



COMPLIANCE REVIEW REPORT

CALIFORNIA CONSERVATION CORPS

Compliance Review Unit
State Personnel Board
June 1, 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 Conservation Corps (CCC) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

| Area | Severity | Finding |
|------------------------------|---------------|--|
| Examinations | In Compliance | Examinations Complied with Civil Service Laws and Board Rules |
| Examinations | In Compliance | Permanent Withhold Actions Complied with Civil Service Laws and Board Rules |
| Appointments | Serious | Probationary Evaluations Were Not Timely ¹ |
| Appointments | In Compliance | Unlawful Appointment Investigation Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines |
| Equal Employment Opportunity | In Compliance | Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules |
| 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 | Very Serious | Incorrect Applications of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment ² |
| Compensation and Pay | In Compliance | Alternative Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines |

¹ Repeat Finding. The August 6th, 2018 CCC Compliance Review Report identified 3 missing probationary reports for 1 of the 26 appointment files reviewed.

² Repeat Finding. The August 6th, 2018 CCC Compliance Review Report identified three errors in the salary determination of employee compensation.

| Area | Severity | Finding |
|----------------------|---------------|--|
| Compensation and Pay | In Compliance | Hire Above Minimum Request Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines |
| Compensation and Pay | In Compliance | Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines |
| Leave | In Compliance | Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Leave | In Compliance | Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Leave | Very Serious | Incorrectly Posted Leave Usage and/or Leave Credit ³ |
| Leave | In Compliance | Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Policy | In Compliance | Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Policy | In Compliance | Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Policy | Serious | Performance Appraisals Were Not Provided Timely to All Employees |

BACKGROUND

The mission of the CCC is to protect and enhance California's natural resources and communities while empowering and developing young adults through hard work and education.

The CCC is a state agency, certified by The Corps Network, enrolling young men and women 18 to 25, or up to 29 years of age if they are a veteran, for a year or more of natural resource work and emergency response. The CCC was established in 1976 by Governor Jerry Brown and is modeled after the original Civilian Conservation Corps of the 1930's. More than 120,000 young adults have served in the Corps over its 45 years.

³ Repeat Finding. The August 6, 2018, CCC Compliance Review Report identified 3 of 318 timesheets incorrectly entered into the Leave Accounting System (LAS).

Corps-members and other employees work on environmental projects and respond to natural and man-made disasters.

SCOPE AND METHODOLOGY

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

A cross-section of the CCC'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 CCC 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 CRU also reviewed the CCC's policies and procedures concerning unlawful appointments to ensure departmental practices conform to state civil service laws and Board regulations.

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

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

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

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: hire above minimum (HAM) requests, alternate range movements, and out-of-class assignments.

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

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

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

The CRU reviewed the CCC's Leave Activity and Correction Certification forms to verify that the CCC 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 CCC'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 CCC'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 CCC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CCC 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 CCC's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the CCC's policies and processes adhered to procedural requirements.

On May 13, 2021, an exit conference was held with the CCC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CCC's written response on May 25, 2021, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

Examinations to establish an eligible list must be competitive and of such character as fairly to test and determine the qualifications, fitness, and ability of competitors to perform the duties of the class of position for which he or she seeks appointment. (Gov. Code, § 18930.) Examinations may be assembled or unassembled, written or oral, or in the form of a demonstration of skills, or any combination of those tests. (*Ibid.*) The Board establishes minimum qualifications for determining the fitness and qualifications of employees for each class of position and for applicants for examinations. (Gov. Code, § 18931, subd. (a).) Within a reasonable time before the scheduled date for the examination, the designated appointing power shall announce or advertise the examination for the establishment of eligible lists. (Gov. Code, § 18933, subd. (a).) The advertisement shall contain such information as the date and place of the examination and the nature of the minimum qualifications. (*Ibid.*) Every applicant for examination shall file an application with the department or a designated appointing power as directed by the examination announcement. (Gov. Code, § 18934, subd. (a)(1).) The final earned rating of each person competing in any examination is to be determined by the weighted average of the earned ratings on all phases of the examination. (Gov. Code, § 18936.) Each competitor shall be notified in writing of the results of the examination when the employment list resulting from the examination is established. (Gov. Code, § 18938.5.)

