has been tested and certified bilingual; and the department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Staff Services Analyst (General)	1	Department failed to provide supporting documentation that the employee has been tested and certified bilingual; and the 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 CARB states its EEO Office's main bilingual services coordinator left abruptly during 2021 and it was found that the employee failed to appropriately save all documentation from their personal computer into CARB's EEO drives.

Corrective Action: Within 90 days of the date of this report, the CARB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 7296, and/or Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or, recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to

the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, September 1, 2020, through May 31, 2021, the CARB authorized 21 pay differentials.¹⁰ The CRU reviewed 11 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	# of Positions	Pay Differential	Monthly Amount
Air Pollution Specialist	1	Longevity Pay	2%
Air Pollution Specialist	5	Longevity Pay	4%
Air Resources Engineer	2	Longevity Pay	4%
Air Resources Supervisor I	2	Longevity Pay	4%
Vehicle Program Specialist, Air Resources Board	1	Longevity Pay	4%

IN COMPLIANCE	FINDING NO. 12	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 CARB authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days¹¹

¹⁰ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

¹¹ For example, two hours or ten hours count as one day.

worked and paid absences¹², 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), regardless of the number of state employers, without reinstatement, loss, or interruption of benefits.

At the time of the review, the CARB had 104 positive paid employees whose hours were tracked. The CRU reviewed 50 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 (Hours)
Accountant Trainee	Intermittent	1/1/2020 - 12/31/2020	212.25
Air Pollution Specialist	Intermittent	1/1/2020 - 12/31/2020	1197.00
Air Pollution Specialist	Intermittent	7/1/2020 - 6/30/2021	242.00
Air Resources Engineer	Intermittent	7/1/2020 - 6/30/2021	960.00

¹² For example, vacation, sick leave, compensating time off, etc.

Classification	Tenure	Time Frame	Time Worked (Hours)
Air Resources Technician I	Intermittent	1/1/2020 - 12/31/2020	1036.95
Air Resources Technician I	Intermittent	1/1/2020 - 12/31/2020	832.00
Air Resources Technician I	Intermittent	1/1/2020 - 12/31/2020	855.75
Air Resources Technician I	Intermittent	1/1/2020 - 12/31/2020	1335.50
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	480.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1476.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	880.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1474.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	632.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1243.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	517.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	800.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1982.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	727.50
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1255.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1330.75
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1670.40
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1172.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1472.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1362.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	84.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1257.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	468.50
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1435.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	940.43
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1342.00
Air Resources Technician II	Intermittent	1/1/2020 - 12/31/2020	1577.00
Associate Governmental Program Analyst	Intermittent	7/1/2020 - 6/30/2021	960.00
Associate Governmental Program Analyst	Intermittent	7/1/2020 - 6/30/2021	960.00
Attorney III	Intermittent	7/1/2020 - 6/30/2021	106.50
Heavy Truck Driver	Intermittent	1/1/2020 - 12/31/2020	403.00
Information Technology Associate	Intermittent	1/1/2020 - 12/31/2020	831.00
Information Technology Associate	Intermittent	1/1/2020 - 12/31/2020	1904.00
Information Technology Associate	Intermittent	1/1/2020 - 12/31/2020	1138.00
Information Technology Associate	Intermittent	1/1/2020 - 12/31/2020	96.00
Office Technician (Typing)	Intermittent	1/1/2020 - 12/31/2020	1207.50

Classification	Tenure	Time Frame	Time Worked (Hours)
Office Technician (Typing)	Intermittent	1/1/2020 - 12/31/2020	1215.70
Office Technician (Typing)	Intermittent	1/1/2020 - 12/31/2020	848.00
Staff Services Analyst	Intermittent	1/1/2020 - 12/31/2020	653.00
Staff Air Pollution Specialist	Intermittent	7/1/2020 - 6/30/2021	188.00
Staff Air Pollution Specialist	Intermittent	7/1/2020 - 6/30/2021	68.00
Student Assistant	Intermittent	12/7/2020 - 8/31/2020	783.00
Student Assistant	Intermittent	8/1/2020 - 8/31/2021	1168.00
Student Assistant	Intermittent	3/1/2020 - 08/31/2020	438.50
Student Assistant	Intermittent	3/1/2020 - 8/31/2020	463.50
Television Assistant	Intermittent	1/1/2020 - 12/31/2020	1411.00

