



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA STATE COASTAL CONSERVANCY**

Compliance Review Unit  
State Personnel Board  
March 26, 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 Coastal Conservancy (SCC) 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	Finding
Appointments	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Mandated Training	Ethics Training Was Not Provided for All Filers <sup>1</sup>
Compensation and Pay	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Incorrect Authorization of Out-of-Class Pay
Leave	Positive Paid Employee's Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

<sup>1</sup> Repeat finding. September 7, 2017, the SCC's Compliance Review Report identified ethics training was not provided to 2 of 48 existing filers at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter.

Area	Finding
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

A color-coded system is used to identify the severity of the violations as follows:

- Red = Very Serious
- Orange = Serious
- Yellow = Technical
- Green = In Compliance

### **BACKGROUND**

The SCC is a state agency established in 1976 to protect and improve natural resources, help people enjoy the outdoors, and sustain local economies along the length of California's coast and around San Francisco Bay. The SCC works along California's 1,100-mile coastline and within coastal watersheds, as well as the nine counties of the San Francisco Bay Area. The SCC is engaged in working with local governments, non-profit organizations, tribes, and others, to plan and implement projects that:

- Protect the natural and scenic beauty of the coast;
- Enhance wildlife habitat;
- Help the public get to and enjoy beaches and parklands;
- Keep farmland and timberlands in production;
- Improve water quality;
- Revitalize working waterfronts; and
- Prepare communities for the impacts of climate change.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the SCC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>2</sup>. The primary objective of the review was to determine if the SCC'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.

The SCC did not administer any examinations during the compliance review period. Additionally, the SCC did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the SCC'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 SCC provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

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

The SCC's appointments were also selected for review to ensure the SCC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the SCC provided, which included employees' employment and pay history and any other relevant documentation such as certifications, degrees, and/or the appointee's application. Additionally, the CRU reviewed specific documentation for the following personnel functions related to compensation and pay: monthly pay differentials, alternate range movements, and out-of-class assignments.

During the compliance review period, the SCC did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, arduous pay, or bilingual pay.

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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.

The review of the SCC'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 SCC did not execute any PSC's during the compliance review period.

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

The 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 SCC's Leave Activity and Correction Certification forms to verify that the SCC created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected a small cross-section of the SCC'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 SCC'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 SCC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of the SCC's positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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

On February 4, 2021, an exit conference was held with the SCC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the SCC's written response on February 12, 2021, which is attached to this final compliance review report.

## **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, April 1, 2019, through March 31, 2020, the SCC made 14 appointments. The CRU reviewed seven of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Attorney	Certification List	Permanent	Full Time	1
Conservancy Project Development Analyst I	Certification List	Permanent	Full Time	1
Conservancy Project Development Specialist	Certification List	Permanent	Full Time	1
Limited Examination and Appointment Program (Accountant Trainee)	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	1
Office Technician (General)	Transfer	Permanent	Full Time	1
Public Land Manager II	Transfer	Permanent	Full Time	1



**FINDING NO. 1 – Appointments Complied with Civil Service Laws and Board Rules**

The SCC 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 five list appointments reviewed, the SCC 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 two SCC 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 SCC verified the eligibility of each candidate to their appointed class.

The CRU found no deficiencies in the appointments that the SCC initiated during the compliance review period. Accordingly, the CRU found that the SCC'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).)

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).)

**FINDING NO. 2 – Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules**

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 SCC’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 SCC. The SCC 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 SCC's mandated training program that was in effect during the compliance review period, May 1, 2018, through April 30, 2020. The SCC's supervisory training and sexual harassment prevention training were found to be in compliance, while the SCC's ethics training was found to be out of compliance.

### **FINDING NO. 3 – Ethics Training Was Not Provided for All Filers**

**Summary:** The SCC did not provide ethics training to five of seven new filers within six months of their appointment. However, the SCC did provide ethics training to all 43 of their existing filers. This is the second consecutive time this has been a finding for the SCC.

**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:** This error can be attributed to human error and lack of adequate transfer of duties upon an analyst's retirement.