During the period under review, January 1, 2020, through September 30, 2020, the CCC conducted six examinations. The CRU reviewed all of those examinations, which are listed below:

| Classification | Exam Type | Exam Components | Final File Date | No. of Apps |
|--|-------------------|--|-----------------|-------------|
| Administrative Officer I, Resources Agency | Departmental Open | Training and Experience (T&E) ⁵ | 1/27/20 | 65 |

⁵ The Training and Experience examination is administered either online or in writing, and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience.

| Classification | Exam Type | Exam Components | Final File Date | No. of Apps |
|--|----------------------|--|-----------------|-------------|
| Career Executive Assignment (CEA) A, Region I Deputy | CEA | Statement of Qualifications (SOQ) ⁶ | 8/3/20 | 14 |
| CEA A, Region III Deputy | CEA | SOQ | 10/1/20 | 19 |
| Conservationist I | Open Non-Promotional | T&E | 4/30/20 | 25 |
| Conservationist II | Open Non-Promotional | Qualification Appraisal Panel (QAP) ⁷ | 5/1/20 | 29 |
| Conservationist Supervisor | Open Non-Promotional | QAP | 5/2/20 | 18 |

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

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power

⁶ In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

⁷ The Qualification Appraisal Panel interview is the oral component of an examination whereby competitors appear before a panel of two or more evaluators. Candidates are rated and ranked against one another based on an assessment of their ability to perform in a job classification.

shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond, or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing, and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate's subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the period under review, January 1, 2020, through September 30, 2020, the CCC conducted one permanent withhold action. The CRU reviewed the permanent withhold action, which is listed below:

| Exam Title | Exam ID | Date List Eligibility Began | Date List Eligibility Ended | Reason Candidate Placed on Withhold |
|---------------------------------|---------|-----------------------------|-----------------------------|---------------------------------------|
| Accounting Officer (Specialist) | 0PBAG | 7/21/20 | 10/5/20 | Failed to Meet Minimum Qualifications |

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|----------------------|--|
| IN COMPLIANCE | FINDING NO. 2 PERMANENT WITHHOLD ACTIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES |
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The CRU found no deficiencies in the permanent withhold actions undertaken by the department during the compliance review period.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive 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).)

For the purposes of temporary appointments, an employment list is considered not to exist where there is an open eligible list that has three or fewer names of persons willing to accept appointment and no other employment list for the classification is available. (Cal. Code Regs., tit. 2, § 265.) In such a situation, an appointing power may make a temporary appointment in accordance with section 265.1 (*Ibid.*) A Temporary Authorization Utilization (TAU) appointment shall not exceed nine months in a 12-month period. (Cal. Const., art. VII.) In addition, when a temporary appointment is made to a permanent position, an appropriate employment list shall be established for each class to which a temporary appointment is made before the expiration of the appointment. (Gov. Code, § 19058.)

During the period under review, December 1, 2019, through August 31, 2020, the CCC made 80 appointments. The CRU reviewed 28 of those appointments, which are listed below:

| Classification | Appointment Type | Tenure | Time Base | No. of Appts. |
|---|--------------------|--------------|-----------|---------------|
| Accountant Trainee | Certification List | Permanent | Full Time | 1 |
| Administrative Officer II, Resources Agency | Certification List | Permanent | Full Time | 1 |
| Associate Governmental Program Analyst | Certification List | Limited Term | Full Time | 1 |
| Associate Accounting Analyst | Certification List | Permanent | Full Time | 1 |
| Associate Governmental Program Analyst | Certification List | Permanent | Full Time | 2 |
| Business Service Officer I (Supervisor) | Certification List | Permanent | Full Time | 1 |
| Conservationist I | Certification List | Permanent | Full Time | 2 |
| Conservationist II | Certification List | Limited Term | Full Time | 2 |
| Cook Specialist I | Certification List | Permanent | Full Time | 1 |
| Cook Specialist II | Certification List | Permanent | Full Time | 1 |
| Information Officer II | Certification List | Permanent | Full Time | 1 |

| Classification | Appointment Type | Tenure | Time Base | No. of Appts. |
|---|--------------------|--------------|-----------|---------------|
| Information Technology Specialist I | Certification List | Permanent | Full Time | 1 |
| Management Services Technician | Certification List | Permanent | Full Time | 1 |
| Office Technician (Typing) | Certification List | Permanent | Full Time | 2 |
| Personnel Specialist | Certification List | Permanent | Full Time | 1 |
| Senior Accounting Officer (Specialist) | Certification List | Permanent | Full Time | 1 |
| Staff Services Analyst (General) | Certification List | Permanent | Full Time | 1 |
| Staff Services Manager II (Managerial) | Certification List | Limited Term | Full Time | 1 |
| Backcountry Trails Camp Supervisor, California Conservation Corps | Temporary | Temporary | Full Time | 1 |
| Conservationist Supervisor | Temporary | Temporary | Full Time | 1 |
| Associate Governmental Program Analyst | Transfer | Permanent | Full Time | 1 |
| Cook Specialist II | Transfer | Permanent | Full Time | 1 |
| Information Technology Manager I | Transfer | Permanent | Full Time | 1 |
| Management Services Technician | Transfer | Permanent | Full Time | 1 |