SEVERITY: SERIOUS	FINDING NO. 13 DEPARTMENT DID NOT PROPERLY MONITOR TIME WORKED FOR ALL PERMANENT INTERMITTENT POSITIVE PAID EMPLOYEES
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Summary: The CARB did not consistently monitor the actual number of hours worked to ensure that 4 of 50 permanent intermittent positive paid employees reviewed did not exceed the 1,500-hour limitation in any calendar year.

Specifically, the following employees exceeded the established limitations:

Classification	Tenure/Time Base	Time Frame	Time Worked (Hours)	Time Worked Over Limit (Hours)
Air Resources Technician II	Permanent Intermittent	January 1, 2020 – December 31, 2020	1982	482
Air Resource Technician II	Permanent Intermittent	January 1, 2020 - December 31, 2020	1670.40	170.40
Air Resource Technician II	Permanent Intermittent	January 1, 2020 - December 31, 2020	1577	77
Information Technology Associate	Permanent Intermittent	January 1, 2020 - December 31, 2020	1904	404

Criteria: A permanent intermittent employee may work up to 1,500 hours in any calendar year. The number of hours and schedule of work shall be determined based upon the operational needs of each department. (Applicable Bargaining Unit Agreements.)

Severity: Serious. The number of days or hours an individual may work in a permanent intermittent appointment is limited in the state civil service. To ensure permanent intermittent appointments are not made on a full-time basis, a maximum of 1,500 hours has been placed on the number of hours which a permanent intermittent employee may work any calendar year.

Cause: Due to a high vacancy rate, employee turnover, and the transition to a telework environment during the pandemic, the CARB did not monitor the actual number of hours worked in order to ensure that 4 of 50 permanent intermittent positive paid employees reviewed did not exceed the 1,500-hour limitation in any calendar year.

Corrective Action: Within 90 days of the date of this report, the CARB 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 21224, and California Code of Regulations, title 2, section 599.665, and/or applicable Bargaining Unit agreement(s). Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: SERIOUS	FINDING NO. 14	DEPARTMENT DID NOT RETAIN POSITIVE PAID EMPLOYEE TIME AND ATTENDANCE RECORDS
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Summary: The CARB did not retain 2 of 24 timesheets for positive paid employees from the January 1, 2020, to July 31, 2020, pay period.

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.) Such records shall be kept in the form and manner prescribed by the Department of Finance in connection with its powers to devise, install and supervise a modern and complete accounting system for state agencies. (*Ibid.*)

Severity: Serious. The CARB failed to retain employee time and attendance records for each employee. Therefore, the department was unable to reconcile timesheets against their leave accounting system at the

conclusion of the pay period, which could have affected employee leave accruals and compensation.

Cause: Due to a high vacancy rate, employee turnover, and the transition to telework environment during pandemic, the CARB used hard copy timesheets during this period and timesheets were not properly retained.

Corrective Action: Within 90 days of the date of this report, the CARB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure all timesheets are accounted for and processed in conformity with California Code of Regulations, title 2, section 599.665. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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, June 1, 2020, through May 31, 2021, the CARB authorized 1891 ATO transactions. The CRU reviewed 50 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Air Pollution Specialist	4/9/2021	1 Day
Air Pollution Specialist	8/19/2020 - 8/31/2020	13 Days
Air Pollution Specialist	8/17/2020 - 8/19/2020	3 Days
Air Pollution Specialist	4/14/2021	1 Day
Air Pollution Specialist	5/26/2021 - 5/28/2021	3 Days
Air Pollution Specialist	7/27/2020 - 12/31/2020	158 Days
Air Pollution Specialist	12/2/2020 - 12/30/2020	29 Days
Air Pollution Specialist	4/15/2021	1 Day

