



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA STATE AUDITOR**

Compliance Review Unit  
State Personnel Board  
June 10, 2021

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## **INTRODUCTION**

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

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

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

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

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

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

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

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the California State Auditor's<sup>1</sup>, (CSA) personnel practices in the areas of examinations, appointments, EEO, mandated training, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Mandated Training	In Compliance	Mandated Training Complied with Statutory Requirements
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

### **BACKGROUND**

The CSA provides objective evaluations and effective solutions that enhance the transparency, accountability, and performance of California government for the people it serves. The CSA reports its findings to the Legislature and recommends actions that lead to improving government operations, saving the State and taxpayers millions of dollars.

The CSA is the only state entity that is given full access by law to all records of state and local agencies, special districts, and school districts. The CSA possesses the authority to

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<sup>1</sup> Pursuant to Government Code section 8543, subdivision (a), the CSA must be free of organizational impediments to independence. Therefore, the CSA has audit exemptions for many of the areas normally reviewed by the CRU.

perform financial, compliance, performance and contract audits as directed by statute or as approved by the Joint Legislative Audit Committee. In addition, the CSA administers the State and Local Government High Risk audit programs to identify statewide issues or specific government entities/agencies which may be at high risk for potential of waste, fraud, abuse, and mismanagement.

Moreover, CSA administers the California Whistleblower Protection Act, which provides broad authority to perform independent investigations into complaints about improper governmental activities. Further, every 10 years the CSA must initiate an application process for selecting the members of a 14-member Citizens Redistricting Commission (Commission). The CSA develops regulations to implement the application and selection process of the Commission and conducts comprehensive outreach to prospective applicants to serve on the Commission.

The CSA employs approximately 170 employees and utilizes approximately 35 civil service classifications.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CSA's examinations, appointments, EEO program, mandated training, and policy and processes<sup>2</sup>. The primary objective of the review was to determine if the CSA's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, and to recommend corrective action where deficiencies were identified.

A cross-section of the CSA's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the CSA provided, which included examination plans, examination bulletins, job analyses, and scoring results.

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

A cross-section of the CSA's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CSA provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions, vacancy postings,

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

certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. Due to the language of Senate Bill 37, signed May 7, 1993, the CRU did not review the CSA's determinations relative to employees' compensation and pay.

The CSA did not conduct any unlawful appointment investigations, nor make any additional appointments during the compliance review period.

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

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

Moreover, the CRU reviewed the CSA's policies and processes concerning nepotism, to ensure they adhered to procedural requirements. The review was limited to whether the CSA's policies and processes adhered to procedural requirements.

The CSA declined an exit conference. The CSA was found to be in compliance in all areas reviewed during the compliance review period. Therefore, no departmental response is required.

## **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, 2019, through August 31, 2020, the CSA conducted nine examinations. The CRU reviewed those nine examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Auditor Evaluator I	Open	Written <sup>3</sup>	Continuous	714
Auditor Evaluator II	Departmental Promotional	Education and Experience (E&E) <sup>4</sup>	Continuous	6
Auditor Specialist I	Open	E&E	Continuous	4
Auditor Specialist II	Open	E&E	Continuous	2
Digital Composition Specialist III	Departmental Promotional	E&E	12/26/19	2
Senior Auditor Evaluator I	Open	Qualification Appraisal Panel (QAP) <sup>5</sup>	Continuous	6
Senior Auditor Evaluator II	Open	QAP	Continuous	10

<sup>3</sup> A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

<sup>4</sup> In an Education and Experience examination, one or more raters reviews the applicants' Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

<sup>5</sup> The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Senior Auditor Evaluator III	Open	QAP	Continuous	2
Staff Services Analyst	Open	Written	Continuous	2
Classification	Exam Type	Exam Components	Final File Date	No. of Apps

<b>IN COMPLIANCE</b>	<b>FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CRU reviewed two departmental promotional and seven open examinations which the CSA administered in order to create eligible lists from which to make appointments. The CSA published and distributed examination bulletins containing the required information for all examinations. Applications received by the CSA were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the CSA conducted during the compliance review period.

### **Appointments**

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

During the period under review, December 1, 2019, through August 31, 2020, the CSA made 33 appointments. The CRU reviewed 14 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Auditor Evaluator I	Certification List	Permanent	Full Time	1
Auditor Evaluator II	Certification List	Permanent	Full Time	3
Digital Composition Specialist III	Certification List	Permanent	Full Time	1
Graphic Designer III	Certification List	Permanent	Full Time	1
Senior Auditor Evaluator II	Certification List	Permanent	Full Time	2
Special Investigator	Certification List	Permanent	Full Time	1
Staff Services Manager II (Managerial)	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1
Auditor Specialist II	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1
Staff Services Manager I	Transfer	Permanent	Full Time	1

<b>IN COMPLIANCE</b>	<b>FINDING NO. 2 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b>
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The CSA measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the 10 list appointments reviewed, the CSA ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed four CSA appointments made via transfer. A transfer of an employee from a position under one appointing power to a position under another appointing power may be made if the transfer is to a position in the same class or in another class with substantially the same salary range and designated as appropriate by the executive officer. (Cal. Code Regs., tit. 2, § 425.) The CSA verified the eligibility of each candidate to their appointed class.

### **Equal Employment Opportunity**

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

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

IN COMPLIANCE	<b>FINDING NO. 3</b> <b>EQUAL EMPLOYMENT OPPORTUNITY PROGRAM</b> <b>COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD</b> <b>RULES</b>
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CSA’s EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the State Auditor of the CSA. The CSA also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

**Mandated Training**

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as “filers”) because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§

11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

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

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

The CRU reviewed the CSA’s mandated training program that was in effect during the compliance review period, September 1, 2018, through August 31, 2020.

<b>IN COMPLIANCE</b>	<b>FINDING NO. 4 MANDATED TRAINING COMPLIED WITH STATUTORY REQUIREMENTS</b>
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The CSA provided ethics training to its 11 new filers within 6 months of appointment and, for 44 existing filers, “at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter.” In addition, the CSA provided sexual harassment prevention training to its 6 new supervisors within 6 months of appointment, and sexual harassment prevention training to its 44 existing supervisors every 2 years. Thus, the CSA complied with mandated training requirements within statutory timelines.

**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	<b>FINDING NO. 5 NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b>
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The CRU verified that the policy was disseminated to all staff and emphasized the CSA’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CSA’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.

**DEPARTMENTAL RESPONSE**

No departmental response was required since all areas reviewed were found to be in compliance.

**SPB REPLY**

The CSA was found to be in compliance in all areas reviewed during the compliance review period. Therefore, no further action is required.