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|------------------------------|--|
| SEVERITY: SERIOUS | FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT TIMELY |
|------------------------------|--|

Summary: The CCC did not provide in a timely manner 16 probationary reports of performance for 10 of the 28 appointments reviewed by the CRU, as reflected in the table below. This is the second consecutive time this has been a finding for the CCC.

| Classification | Appointment Type | Number of Appointments | Total Number of Late Probation Reports |
|--|--------------------|------------------------|--|
| Accountant Trainee | Certification List | 1 | 1 |
| Associate Accounting Analyst | Certification List | 1 | 1 |
| Associate Governmental Program Analyst | Certification List | 1 | 1 |

| Classification | Appointment Type | Number of Appointments | Total Number of Late Probation Reports |
|--|--------------------|------------------------|--|
| Office Technician (Typing) | Certification List | 2 | 6 |
| Senior Accounting Officer (Specialist) | Certification List | 1 | 1 |
| Staff Services Analyst (General) | Certification List | 1 | 1 |
| Associate Governmental Program Analyst | Transfer | 1 | 1 |
| Information Technology Manager I | Transfer | 1 | 2 |
| Cook Specialist II | Transfer | 1 | 2 |

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer’s performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board’s record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: The CCC states supervisors and managers are notified on a monthly basis of the requirements to complete timely probationary reports. However, some supervisors and managers failed to provide timely probationary reports.

Corrective Action: As this is the second consecutive time this has been a finding for CCC, it is the expectation that it develops a meaningful and measurable plan to achieve compliance in this area. CCC specifies that it will implement a notification system at the executive level on a quarterly basis, in addition to continuing current practices. However, quarterly notifications could result in late probationary reports. Therefore, within 90 days of the date of this report, the CCC must submit to the SPB a written corrective action response which addresses the specific corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Unlawful Appointment Investigations

Departments that entered into an Unlawful Appointment Investigation Delegation Agreement between their executive management and the CalHR have the authority to manage their own unlawful appointment investigations. The Delegation Agreement defines the reporting requirements, responsibilities, obligations, and expectations of the department in this process. The delegation agreement mandates that departments maintain up-to-date records on each unlawful appointment investigation including, at a minimum: the specific facts surrounding the appointment in question, a description of the circumstances which may have resulted in the unlawful appointment, copies of relevant appointment documents, and any documentation which may demonstrate that the agency and employee acted in good faith when the appointment was offered and accepted. Departments must also maintain a tracking system to monitor its unlawful appointments.

During the period under review, January 1, 2020, through September 30, 2020, the CCC conducted one unlawful appointment investigation. The CRU reviewed the unlawful appointment investigation, which is listed below:

| Classification | Date Investigation Initiated | Date Investigation Concluded |
|-------------------|------------------------------|------------------------------|
| Conservationist I | 12/10/19 | 2/19/20 |

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|----------------------|--|
| IN COMPLIANCE | FINDING NO. 4 UNLAWFUL APPOINTMENT INVESTIGATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES |
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The CCC’s unlawful appointment investigation was found to comply with the rules set forth in the signed Delegation Agreement with the CalHR.

Equal Employment Opportunity

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

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).)

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| IN COMPLIANCE | FINDING NO. 5 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES |
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CCC’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 Director of the CCC. The CCC 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 CCC’s mandated training program that was in effect during the compliance review period, October 1, 2018, through September 30, 2020.

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| SEVERITY: VERY SERIOUS | FINDING NO. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS |
|-----------------------------------|--|

Summary: The CCC did not provide ethics training to 2 of 59 existing filers. In addition, the CCC did not provide ethics training to one of four new filers within six months of their appointment.

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

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

Cause: The CCC states they did not have Learning Management Software (LMS) available during the time period reviewed.

Corrective Action: The CCC indicates it has procured a LMS to achieve compliance in this area. Within 90 days of this report, the CCC must submit to the SPB a written corrective action response which provides copies of relevant documentation (i.e., policies or procedures) demonstrating that the corrective action has been implemented to achieve conformity with Government Code section 11146.3.

| | |
|-----------------------------------|---|
| SEVERITY: VERY SERIOUS | FINDING NO. 7 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS |
|-----------------------------------|---|

Summary: The CCC did not provide sexual harassment prevention training to one of four 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 CCC states they did not have a LMS available during the time period reviewed.