Classification	Time Frame	Amount of Time on ATO
Air Pollution Specialist	4/22/2021	1 Day
Air Pollution Specialist	4/13/2021	1 Day
Air Pollution Specialist	3/5/2021	1 Day
Air Resources Engineer	3/15/2021	1 Day
Air Resources Engineer	4/2/2021	1 Day
Air Resources Engineer	8/17/2020 - 12/18/2020	124 Days
Air Resources Engineer	4/19/2021	1 Day
Air Resources Engineer	5/18/2021	1 Day
Air Resources Engineer	4/22/2021	1 Day
Air Resources Engineer	5/21/2021	1 Day
Air Resources Engineer	4/5/2021 - 4/16/2021	12 Days
Air Resources Engineer	10/26/2020 - 11/16/2020	12 Days
Air Resources Engineer	4/13/2021	1 Day
Air Resources Engineer	5/13/2021	1 Day
Air Resources Engineer	4/09/2021	1 Day
Air Resources Supervisor I	10/26/2020 - 11/3/2020	9 Days
Air Resources Supervisor I	8/14/2020	1 Day
Air Resources Supervisor I	6/1/2020 - 12/31/2020	214 Days
Air Resources Technician I	4/09/2021	1 Day
Air Resources Technician II	8/19/2020 - 8/20/2020	2 Days
Air Resources Technician II	4/16/2021	1 Day
Air Resources Technician II	5/18/2020 - 6/26/2020	40 Days
Air Resources Technician II	11/4/2020 - 11/18/2020	15 Days
Air Resources Technician II	4/06/2021	1 Day
Air Resources Technician II	11/13/2020 - 11/20/2020	8 Days
Associate Governmental Program Analyst	10/23/2020 - 12/31/2020	70 Days
Associate Governmental Program Analyst	3/18/2021	1 Day
Associate Governmental Program Analyst	4/16/2021	1 Day
Attorney III	7/20/2020 - 7/31/2020	12 Days
Attorney III	5/11/2021	1 Day
Executive Assistant	4/06/2021	1 Day
Information Officer I (Specialist)	5/17/2021	1 Day
Information Officer I (Specialist)	4/13/2021	1 Day
Office Technician (Typing)	3/26/2021	1 Day
Office Technician (Typing)	5/4/2021 - 5/5/2021	2 Days
Office Technician (Typing)	4/06/2021	1 Day
Senior Legal Typist	4/06/2021	1 Day

Classification	Time Frame	Amount of Time on ATO
Staff Air Pollution Specialist	4/05/2021	1 Day
Staff Air Pollution Specialist	4/08/2021	1 Day
Staff Services Analyst (General)	3/17/2021	1 Day
Staff Services Analyst (General)	4/26/2021	1 Day
Television Assistant	4/07/2021	1 Day

SEVERITY: SERIOUS	FINDING NO. 15 ADMINISTRATIVE TIME OFF WAS NOT PROPERLY DOCUMENTED
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Summary: The CARB did not grant ATO in conformity with the established policies and procedures. Of the 50 ATO authorizations reviewed by the CRU, 12 were found to be out of compliance for failing to document justification for ATO.

Criteria: Appointing authorities are authorized to approve ATO for up to five (5) working days. (Gov. Code, § 19991.10.) Furthermore, they “have delegated authority to approve up to 30 calendar days.” (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the CalHR. (*Ibid.*) In most cases, if approved, the extension will be for an additional 30 calendar days. (*Ibid.*) The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. (*Ibid.*)

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. (*Ibid.*) ATO may not be used and will not be granted for an indefinite period. (*Ibid.*) If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. (*Ibid.*)

Regardless of the length of ATO, 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 CalHR and

other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

Cause: Due to a high vacancy rate, employee turnover, and the transition to telework, the CARB failed to adequately follow its internal processes to notify CalHR for ATO approval or extensions.

Corrective Action: Within 90 days of the date of this report, the CARB 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 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, March 1, 2021, through May 31, 2021, the CARB reported 3 units comprised of 1645 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
May 2021	010	41	41	0

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
May 2021	910	129	129	0
May 2021	920	81	81	0

IN COMPLIANCE	FINDING NO. 16	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 one different leave period to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CARB 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.

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 considered to be 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.¹³ (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, §

¹³ 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.