**Corrective Action:** As this is the second consecutive time this has been a finding for the SCC, it is the expectation that it develops a meaningful and measurable plan to achieve compliance in this area. The SCC has indicated that, moving forward, it has developed an updated procedure to ensure that ethics training is provided within proscribed timeframes; however, this procedure is similar to the one the SCC identified in the corrective action response to its September 2017 report. Within 90 days of this report, the SCC must submit to the SPB meaningful written policies and/or procedures it has developed and implemented to demonstrate compliance with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

## **Compensation and Pay**

### **Salary Determination**

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate<sup>3</sup> upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, April 1, 2019, through March 31, 2020, the SCC made fourteen appointments. The CRU reviewed seven of those appointments to determine if the SCC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Attorney	Certification List	Permanent	Full Time	\$7,818
Conservancy Project Development Analyst I	Certification List	Permanent	Full Time	\$5,438
Conservancy Project Development Specialist	Certification List	Permanent	Full Time	\$5,960
Limited Examination and Appointment Program (Accountant Trainee)	Certification List	Permanent	Full Time	\$3,793
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$4,182
Office Technician (General)	Transfer	Permanent	Full Time	\$3,737
Public Land Manager II	Transfer	Permanent	Full Time	\$8,764

<sup>3</sup> "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).

**FINDING NO. 4 – Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment**

**Summary:** The CRU found the following error in the SCC’s determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Public Land Manager II	Employee's salary was not properly reconstructed—with all general salary increases included—upon return from a permanent separation. Therefore, the employee, upon reentry into the state, was not provided the correct salary, resulting in the employee being undercompensated.	Cal. Code Regs., tit. 2, § 599.677

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

**Severity:** Very Serious. In one circumstance, the SCC failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with CalHR’s policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

**Cause:** This finding is a result of human error and a lack of check and balance procedures.

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

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, April 1, 2019, through March 31, 2020, the SCC employees made two alternate range movements within a classification. The CRU reviewed those two alternate range movements to determine if the SCC applied salary regulations accurately and correctly processed each employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Staff Services Analyst (General)	B	C	Full Time	\$4,391
Staff Services Analyst (General)	B	C	Full Time	\$4,692

**FINDING NO. 5 – Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Summary:** The CRU found the following error in the SCC’s determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Staff Services Analyst (General)	Incorrect Merit Salary Adjustment date keyed	Cal. Code Regs., tit. 2, § 599.666; Cal. Code Regs., tit. 2, § 599.683

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

and Pay Guide Section 220.)

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

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

**Cause:** This finding is a result of human error and a lack of check and balance procedures.

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

### 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, April 1, 2019, through March 31, 2020, the SCC issued pay differentials<sup>4</sup> to two employees. The CRU reviewed those two pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Information Technology Specialist I	Bay Area Recruitment and Retention	5%
Information Technology Specialist I	Bay Area Recruitment and Retention	5%

**FINDING NO. 6 – Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

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

Out-of-Class Assignments and Pay

For excluded<sup>5</sup> and most rank and file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

According to the Classification and Pay Guide, OOC assignments should only be used as a last resort to accommodate temporary staffing needs. All civil service alternatives

<sup>4</sup> For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

<sup>5</sup> "Excluded employee" means an employee as defined in section 3527, subd. (b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.



should be explored first before using OOC assignments. However, certain MOU provisions and the California Code of Regulations, title 2, section 599.810 allow for short-term OOC assignments to meet temporary staffing needs. Should OOC work become necessary, the assignment would be made pursuant to the applicable MOU provisions or salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Classification and Pay Guide Section 375.)

During the period under review, April 1, 2019, through March 31, 2020, the SCC issued OOC pay to two employees. The CRU reviewed those two OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Accounting Officer (Specialist)	BU1	Senior Accounting Officer (Specialist)	9/23/2019 – 10/11/2019
Senior Accounting Officer (Specialist)	BU1	Staff Services Manager I	9/23/2019 – 10/11/2019

**FINDING NO. 7 – Incorrect Authorization of Out-of-Class Pay**

**Summary:** The CRU found two errors in the SCC’s authorization of OOC pay:

Classification	Out-of-Class Classification	Description of Finding(s)	Criteria
Accounting Officer (Specialist)	Senior Accounting Officer (Specialist)	The employee received more than the 5% increase they were entitled to, resulting in overpayment.	Pay Differential 91
Senior Accounting Officer (Specialist)	Staff Services Manager I	The employee received an increase which was greater than the entrance rate for the SSM I class they were entitled to, resulting in overpayment.	Pay Differential 91

**Criteria:** Employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in writing and the employee is given a copy of the assignment; and the duties performed by the employee are not described in a training and

development assignment or by the specification for the class to which the excluded employee is appointed and, are fully consistent with the types of jobs described in the specification for the higher classification; and the employee does not perform such duties for more than 120 days in a fiscal year. (Cal. Code Regs., tit. 2, § 599.810 (b)(1)(3)(4).)