Corrective Action: The CCC indicates it has procured a LMS to achieve compliance in this area. Within 90 days of this report, the CCC must submit to the SPB a written correction action response which provides copies of relevant documentation (i.e., policies or procedures) demonstrating that the corrective action has been implemented to achieve conformity with Government Code section 12950.1.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁸ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

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

During the period under review, December 1, 2019, through August 31, 2020, the CCC made 80 appointments. The CRU reviewed 28 of those appointments to determine if the CCC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

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

| Classification | Appointment Type | Tenure | Time Base | Salary (Monthly Rate) |
|---|--------------------|--------------|-----------|-----------------------|
| Accountant Trainee | Certification List | Permanent | Full Time | \$3,793 |
| Administrative Officer II, Resources Agency | Certification List | Permanent | Full Time | \$6,025 |
| Associate Accounting Analyst | Certification List | Permanent | Full Time | \$5,759 |
| Associate Governmental Program Analyst | Certification List | Permanent | Full Time | \$5,149 |
| Associate Governmental Program Analyst | Certification List | Limited Term | Full Time | \$5,149 |
| Associate Governmental Program Analyst | Certification List | Permanent | Full Time | \$5,204 |
| Business Service Officer I (Supervisor) | Certification List | Permanent | Full Time | \$5,174 |
| Conservationist I | Certification List | Permanent | Full Time | \$2,990 |
| Conservationist I | Certification List | Permanent | Full Time | \$3,839 |
| Conservationist II | Certification List | Limited Term | Full Time | \$4,988 |
| Conservationist II | Certification List | Limited Term | Full Time | \$4,988 |
| Cook Specialist I | Certification List | Permanent | Full Time | \$3,119 |
| Cook Specialist II | Certification List | Permanent | Full Time | \$3,448 |
| Information Officer II | Certification List | Permanent | Full Time | \$6,404 |
| Information Technology Specialist I | Certification List | Permanent | Full Time | \$6,395 |
| Management Services Technician | Certification List | Permanent | Full Time | \$3,467 |
| Office Technician (Typing) | Certification List | Permanent | Full Time | \$3,144 |
| Office Technician (Typing) | Certification List | Permanent | Full Time | \$3,144 |
| Personnel Specialist | Certification List | Permanent | Full Time | \$3,440 |
| Senior Accounting Officer (Specialist) | Certification List | Permanent | Full Time | \$5,205 |
| Staff Services Analyst (General) | Certification List | Permanent | Full Time | \$4,281 |
| Staff Services Manager II (Managerial) | Certification List | Limited Term | Full Time | \$7,749 |

| Classification | Appointment Type | Tenure | Time Base | Salary (Monthly Rate) |
|---|------------------|-----------|-----------|-----------------------|
| Backcountry Trails Camp Supervisor, California Conservation Corps | Temporary | Temporary | Full Time | \$5,938 |
| Conservationist Supervisor | Temporary | Temporary | Full Time | \$5,410 |
| Associate Governmental Program Analyst | Transfer | Permanent | Full Time | \$6,446 |
| Cook Specialist II | Transfer | Permanent | Full Time | \$4,233 |
| Information Technology Manager I | Transfer | Permanent | Full Time | \$10,230 |
| Management Services Technician | Transfer | Permanent | Full Time | \$3,467 |

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| SEVERITY: VERY SERIOUS | FINDING NO. 8 INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT |
|-----------------------------------|--|

Summary: This is the second consecutive time this has been a finding for the CCC. The CRU found the following error in the CCC determination of employee compensation:

| Classification | Description of Finding | Criteria |
|----------------------|--|--|
| Personnel Specialist | Incorrect salary determination resulting in the employee being undercompensated. | Cal. Code Regs., tit. 2, section 599.676 |

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 CCC 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: The CCC states this finding was caused due to a misunderstanding of established salary determination rules, and the lack of available training relative to Advanced Salary Determinations.

SPB Reply: The CRU encourages CCC to consult with CalHR and/or SCO when unusual and/or complex salary determinations are required. While training classes are beneficial, oftentimes salary determinations are highly technical and contain employee-specific factors that may not be covered in a generalized training class.

Corrective Action: As this is the second consecutive time this has been a finding for CCC, it is the expectation that it develops a meaningful and measurable plan to achieve compliance in this area. Within 90 days of the date of this report, the CCC 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 CCC 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, December 1, 2019, through August 31, 2020, the CCC employees made 10 alternate range movements within a classification. The CRU reviewed all alternate range movements to determine if the CCC 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) |
|--|-------------|---------------|-----------|-----------------------|
| Administrative Officer I, Resources Agency | A | B | Full Time | \$4,636 |
| Administrative Officer I, Resources Agency | A | B | Full Time | \$4,726 |
| Conservationist I | A | B | Full Time | \$3,839 |
| Conservationist I | A | B | Full Time | \$3,839 |
| Conservationist I | A | B | Full Time | \$3,839 |
| Conservationist I | A | B | Full Time | \$3,839 |
| Conservationist I | A | B | Full Time | \$3,839 |
| Conservationist I | A | B | Full Time | \$3,839 |
| Personnel Specialist | C | D | Full Time | \$4,470 |
| Staff Services Analyst (General) | B | C | Full Time | \$4,281 |

