



COMPLIANCE REVIEW REPORT

CALIFORNIA WORKFORCE DEVELOPMENT BOARD

Compliance Review Unit
State Personnel Board
November 5, 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 Workforce Development Board (CWDB)'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
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers
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
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Neptotism 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

Area	Severity	Finding
Policy	In Compliance	Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations, and CalHR Policies and Guidelines

BACKGROUND

The California Workforce Development Board (CWDB) is responsible for assisting the Governor in performing the duties and responsibilities required by the federal Workforce Investment Act (WIA) of 1998. In 2014, the WIA was replaced by the Workforce Innovation and Opportunity Act (WIOA), which outlines the vision and structure through which state workforce training and education programs are funded and administered regionally and locally. The WIOA mandates the creation of a statewide strategic workforce plan. In 2016, the CWDB, in conjunction with its statewide partners, released the Unified Strategic State Plan (State Plan), which has been updated twice since that time. The State Plan is built around three policy objectives, which are intended to guide state policy and practice across partner programs, as well as inform local policy and service delivery. These objectives are: (1) fostering demand-driven skills attainment, (2) enabling upward mobility for all Californians, and (3) aligning, coordinating and integrating programs and services.

The State Plan outlines specific strategies with which to achieve these overarching strategic goals. In conjunction with the State Plan, the CWDB manages multiple grants and initiatives aimed at reorienting and realigning California’s workforce programs and institutions, to support a dynamic and globally successful state economy that offers all residents an opportunity for a higher quality of life.

The Board of Directors meet on a regular basis and all members are appointed by the Governor and represent the many facets of workforce development - business, labor, public education, higher education, economic development, youth activities, employment and training, as well as the Legislature.

The CWDB employs 51 employees and 39 Board members.

The Employment Development Department performs human resources operations for the CWDB.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CWDB's appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if the CWDB'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 CWDB'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 CWDB provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

The CWDB did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CWDB did not make any additional appointments during the compliance review period.

The CWDB's appointments were also selected for review to ensure the CWDB applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CWDB provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application.

During the compliance review period, the CWDB did not issue or authorize hiring above minimum requests, red circle rate requests, arduous pay, bilingual pay, monthly pay differentials, alternate range movements or out-of-class assignments.

The review of the CWDB'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.

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

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

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

The CRU reviewed the CWDB'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 CWDB'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 CWDB'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 CWDB employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. The CWDB did not track any temporary intermittent employees by actual time worked during the compliance review period.

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

On September 15, 2021, an exit conference was held with the CWDB to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CWDB's written response on September 30, 2021, which is attached to this final compliance review report.

²If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

FINDINGS AND RECOMMENDATIONS

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, October 1, 2019, through September 8, 2020, the CWDB made 24 appointments. The CRU reviewed 11 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	2
Information Technology Associate	Certification List	Permanent	Full Time	1
Office Technician (General)	Certification List	TAU	Full Time	1
Research Data Specialist II	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	TAU	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	3
Staff Services Manager I	Transfer	Permanent	Full Time	1

IN COMPLIANCE	FINDING NO. 1 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CWDB 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 ten list appointments reviewed, the CWDB ordered a certification list of candidates ranked competitively. After properly clearing the certification lists, including state restriction of appointments, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

The CRU reviewed one CWDB appointment 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 CWDB verified the eligibility of each candidate to their appointed class.

The CRU found no deficiencies in the appointments that the CWDB initiated during the compliance review period. Accordingly, the CRU found that the CWDB’s appointments processes and procedures utilized during the compliance review period satisfied civil service laws and Board rules.

Equal Employment Opportunity

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

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

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

IN COMPLIANCE	FINDING NO. 2 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CWDB’s EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the CWDB. The CWDB also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

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

For cost-savings PSC’s, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews

the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, September 1, 2019, through August 31, 2020, the CWDB had three PSC’s that were in effect. The CRU reviewed three of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
California Department of Technology	CDT Project Manager for CAAL-Skills data collection project	7/1/2020-12/31/2021	\$412,398	Yes	Yes
Trinity Technology	Data Architect Consulting for CAAL-Skills project	3/1/2019-2/28/2021	\$499,944	Yes	Yes
Trinity Technology	Data Architect Consulting for CAAL-Skills project	1/1/2019-12/31/2020	\$499,940	Yes	Yes

IN COMPLIANCE	FINDING NO. 3 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC’s reviewed was \$1,412,282.00. It was beyond the scope of the review to make conclusions as to whether CWDB’s justifications for the contract were legally sufficient. For all PSC’s reviewed, the CWDB provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, CWDB complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CWDB PSC’s complied with civil service laws and board rules.