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

**Cause:** These errors can be attributed to lack of training of staff, human error, and a lack of check and balance procedures.

**Corrective Action:** Within 90 days of the date of this report, the SCC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Gov. Code, § 599.810 and Pay Differential 91. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days<sup>6</sup> worked and paid absences<sup>7</sup>, is counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).)

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<sup>6</sup> For example, two hours or ten hours count as one day.

<sup>7</sup> For example, vacation, sick leave, compensating time off, etc.

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 SCC had one positive paid employee whose hours were tracked for the previous twelve months. The CRU reviewed that positive paid appointment to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Time Worked
Accounting Administrator I (Specialist)	Retired Annuitant	7/1/18 – 6/30/19	920 hours

**FINDING NO. 8 – Positive Paid Employee’s Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies in the one positive paid employee reviewed during the compliance review period. The SCC provided sufficient justification and adhered to applicable laws, regulations and CalHR policy and guidelines for positive paid employees.

Administrative Time Off

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

During the period under review, January 31, 2019, through January 30, 2020, the SCC placed 39 employees on ATO. The CRU reviewed 27 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
Accountant I (Specialist)	6/12/2019	1 day
Accountant I (Specialist)	6/12/2019	1 day
Accounting Officer (Specialist)	6/12/2019	1 day
Associate Governmental Program Analyst	6/12/2019	1 day
Associate Governmental Program Analyst	6/12/2019	1 day
Associate Governmental Program Analyst	6/12/2019	1 day
Associate Personnel Analyst	6/12/2019	1 day
Attorney	6/12/2019	3 hours
Conservancy Project Development Analyst II	6/12/2019	1 day
Conservancy Project Development Analyst I	6/12/2019	1 day
Conservancy Project Development Specialist	6/12/2019	3 hours
Conservancy Project Development Specialist	6/12/2019	7 hours
Conservancy Project Development Specialist	6/12/2019	4 hours
Conservancy Project Development Specialist	6/12/2019	1 day
Conservancy Project Development Specialist	6/12/2019	4 hours
Conservancy Project Development Specialist	6/12/2019	2.5 hours
Conservancy Project Development Specialist	6/12/2019	1 day

Classification	Time Frame	Amount of Time on ATO
Conservancy Project Development Analyst I	6/12/2019	1 day
Information Technology Specialist I	6/12/2019	1 day
Information Technology Specialist I	6/12/2019	1 day
Office Technician (General)	6/12/2019	1 day
Office Technician (Typing)	6/12/2019	1 day
Senior Accounting Officer (Specialist)	6/12/2019	1 day
Staff Services Analyst	6/12/2019	1 day
Staff Services Manager I (Specialist)	6/12/2019	1 day
Staff Services Manager I (Supervisory)	6/12/2019	1 day
Staff Services Manager I (Supervisory)	6/12/2019	1 day

**FINDING NO. 9 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The SCC 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, October 31, 2019, through January 30, 2020, the SCC reported two units comprised of 66 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
November 2019	100	25	25	0
December 2019	200	41	41	0
January 2020	100	25	25	0

**FINDING NO. 10 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The SCC 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.<sup>8</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or

<sup>8</sup> Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 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.

accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs. tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs. tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>9</sup> shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, April 1, 2019, through March 31, 2020, the SCC had one employee with a non-qualifying pay period transaction. The CRU reviewed that one transaction to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which is listed below:

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

**FINDING NO. 11 – Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU determined that the SCC ensured the employee with a non-qualifying pay period did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

<sup>9</sup> As identified in Government Code sections 19858.3, subdivision (a), 19858.3, subdivision (b), or 19858.3, subdivision (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.

## 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.*)

### **FINDING NO. 12 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU verified that the policy was disseminated to all staff and emphasized the SCC's commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the SCC'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 SCC did not employ volunteers during the compliance review period.