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

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) The qualifications and hiring rates of state employees already

in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling without further legislative action.⁹ (Gov. Code, § 19836, subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

Appointing authorities may request/approve HAMs for former exempt employees appointed to a civil service class. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be competitive with the employee's salary in the exempt appointment. (*Ibid.*) For example, an employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. (*Ibid.*)

During the period under review, December 1, 2019, through August 31, 2020, the CCC authorized one HAM request. The CRU reviewed the authorized HAM request to determine if the CCC correctly applied Government Code section 19836 and appropriately verified, approved and documented the candidates' extraordinary qualifications, which is listed below:

⁹ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

| Classification | Appointment Type | Status | Salary Range | Salary (Monthly Rate) |
|--------------------|--------------------|-----------|-------------------|-----------------------|
| Supervising Cook I | Certification List | Permanent | \$3,843 - \$4,726 | \$4,500 |

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| IN COMPLIANCE | FINDING NO. 10 HIRE ABOVE MINIMUM REQUEST COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES |
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The CRU found that the HAM request the CCC made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Out-of-Class Assignments and Pay

For excluded¹⁰ 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 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 time period outlined in applicable law, policy or MOU expires. (Classification and Pay Guide Section 375.)

During the period under review, December 1, 2019, through August 31, 2020, the CCC issued OOC pay to five employees. The CRU reviewed all OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

¹⁰ “Excluded employee” means an employee as defined in Government Code section 3527, subdivision. (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

| Classification | Bargaining Unit | Out-of-Class Classification | Time Frame |
|--|-----------------|---|-----------------|
| Administrative Officer I, Resources Agency | S01 | Administrative Officer II, Resources Agency | 2/4/19-2/3/20 |
| Conservationist I | R07 | Conservationist I | 7/1/19-6/30/20 |
| Conservationist Supervisor | S07 | Staff Services Manager II | 12/9/19-1/30/20 |
| Office Technician (Typing) | R04 | Administrative Officer | 1/27/20-2/26/20 |
| Personnel Supervisor I | S01 | Personnel Supervisor II | 2/28/20-5/23/20 |

| | |
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| IN COMPLIANCE | FINDING NO. 11 OUT OF CLASS PAY AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES |
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The CRU found no deficiencies in the OOC pay assignments that the CCC authorized during the compliance review period. OOC pay was issued appropriately to employees 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.

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 days¹¹ worked and paid absences¹², are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-

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

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

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 1,500 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 1,500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2,000 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 CCC had 11 positive paid employees whose hours were tracked. The CRU reviewed seven of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

| Classification | Tenure | Time Frame | Time Worked |
|--|-------------------|----------------|--------------|
| Accountant I (Specialist) | Retired Annuitant | 7/1/18-6/30/20 | 747.5 hours |
| Associate Construction Analyst | Retired Annuitant | 7/1/18-6/30/20 | 955 hours |
| Associate Governmental Program Analyst | Retired Annuitant | 7/1/18-6/30/20 | 806.25 hours |
| Associate Governmental Program Analyst | Retired Annuitant | 7/1/18-6/30/20 | 671 hours |

| Classification | Tenure | Time Frame | Time Worked |
|--|-------------------|------------------|------------------------|
| Associate Governmental Program Analyst | Retired Annuitant | 7/1/18-6/30/20 | 957.5 hours |
| Cook Specialist I | Permanent | 12/2/19-11/30/20 | 192 days ¹³ |
| Senior Accounting Officer (Specialist) | Retired Annuitant | 7/1/18-6/30/19 | 960 hours |

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| IN COMPLIANCE | FINDING NO. 12 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES |
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CCC 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, July 1, 2019, through June 30, 2020, the CCC placed 50 employees on ATO. The CRU reviewed 23 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) | 6/1/20-6/2/20 | 2 Days |
| Accountant Trainee | 6/1/20-6/2/20 | 2 Days |
| Accountant Trainee | 6/1/20-6/2/20 | 2 Days |

¹³ This appointment was an emergency appointment; and thus, had the appropriate approvals and documentation for working over the mandated limits.