Mandated Training

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

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

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 CWDB's mandated training program that was in effect during the compliance review period, September 1, 2018, through August 31, 2020. The CWDB's sexual harassment prevention training was found to be out compliance, and the CWDB's ethics training was found to be out of compliance.

VERY SERIOUS	FINDING NO. 4	ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The CWDB did not provide ethics training to two of four existing filers. In addition, the CWDB did not provide ethics training to 5 of 12 new filers within 6 months of their appointment.

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

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

Cause: The CWDB states that trainings are emphasized to all new employees at the time of hire and reminder emails are sent to the

employee, with escalation emails sent to branch training coordinators and the employee’s manager. During the transition period, historical data uploaded to the new Learning Management System (LMS) was not accurately captured and resulted in inaccurate reporting, resulting in the training coordinator not having reliable tools for tracking training. CWDB Supervisors currently do not consistently monitor, track, or follow up with their staff about training, and rely on the training coordinator for these tasks. Training certificates were stored both electronically and in paper form, causing delays and confusion.

Corrective Action: The CWDB provides that the LMS was implemented in January 2020 to assist with tracking and notification of employee mandatory training. Steps have been taken to ensure compliance including reminder e-mails, monthly monitoring of the data through compliance reports, and follow-up with the branch training coordinators and management team. Within 90 days of this report, the CWDB must submit to the SPB documentation demonstrating the corrections the department has implemented to ensure conformity with Government Code section 11146.3.

VERY SERIOUS	FINDING NO. 5 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS
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Summary: The CWDB did not provide sexual harassment prevention training to two of eight new supervisors within six months of their appointment.

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 CWDB states that the trainings are emphasized to all new employees at the time of hire and reminder emails are sent to the employee, with escalation emails sent to branch training coordinators and the employee’s manager. During the transition period, historical data uploaded to the new LMS was not accurately captured and resulted in inaccurate reporting, resulting in the training coordinator not having reliable tools for tracking training. CWDB Supervisors currently do not consistently monitor, track, or follow up with their staff about training, and rely on the training coordinator for these tasks. Training certificates were stored both electronically and in paper form, causing delays and confusion.

Corrective Action: The CWDB provides that the LMS was implemented in January 2020 to assist with tracking and notification of employee mandatory training. Steps have been taken to ensure compliance including reminder e-mails, monthly monitoring of the data through compliance reports, and follow-up with the branch training coordinators and management team. Within 90 days of this report, the CWDB must submit to the SPB documentation demonstrating the corrections the department has implemented to ensure conformity with Government Code section 19995.4.

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 rate³ 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.

³ “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).

During the period under review, October 1, 2019, through September 8, 2020, the CWDB made 24 appointments. The CRU reviewed seven of those appointments to determine if the CWDB applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5149.00
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	\$5149.00
Information Technology Associate	Certification List	Permanent	Full Time	\$4214.00
Office Technician	Certification List	TAU	Full Time	\$3087.00
Research Data Specialist II	Certification List	Permanent	Full Time	\$6213.00
Staff Service Manager I	Certification List	Permanent	Full Time	\$6124.00
Staff Service Manager I	Transfer	Permanent	Full Time	\$6573.00

IN COMPLIANCE	FINDING NO. 6 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 CWDB 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.

Leave

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, 2019, through May 31, 2020, the CWDB placed three employees on ATO. The CRU reviewed three of these ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	4/20/2020-5/14/2020	11 hours
Office Technician	4/29/2020-5/8/2020	6 hours
Staff Services Analyst (General)	4/10/2020-4/13/2020	8 hours

IN COMPLIANCE	FINDING NO. 7 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CWDB provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

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

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

occurred. (*Ibid.*) Accurate and timely attendance reporting is required of all departments and is subject to audit. (*Ibid.*)

During the period under review, March 1, 2020, through May 31, 2020, the CWDB reported 1 unit comprised of 39 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
March 2020	401	35	35	0
April 2020	401	39	39	0

IN COMPLIANCE	FINDING NO. 8 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 two different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CWDB kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

Policy and Processes

Nepotism

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

IN COMPLIANCE	FINDING NO. 9 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 CWDB’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CWDB’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 CWDB did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 10	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 CWDB 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 CWDB 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 seven permanent CWDB employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Associate Governmental Program Analyst	10/08/2020
Information Technology Specialist I	7/31/2020
Research Data Analyst II	9/10/2019
Research Data Specialist II	7/1/2020
Staff Services Analyst (General)	2/24/2021
Staff Services Manager I	12/16/2021
Staff Services Manager I (Specialist)	7/17/2020

IN COMPLIANCE	FINDING NO. 11	PERFORMANCE APPRAISAL POLICY AND PROCESSES COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the performance appraisals selected for review. Accordingly, the CWDB performance appraisal policy and processes satisfied civil service laws, Board rules, policies and guidelines.