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 employees¹⁴ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, September 1, 2020, through May 31, 2021, the CARB had 5 employees with qualifying and non-qualifying pay period transactions. The CRU reviewed 5 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	4
Qualifying Pay Period	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 17 INCORRECT APPLICATION OF STATE SERVICE AND LEAVE TRANSACTION
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Summary: The CRU found the following error in the CARB's state service transactions:

Type of Transaction	Time base	State Service Incorrectly Posted	Leave Accruals Incorrectly Posted
Non-Qualifying Pay Period	Full Time	0	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.

¹⁴ 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.

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: Very Serious. For audit purposes, accurate and timely attendance reporting is required of all departments. If the length of an informal leave results in a non-qualifying pay period, a state service transaction must be processed. Inappropriately authorizing state service credits and leave accruals to employees who did not earn them results in a monetary loss for the department.

Cause: Due to a high vacancy rate, employee turnover, and the transition to a telework environment during the pandemic, the CARB failed to properly train staff in processing non-qualifying pay period to ensure employees do not receive leave accruals.

Corrective Action: Within 90 days of the date of this report, the CARB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure state service transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Policy and Processes

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules, and regulations. (Human Resources Manual Section 1204.) Nepotism is expressly prohibited in the state

workplace because it is antithetical to California’s merit based civil service. (*Ibid.*) Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. (*Ibid.*) Personal relationships for this purpose include association by blood, adoption, marriage and/or cohabitation. (*Ibid.*) All department nepotism policies should emphasize that nepotism is antithetical to a merit-based personnel system and that the department is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit. (*Ibid.*)

IN COMPLIANCE	FINDING NO. 18 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 CARB’s commitment to the state policy of recruiting, hiring, and assigning employees on the basis of merit. Additionally, the CARB’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 CARB did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 19 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 CARB 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 CARB 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 71 permanent CARB employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies, and guidelines.

SEVERITY: SERIOUS	FINDING NO. 20 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The CARB did not provide annual performance appraisals to 9 of 71 employees reviewed after the completion of the employee's probationary period. This is the second consecutive time the CARB has had this finding.

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

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

Cause: The CARB's Human Resources Branch notifies managers and supervisors of each employee whose annual performance appraisals are due. Despite multiple reminders, not all managers and supervisors completed the required appraisals.

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

SPB REPLY

Based upon the CARB's written response, the CARB 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.

February 27, 2023

Suzanne M. Ambrose
Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, CA 95815

The California Air Resources Board (CARB) would like to thank the State Personnel Board (SPB) for their thorough review of CARB's compliance with Personnel policies.

CARB and our Human Resources (HR) Branch is dedicated to adhering to the State's Personnel policies and practices and taking corrective action when we are not in compliance.

Below are CARB's responses to the 2021 compliance review audit:

FINDING NO. 3 Probationary Evaluations Were Not Provided for all Appointments Reviewed - Serious

The report noted the CARB did not provide 3 probationary reports of performance for 3 of the 33 appointments reviewed by the CRU.

Cause: The CARB attempted to remind managers/supervisors of their employees serving a probation period. Despite multiple reminders, not all managers and supervisors completed the required probationary reports.

FINDING NO. 4 Appointment Documentation Was Not Kept for the Appropriate Amount of Time. – Technical

The report noted that CARB did not retain 12 NOPAs out of the 33 appointments reviewed.

Cause: The CARB asserts that due to a high vacancy rate, employee turnover and the transition to a telework environment during the pandemic, there was a failure to ensure that all appointment documentation was filed correctly and promptly in personnel records of employees.

FINDING NO. 5 A Disability Advisory Committee (DAC) Has Not Been Established – Very Serious

Cause: Due to the main DAC employee leaving CARB, alternative employees in leadership positions from the DAC were not selected and did not volunteer. While a monthly DAC was not occurring, EEO personnel were attending the State Disability Advisory Committee (SDAC) to keep up with current events and information.

FINDING NO. 6 Unions Were Not Notified of Personal Services Contracts - Serious

The report noted that CARB did not notify unions prior to entering into any of the 23 PSC's reviewed.

Cause: CARB acknowledges that they did not notice Unions prior to entering Personnel Services Contracts consistently.