| Classification | Time Frame | Amount of Time on ATO |
|--|-------------------|-----------------------|
| Associate Governmental Program Analyst | 12/18/19-12/27/19 | 10 Days |
| Business Services Officer I | 5/1/2020-5/8/20 | 8 Days |
| Conservationist I | 9/23/19-9/24/19 | 2 Days |
| Conservationist I | 6/1/20 | 1 Day |
| Conservationist I | 10/10/19-10/23/19 | 14 Days |
| Conservationist I | 6/1/20 | 1 Day |
| Conservationist I | 6/1/20 | 1 Day |
| Conservationist I | 6/1/20 | 1 Day |
| Conservationist II | 10/29/19-10/31/19 | 3 Days |
| Conservationist II | 6/1/20 | 1 Day |
| Conservationist II | 6/1/20 | 1 Day |
| Fish Habitat Specialist | 10/28/19-10/30/19 | 3 Days |
| Office Technician | 6/1/20-6/2/20 | 2 Days |
| Personnel Specialist | 6/2/20 | 1 Day |
| Personnel Specialist | 6/1/20 | 1 Day |
| Personnel Specialist | 6/1/20 | 1 Day |
| Personnel Specialist | 6/2/20 | 1 Day |
| Personnel Specialist | 6/1/20 | 1 Day |
| Staff Services Analyst (General) | 6/1/20-6/2/20 | 2 Days |
| Staff Services Analyst (General) | 6/1/20-6/2/20 | 2 Days |

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| IN COMPLIANCE | FINDING NO. 13 ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES |
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CCC 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, April 1, 2020, through June 30, 2020, the CCC reported 102 units comprised of 345 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 |
|------------------------|---------------|---------------------|-------------------------------|------------------------------|
| April 2020 | 603 | 20 | 20 | 0 |
| April 2020 | 669 | 19 | 19 | 0 |
| May 2020 | 603 | 20 | 20 | 0 |
| May 2020 | 864 | 14 | 14 | 0 |
| June 2020 | 603 | 19 | 19 | 0 |
| June 2020 | 834 | 10 | 10 | 0 |

| | | |
|-----------------------------------|--|---|
| SEVERITY: VERY SERIOUS | FINDING NO. 14¹⁴ | INCORRECTLY POSTED LEAVE USAGE AND/OR LEAVE CREDIT |
|-----------------------------------|--|---|

Summary: The CCC did not correctly enter 6 of 39 timesheets into the Leave Accounting System (LAS) during the April, 2020 pay period, 5 of 35 timesheets during the May, 2020 pay period, and 1 of 29 timesheets during the June, 2020 pay period. This is the second consecutive time this has been a finding for the CCC.

Criteria: Departments shall create a monthly internal audit process to verify that all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) 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

¹⁴ The CRU issued a draft report to the CCC in May 2021. After discussion with the CCC, the CRU removed Finding 15 as it was somewhat duplicative of Finding 14. Thus, this final report does not have a Finding 15.

amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

Severity: Very serious. Errors in posting leave usage and/or leave credits puts the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

Cause: The CCC states that due to the COVID-19 pandemic, workload increased exponentially throughout the department. This, coupled with turnover in the unit at the same time, led to delays in reviewing timesheets prior to keying into the SCO system.

SPB Reply: The CRU recognizes the challenges created by the COVID-19 pandemic. However, this is the second consecutive time this has been a finding for the CCC, with the prior review conducted prior to the pandemic.

Corrective Action: As this is the second consecutive time this has been a finding for CCC, it is the expectation that it develops a meaningful and measurable plan to achieve compliance in this area. Within 90 days of the date of this report, the CCC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Human Resources Manual Section 2101. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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.¹⁵ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

Hourly or daily rate employees working at a department in which the full-time workweek is 40 hours who earn the equivalent of 160 hours of service in a monthly pay period or accumulated pay periods shall be considered to have a complete month, a month of service, or continuous service. (Cal. Code Regs., tit. 2, § 599.609.)

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 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 employees¹⁶ 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, December 1, 2019, through August 31, 2020, the CCC had five employees with non-qualifying pay period transactions. The CRU reviewed all five transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

| Type of Transaction | Time Base | Number Reviewed |
|---------------------------|-----------|-----------------|
| Qualifying Pay Period | Full Time | 2 |
| Non-Qualifying Pay Period | Full Time | 3 |

¹⁵ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

¹⁶ As identified in Government Code sections 19858.3, subdivisions (a), (b), (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.

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| IN COMPLIANCE | FINDING NO. 16 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES |
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The CRU determined that the CCC ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

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.)*

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| IN COMPLIANCE | FINDING NO. 17 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 CCC’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the CCC’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 CCC did not employ volunteers during the compliance review period.

