

# **COMPLIANCE REVIEW REPORT**

## **MENTAL HEALTH SERVICES OVERSIGHT & ACCOUNTABILITY COMMISSION**

Compliance Review Unit  
State Personnel Board  
December 10, 2020

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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 Mental Health Services Oversight & Accountability Commission (MHSOAC) 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
Examinations	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	Equal Employment Opportunity Officer Does Not Report Directly to the Head of the Agency
Personal Services Contracts	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Incorrect Application of Compensation Laws, Rules, and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movement Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Hire Above Minimum Request Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Pay Differential Authorization Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Positive Paid Employees' 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

Area	Finding
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Policy	Department Does Not Maintain a Current Written Nepotism Policy
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Were Not Provided to All Employees

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

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

## **BACKGROUND**

The role of the Mental Health Services Oversight & Accountability Commission (MHSOAC) is to oversee the implementation of the Mental Health Services Act (MHSA). The MHSOAC is also responsible for developing strategies to overcome stigma. At any time, the MHSOAC may advise the Governor or the Legislature on mental health policy.

## **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the MHSOAC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes<sup>1</sup>. The primary objective of the review was to determine if the MHSOAC'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.

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

During the compliance review period, the MHSOAC did not conduct any examinations. The CRU reviewed the MHSOAC's Permanent Withhold Actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and Withhold letters.

A cross-section of the MHSOAC'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 MHSOAC 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 MHSOAC did not conduct any unlawful appointment investigations during the compliance review period.

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

The MHSOAC's appointments were also selected for review to ensure the MHSOAC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the MHSOAC 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: hiring above minimum (HAM) requests, monthly pay differentials, and alternate range movements.

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

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

The MHSOAC'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 also identified the MHSOAC's employees whose current annual leave, or vacation leave credits, exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Additionally, the CRU asked the MHSOAC's to provide a copy of their leave reduction policy.

The CRU reviewed the MHSOAC's Leave Activity and Correction Certification forms to verify that the MHSOAC 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 MHSOAC's units in order to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the MHSOAC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of MHSOAC positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

During the compliance review period, the MHSOAC did not have any employees with non-qualifying pay period transactions.

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

The MHSOAC declined an exit conference was held with the MHSOAC to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully

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

reviewed the MHSOAC's written response on November 13, 2020, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Permanent Withhold Actions**

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond, or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing, and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate's subsequent eligibility record if the candidate still does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the review period, August 1, 2018, through July 30, 2019, the MHSOAC conducted eight permanent withhold actions. The CRU reviewed five of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Information Officer II	1PB3103	1/23/2019	1/23/2020	Failed to Meet Minimum Qualifications
Information Officer II	1PB3103	4/2/2019	4/2/2020	Failed to Meet Minimum Qualifications



Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Information Officer II	1PB3103	4/30/2019	4/30/2019	Failed to Meet Minimum Qualifications
Research Scientist II (Social Behavioral Sciences)	8PB0405	8/26/2018	8/26/2019	Failed to Meet Minimum Qualifications
Staff Services Analyst	7PB34	8/22/2018	9/6/2019	Failed to Meet Minimum Qualifications

**FINDING NO. 1 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules**

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).)

During the period under review, August 1, 2018, through July 30, 2019, the MHSOAC made 11 appointments. The CRU reviewed four of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Health Program Specialist I	Certification List	Permanent	Full Time	1
Research Scientist III Social Behavioral	Certification List	Permanent	Full Time	1
Staff Services Manager I, Specialist	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1

## **FINDING NO. 2 – Appointments Complied with Civil Service Laws and Board Rules**

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

The CRU found no deficiencies in the appointments that the MHSOAC initiated during the compliance review period. Accordingly, the CRU found that the MHSOAC'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. 3 – Equal Employment Opportunity Officer Does Not Report Directly to the Head of the Agency**

**Summary:** The MHSOAC's EEO Officer does not report directly to the head of the agency. Specifically, the EEO Officer reports directly to a Staff Services Manager II. No separate, direct reporting relationship with the Executive Director of the MHSOAC has been established for EEO responsibilities.

**Criteria:** 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).)

**Severity:** Very Serious. The EEO Officer does not have direct access to the head of the organization, diminishing the significance of the EEO program. In this non-compliant department, not only is the EEO Officer not directly supervised by the Executive Director, but there is no meaningful reporting relationship on EEO matters. To have an effective EEO program, the head of the organization must be actively involved.

**Cause:** MHSOAC was not aware the EEO Officer must report directly to the Executive Director. Subsequently, MHSOAC has assigned the EEO Officer duties to the Deputy Director of Program, Legislation and Administrative Services who reports to the Executive Director.