DEPARTMENTAL RESPONSE

The CWDB's response is attached as Attachment 1.

SPB REPLY

Based upon the CWDB written response, the CWDB 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.

September 30, 2021

ATTACHMENT 1

The CWDB takes compliance issues very seriously and has taken steps to ensure both current and future compliance. The CWDB strives to ensure compliance with all civil services laws; maintain the integrity of the State's merit-based selection processes and mandated training requirements; and employ the best practices identified during the review. This letter serves as a supplement to the initial responses submitted to the State Personnel Board (SPB) Compliance Review Report for the CWDB, dated September 15, 2021 and serves both as a corrective action plan and report of compliance addressing the findings issued.

The following plan will address the issues pointed out in both of the following findings.

- **Finding No. 4** - ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
- **Finding No. 5** - SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS

Causes of Non-Compliance of Finding No. 4 and Finding No. 5 include:

- The Learning Management System (LMS) was fully implemented in January 2020 to assist with tracking and notification of employee mandatory training. Trainings are dynamically pushed to all new employees at the time of hire and reminder emails are sent to the employee, with escalation emails sent to branch Training Coordinators and the employee's manager. The EDD has added additional steps to ensure compliance including reminder e-mails, monthly monitoring of the data through compliance reports, and follow-up with the branch Training Coordinators and management team as necessary.
- During the transition period, historical data uploaded to the LMS was not accurately captured and resulted in inaccurate reporting, resulting in the training coordinator not having reliable tools for tracking training.
- The CWDB training coordinators duties have experienced rapid growth over the last year due to the implementation of EDD's LMS system, and the rapid staff growth of the CWDB.
- The CWDB's training coordinator role is currently assigned to one staff member who has other competing workloads.
- CWDB Supervisors currently do not consistently monitor, track, or follow up with their staff about training, and rely on the training coordinator for these tasks.
- Storing training certificates both electronically and in paper form, caused delays and confusion.

The CWDB is initiating the following plan in order to eliminate the causes of non-compliance stated above, and to ensure all staff complete their required training classes on time, and in more efficiently.

1. To ensure new staff complete mandated training:

Angelo Farooq, Chair ■ **Tim Rainey, Executive Director** ■ **Gavin Newsom, Governor**

- a. Managers are provided with the CWDB Onboarding and Training Plan for Staff (See Attachment A – Pg. 2 and Pg.3) for each new hire which includes a list of mandated training courses staff must complete.
 - b. Managers have been provided instructions about how to generate a Training Status Summary Report in the EDD's LMS and will be instructed to run that report every two months in order to keep track of their staff's training.
 - c. Managers will be required to follow up on training when completing and reviewing the staff's Report of Performance for Probationary Employee (STD. 636). Attachment B will be sent to managers prior to the STD. 636 due date.
2. To ensure current staff complete mandated training:
- a. The training coordinator has been, and will continue to engage in conversations with EDD to make them aware of issues we encounter, and to address and correct them.
 - b. Discussions are underway to either hire a dedicated training coordinator, or reassign some other duties from the current position to allow the training coordinator to focus on CWDB compliance and mandated training.
 - c. The department is instituting a block training schedule (Attachment C), and will begin this process in October 2021 in order to bring all staff into compliance as soon as possible. This plan will include the following process:
 - i. The training coordinator will use the EDD's LMS system to assign the scheduled training to all staff members at the appropriate time.
 - ii. All staff members will be required to complete the training within the dates provided on the schedule, regardless of when they last completed the training.
 - iii. The training coordinator will collect electronic copies of mandated training certificates and store them on the departments shared drive, in addition to logging completed courses for staff members on an internal excel tracking sheet.
 - iv. The training coordinator will follow up with staff members until the required training course is complete for the current block.
 - d. The training coordinator will establish a training calendar and will refer to it monthly in order to schedule mandatory training classes as outlined in Attachment C.
 - e. The training coordinator will update the list of required courses and requirements change, and will also update the training calendar as appropriate.

This plan will ensure that CWDB is in full compliance with Finding No. 5 by the end of October, and with Finding No. 4 by the end of December. It will further ensure that we maintain compliance moving forward.

Please let us know if you have any questions.

Thank You –