FINDING NO. 7 Ethics Training Was Not Provided for all Filers - Very Serious

The report noted that CARB did not provide ethics training to 21 of 65 new filers within six months of their appointment.

Cause: The CARB asserts that due to a high vacancy rate, employee turnover and the transition to a telework environment during the pandemic, CARB did not provide ethics training to 21 of 65 new filers within six months of their appointment.

FINDING NO. 8 Sexual Harassment Prevention Training Was Not Provided for all Supervisors - Very Serious

The report noted that CARB failed to provide sexual harassment prevention training to 29 of 33 new filers within six months of their appointment. In addition, the CARB did not provide sexual harassment prevention training to 17 of 157 existing supervisors every 2 years.

Cause: EEO had one staff member responsible for manually tracking the sexual harassment prevention training for CARB, in addition to having multiple competing priorities that prevented reminders from being sent out and tracked.

FINDING NO. 9 Incorrect Applications of salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment - Very Serious

The report noted that CARB did not round salary up to the nearest whole dollar, resulting in the employee being under compensated.

Cause: The CARB states that the salary rounding to the nearest whole dollar was a result of human error and utilizing the CalHR Compute Class Movement database which does not calculate the rounding.

FINDING NO. 11 Incorrect Authorization of Bilingual Pay - Very Serious

The report states that CARB issued bilingual pay to 48 employees. The CRU reviewed 25 of these bilingual pay authorizations to ensure compliance with applicable CalHR policies and guidelines. The CRU found that CARB failed to provide supporting documentation that the employee has been tested and certified bilingual. Department failed to supply supporting documentation demonstrating the need for bilingual services.

Cause: The EEO office's main bilingual services coordinator left abruptly during 2021 and it was found that the employee failed to appropriately save all documentation from their personal computer into CARB's EEO drives.

FINDING NO. 13 Did Not Properly Monitor Time Worked for all Permanent Intermittent Positive Paid Employees - Serious

The report states that CARB consistently monitor the actual number of hours worked in order to ensure that 4 of 50 permanent intermittent positive paid employees reviewed did not exceed the 1,500-hour limitation in any calendar year.

Cause: The CARB asserts that due to a high vacancy rate, employee turnover and the transition to a telework environment during the pandemic CARB did not monitor the actual number of hours worked in order to ensure that 4 of 50 permanent intermittent positive paid employees reviewed did not exceed the 1,500-hour limitation in any calendar year.

FINDING NO. 14 Did Not Retain Positive Paid Employees Time and Attendance Records - Serious

The report states that CARB did not retain 2 of 24 timesheets for positive paid employees from the January 1, 2020 to July 31, 2020 pay period

Cause: The CARB asserts that due to a high vacancy rate, employee turnover and the transition to a telework environment during the pandemic used hard copy timesheets during this period, timesheets were not properly retained.

FINDING NO. 15 Administrative Time Off was not Properly Documented- Serious

The report states that CARB did not grant ATO in conformity with the established policies and procedures. Of the 50 ATO authorizations reviewed by the CRU, 12 were found to be out of compliance for failing to document justification for ATO.

Cause: The CARB asserts that due to a high vacancy rate, employee turnover and the transition to a telework environment during the pandemic, CARB failed to adequately follow its internal processes on notify CalHR for ATO approval or extensions.

FINDING NO. 17 Incorrect Application of State Service and Leave Transaction - Very Serious

The report states that CARB posted leave accruals incorrectly to the Leave Accounting System

Cause: The CARB asserts that due to a high vacancy rate, employee turnover and the transition to a telework environment during the pandemic, CARB failed to properly train staff in processing non-qualifying pay period to ensure employees do not receive leave accruals.

FINDING NO. 20 Performance Appraisals Were Not Provided - Serious

The report states that CARB did not provide annual performance appraisals to 9 of 71 employees reviewed after the completion of the employee's Performance Appraisal Summary (PAS).

Cause: The Human Resources Branch (HRB) notifies managers and supervisors of each employee whose PAS evaluation are due. Despite multiple reminders, not all managers and supervisors completed the required appraisals.