**FINDING NO. 13 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU verified that the SCC 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 SCC 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 nine permanent SCC 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	10/31/2019
Attorney III	9/30/2019
Conservancy Project Development Analyst II	7/3/2019
Conservancy Project Development Specialist	8/31/2019
Information Technology Specialist I	12/1/2019
Information Technology Specialist I	6/14/2019
Office Technician (Typing)	12/31/2019
Staff Services Manager I (Specialist)	10/13/2019

Classification	Date Performance Appraisals Due
Staff Services Manager I (Supervisor)	12/31/2019

**FINDING NO. 14 – Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines**

The CRU found no deficiencies in the performance appraisals selected for review. Accordingly, the SCC performance appraisal policy and processes satisfied civil service laws, Board rules, policies and guidelines.

**DEPARTMENTAL RESPONSE**

The SCC’s response is attached as Attachment 1.

**SPB REPLY**

Based upon the SCC’s written response, the SCC 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 12, 2021

Suzanne M. Ambrose  
Executive Officer  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95818

**Subject:** Response to the State Personnel Board Draft Report “COMPLIANCE REVIEW REPORT”

Dear Ms. Ambrose:

The State Coastal Conservancy (SCC) would like to thank the State Personnel Board’s Compliance Review Unit (CRU) for undertaking the 2020 SCC Compliance Review. The SCC regards the audit process with a high degree of respect and views these reports as a productive, collaborative learning experience with SPB to adjust as necessary to ensure compliance. The SCC and our Human Resources (HR) office strives to be in full compliance with established requirements, training, tracking systems, best practices, and reminders.

The SCC has reviewed the January 2021 draft audit report and provides the following response and causes to the findings:

**FINDING NO. 3 Ethics Training Was Not Provided for All Filers:** The report noted the SCC did not provide ethics training to five of seven new filers within six months of their appointment.

**Response:** The SCC acknowledges not all filers completed ethics training within the prescribed timeframes. The SCC analyst tasked with this duty retired and the duty was not passed on to the replacement. The SCC strives to provide the ethics training link within a week of a new filer’s appointment date. SCC’s HR office has now been tasked with this duty. A welcome email with required mandated trainings has been developed and is issued to all new employees to SCC within a week of their appointment date.

**Cause:** The error can be attributed to human error and lack of adequate transfer of duties upon an analyst’s retirement.

**FINDING NO. 4 – Incorrect Application of Compensation Laws, Rules, and CalHR Policies and Guidelines for Appointment:** The report noted the SCC did not apply reconstruction—with all general salary increases included—upon return from a permanent separation.

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**Response:** The salary determination reconstruction was applied to the incorrect classification. Upon reinstatement, the HR Analyst failed to use the Public Land Manager II salary to reconstruct and calculate the starting salary rate. To mitigate further occurrences, salary determinations will not be keyed until reviewed and approved by the HR Officer.

**Cause:** The error can be attributed to human error and lack of check/balance procedures.

**FINDING NO. 5 – Alternate Range Movements Did Not Comply with Civil Services Laws, Board Rules, and/or CalHR Policies and Guidelines.** The reports noted SPB finding an error in SCC's determination of employee compensation.

**Response:** The HR Analyst counted the appointment month as qualifying. However, there were less than 11 paid working days, so it was not a qualifying pay period. Due to this, the incorrect merit salary advance month was entered. To mitigate further occurrences, merit salary advance dates will not be keyed until reviewed and approved by the HR Officer.

**Cause:** This error can be attributed to human error and lack of check/balance procedures.

**FINDING NO. 7 – Incorrect Authorization of Out-of-Class Pay:** The report noted two error(s) in SCC's authorization of OOC pay.

**Response:** SCC acknowledges the error resulted in overpayments to both employees serving in their OOC assignment. The SCC applied the incorrect percentage to the employee's current salary, resulting in a salary amount greater than 5% or the minimum of the classification. To mitigate further occurrences, OOC salary worksheets will be reviewed and approved by the HR Officer before keying.

**Cause:** The errors can be attributed to lack of training of staff, human error, and lack of check/balance procedures.

SCC would like to once again thank the SPB Compliance Review team; we appreciated the exit conference and responding to the report. SCC will continue to educate and train staff on training requirements and salary determinations to ensure compliance. Should you have any questions or need additional information, please contact our HR Officer, Johanna Collins at (515) 286-4340 or [johanna.collins@scc.ca.gov](mailto:johanna.collins@scc.ca.gov).

Sincerely,

*Sam Schuchat*

Sam Schuchat,  
Executive Officer

cc: Amy Hutzel, Deputy Executive Director  
SPB Audit File

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