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| IN COMPLIANCE | FINDING NO. 18 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 CCC 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 CCC 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 27 permanent CCC 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 | Date Performance Appraisal Provided ¹⁷ |
|---|---------------------------------|---|
| Accounting Administrator II | 11/1/19 | Not Provided |
| Accounting Administrator I (Supervisor) | 11/22/19 | Not Provided |
| Accounting Officer (Specialist) | 9/13/19 | 3/15/19 |
| Associate Governmental Program Analyst | 6/5/19 | Not Provided |
| Associate Governmental Program Analyst | 2/19/19 | 6/28/19 |
| Conservationist II | 5/18/19 | Not Provided |
| Conservationist II | 6/1/19 | 3/14/19 |
| Conservationist II | 11/1/19 | Not Provided |
| Conservationist II | 1/1/19 | Not Provided |
| Conservationist Supervisor | 1/4/19 | 3/21/19 |
| Conservationist Supervisor | 3/10/19 | 3/11/19 |
| Information Technology Supervisor II | 12/2/19 | 3/26/19 |
| Maintenance Mechanic | 5/1/19 | Not Provided |
| Office Technician (Typing) | 7/29/19 | 3/28/19 |
| Office Technician (Typing) | 4/20/19 | Not Provided |
| Personnel Specialist | 6/12/19 | Not Provided |
| Personnel Specialist | 8/21/19 | Not Provided |
| Personnel Specialist | 2/1/19 | Not Provided |
| Personnel Specialist | 6/16/19 | Not Provided |
| Personnel Supervisor I | 6/1/19 | Not Provided |
| Staff Services Manager I | 1/8/19 | 5/10/19 |
| Staff Services Manager I | 4/8/19 | Not Provided |
| Staff Services Manager II (Managerial) | 5/2/19 | 4/10/19 |
| Staff Services Manager II (Managerial) | 6/19/19 | 4/8/19 |
| Staff Services Manager II (Managerial) | 2/1/19 | 4/8/19 |
| Staff Services Manager II (Managerial) | 9/1/19 | 4/5/19 |
| Staff Services Manager II (Managerial) | 12/11/19 | 4/8/19 |

| | |
|------------------------------|--|
| SEVERITY: SERIOUS | FINDING NO. 19 PERFORMANCE APPRAISALS WERE NOT PROVIDED TIMELY TO ALL EMPLOYEES |
|------------------------------|--|

Summary: The CCC did not provide annual performance appraisals to 14 of 27 employees, and did not provide performance appraisals in a timely manner to 7 of 13 employees reviewed after the completion of the employees' probationary periods.

¹⁷ CCC states they perform Performance Appraisals for employees approximately March 1st every calendar year. For the purposes of the compliance review, the CRU does not consider performance appraisals to be late until 30 days after the due date have elapsed.

- Criteria:** Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period. (Cal. Code Regs., tit. 2, § 599.798.)
- Severity:** Serious. The department does not ensure that all of its employees are apprised of work performance issues and/or goals in a systematic manner.
- Cause:** The CCC states that managers and supervisors are notified every January regarding completing timely performance appraisals. However, some supervisors and managers failed to provide timely performance appraisals.
- Corrective Action:** Within 90 days of the date of this report, the CCC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

DEPARTMENTAL RESPONSE

The CCC's response is attached as Attachment 1.

SPB REPLY

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



May 25, 2021

Ms. Suzanne M. Ambrose, Executive Officer
State Personnel Board
801 Capitol Mall, Suite 1200
Sacramento, CA 95814

Dear Ms. Ambrose,

The California Conservation Corps (CCC) is in receipt of, and appreciates the interactive opportunity to discuss, the draft State Personnel Board (SPB) Compliance Review Report. The Department recognizes the importance of evaluations to ensure personnel practices are properly applied and adhered to in accordance with civil service laws, rules and regulations.

The CCC acknowledges the findings in the May 2021 SPB Compliance Report. Detailed below are the out of compliance findings along with the CCC's cause and corrective measures that have or will be applied.

1. FINDING NO. 3 – Probationary Evaluations Were Not Timely.
Department Response: While all employees were provided probation reports, the department acknowledges the tardiness of several this past year. Human Resources will continue to provide monthly reports to managers and supervisors as outlined in our procedures, along with management escalation when a supervisor does not provide timely reviews to their respective employees. In addition to continuing our current practice of monthly reports to Supervisors on up the chain, the CCC will implement an executive review level of escalation. HR will provide the Deputy Director of Administration a quarterly departmental report to be reviewed in the Executive Team meetings for executive level response and action in an effort to hold managers and supervisors accountable to providing probationary staff timely reviews. The department values supervisor feedback and interaction and continuously stresses the importance of mentoring and modeling solid leadership.
2. FINDING NO. 6 – Ethics Training Was Not Provided for All Filers.
Department Response: The period reviewed, the CCC did not have a Learning Management Software (LMS) capable of tracking all mandated training. Fortunately, the CCC now has a management tool that allows for automated messages reminding staff when mandatory training is due along with a new portal for staff to sign into their account and view their training records as well as upcoming mandated training and due dates. Prior to the LMS, the CCC informed filers every year of the training requirements,



however, with the LMS now in place, the CCC has already seen the value as required training notifications are automatically generated along with follow up emails to staff and supervisors. The CCC values the importance that the filers are aware of prohibitions related to their official position and influence.

3. FINDING NO. 7 – Sexual Harassment Prevention Training Was Not Provided For All Supervisors

Department Response: The CCC has a very active training program where Sexual Harassment Prevention Training resources are provided, and employees and managers are informed of the requirement. One new supervisor did not log in to the portal timely and the training was taken 3 months late. The supervisor and unit Manager have been made aware of the importance of all mandatory training to be taken and taken timely. The LMS mentioned in Finding no. 6 did escalate the situation to the next level of management where a higher level of intervention was initiated, and the training was ultimately taken. The CCC will issue a statement in this months' HR Bulletin, reminding employees and supervisors of the importance of continued compliance.

4. FINDING NO. 8 – Incorrect Salary Determination Resulting in the Employee Being Undercompensated.

Department Response: The CCC acknowledges the Compliance Review's finding in this situation. The CCC applied rules according to our interpretation, understanding and in accordance with the State Controllers' Office Advanced Salary Determination class provided worksheet and instructions as it relates to moving from a non-deep to deep classification. During this review there were several detailed conversations between SPB, SCO, CalHR and the CCC and there is a consensus between SPB and the CCC there is a need for increased availability for the Advanced Salary Determination class. The training has previously been cancelled and little to no classes available. After additional discussion with the compliance team, the CCC is correcting the salary, understands the corrected direction and will be applying it accordingly in the future. As a corrective measure, we will continue to attempt enrollment of all Personnel Specialists into the Advanced Salary Determination courses along with supervisorial approval to complex salary determination worksheets.

5. FINDING NO. 14 – Incorrectly Posted Leave Usage and/or Leave Credit

Department Response: The CCC recognizes this finding and has a process for monthly auditing of timesheets. The period reviewed was April, May and June of 2020. This was the beginning of the COVID 19 pandemic and the monthly review was delayed as the teams' workload and work efforts increased amongst other staffing issues. However, fixes were made three months after (September/October period). This period of time focused on COVID related workplace changes, alternate schedules, attempts to work from home, along with an increase in workload due to massive Corpsmember separations. The CCC has gained two new positions to assist with the upcoming growth and increased fire response crews. Staff are encouraged to slow down and reach for 100% accuracy; however, time constraints tend to take precedence. The proposed correction will include additional reporting to the HR Director reporting a summary of number of errors and corrections per unit with a sign off sheet from the supervisors. This will be an internal only process so the supervisors can work with those that may be struggling.

6. FINDING NO. 19 – Performance Appraisals Were Not Provided Timely To All Employees

Department Response: The CCC conducts annual performance appraisals on a calendar year model (with employees being rated on their performance for the period of January 1 – December 31 of the previous calendar year). This is based on CCR 599.798¹ and our understanding that departments are able to choose the mechanism under which this annual appraisal occurs. For example, it's our understanding that the following frequencies are currently used by other State departments: fiscal year, calendar year, and in the birth month of the employee. In January of each year Human Resources sends out a memo to notify all supervisors and managers of the requirement to complete and submit annual performance appraisals for their staff. The due date is typically set for the first business day in April. Additionally, HR utilizes a communication tool we call an HR Monthly to notify and remind staff of pending due dates like the performance appraisals. Following the initial deadline, HR sends several reports over the next month or two, to second level managers to inform them of supervisors who have not submitted appraisals for their staff. In addition to continuing our current practice of the annual announcement, HR Monthly reminders, and reports to managers, the CCC HR Office will both include stronger language in the annual announcement regarding the importance of performance appraisals and that it is reviewed during audits as well as create a HR Office Performance Measure report that will indicate the percentage of compliance to the Admin Deputy Director by unit which will be shared with the Executive Team.

Thank you again for the opportunity to discuss and respond to the Draft Compliance Review Report. If you have any questions, please contact Lynetta Gidlof, Chief Human Resources at (916) 341-3222 or by email at Lynetta.gidlof@ccc.ca.gov.

Sincerely,

/s/

Dawne Bortolazzo, Deputy Director of Administration
California Conservation Corps

¹ CCR 599.798 states: Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee's probationary period... (emphasis added).