**Corrective Action:** SPB recognizes that MHSOAC has taken corrective action in response to this finding. Within 90 days of the date of this report, the MHSOAC must submit to the SPB verification of a formal structure that ensures that the EEO Officer directly reports to the Executive Director (e.g., revised organization charts and duty statement) on EEO matters in order to ensure conformity with the requirements of Government Code section 19795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### **Personal Services Contracts**

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

For cost-savings PSC's, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, August 1, 2018, through July 30, 2019, the MHSOAC had 25 PSC's that were in effect. The CRU reviewed 10 of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Alliant Educational Foundation	Meeting Facilitation	10/5/18 – 10/31/18	\$4,500	Yes	Yes
Born This Way Foundation	Youth Survey and Focus Groups	1/22/19 – 10/31/19	\$100,000	Yes	No
California Forward	Proposal to Launch Innovation Incubator	12/18/19 – 5/31-19	\$99,000	Yes	Yes
Community Initiatives	Convene an Interagency Symposium	6/28/19 – 1/30/20	\$97,500	Yes	No
Crusade Inc.	Website Infrastructure Support	7/1/19 – 6/30/19	\$103,990	Yes	Yes
Jennifer M. Warren Media Consulting	Draft a Strategic Plan for Suicide Prevention	3/5/19 – 6/30/19	\$10,000	Yes	No
Konica Minolta	Copier Maintenance	7/1/19 – 6/30/20	\$20,000	Yes	No
Leland Stanford Junior University	Implementation of Integrated Youth Mental Health Centers	3/26/19 – 6/30/20	\$95,000	Yes	No
Third Sector	Multi-County Learning Collaboration Development	6/18/19 – 12/31/20	\$1,000,000	Yes	Yes
Youth Leadership Institute	Youth Engagement Sessions	4/29/19 – 10/31/19	\$15,000	Yes	No

#### **FINDING NO. 4 – Unions Were Not Notified of Personal Services Contracts**

**Summary:** The MHSOAC did not notify unions prior to entering into 6 of the 10 PSC's.

- Criteria:** The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)
- Severity:** Serious. Unions must be notified of impending personal services contracts in order to ensure they are aware contracts are being proposed for the type of work that their members could perform.
- Cause:** When contracts were executed with a short turnaround, notifying unions would sometimes get overlooked.
- Corrective Action:** It is the contracting department's responsibility to identify and notify any unions whose members could potentially perform the type of work to be contracted prior to executing the PSC. The PSC's reviewed during this compliance review involved securing an array of mental health services and methods of delivery, administrative, and information technology services, which various rank-and-file civil service classifications perform. Within 90 days of the date of this report, the MHSOAC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the requirements of Government Code section 19132. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

### **Mandated Training**

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as "filers") because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

Additionally, new 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 MHSOAC's mandated training program that was in effect during the compliance review period, August 1, 2017, to July 30, 2019. The MHSOAC's ethics training was found to be in compliance, while the MHSOAC's sexual harassment prevention training was found to be out of compliance. The MHSOAC did not appoint any new supervisors within the compliance review period.

**FINDING NO. 5 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

**Summary:** The MHSOAC did not provide sexual harassment prevention training to four of six existing supervisors every two years.

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

**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:** Initially, all managers were scheduled for Sexual Harassment Prevention Training within the proscribed two year period as

required. Subsequently, some scheduled training was cancelled and inadvertently rescheduled outside of the two year window.

**Corrective Action:** Within 90 days of the date of this report, the MHSOAC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that supervisors are provided sexual harassment prevention training in accordance with Government Code section 12950.1. 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, August 1, 2018 through July 30, 2019, the MHSOAC made 11 appointments. The CRU reviewed four of those appointments to determine if the MHSOAC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Health Program Specialist I	Certification List	Permanent	Full Time	\$6,874
Research Scientist III Social Behavioral	Certification List	Permanent	Full Time	\$8,651

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<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).



Staff Services Manager I, Specialist	Promotion	Permanent	Full Time	\$5,381
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$3,768

**FINDING NO. 6 – Incorrect Application of Compensation Laws, Rules, and CalHR Policies and Guidelines for Appointment**

**Summary:** The CRU found the following error in the MHSOAC's determination of employee compensation:

Classification	Description of Finding(s)	Criteria
Health Program Specialist I	Limited Term appointments cannot be used to process salary determinations without an approved exception to salary from CalHR. The MHSOAC did not have an exception when it determined the employee's new salary using the LT appointment which caused overpayment.	Cal. Code Regs., 599.674, 599.675, 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 MHSOAC failed to comply with the requirement outlined in the state civil service pay plan. MHSOAC calculated the Health Program Specialist I salary based on the salary the employee received while in a limited term position, including merit salary adjustment(s). This was inappropriate, and not permitted under regulation. 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 MHSOAC was not aware of the salary rules for a limited term appointment, nor that a salary determination for an employee moving from a limited-term to permanent appointment would be based on the employee's permanent full-time appointment.

**Corrective Action:** Within 90 days of the date of this report, the MHSOAC 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 MHSOAC 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, May 1, 2018, through April 30, 2019, the MHSOAC employees made one alternate range movement within a classification. The CRU reviewed that alternate range movement to determine if the MHSOAC 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)
Information Technician Specialist I	Range B	Range C	Full Time	\$7,039

**FINDING NO. 7 – Alternate Range Movement Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU determined that the alternate range movement the MHSOAC 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.*)

Persons with extraordinary qualifications should contribute to the work of the department significantly beyond that which other applicants offer. (*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.*) When a number of candidates offer considerably more qualifications than the minimum, it may not be necessary to pay above the minimum to acquire unusually well-qualified people. (*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.<sup>4</sup> (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

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<sup>4</sup> 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.

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, August 1, 2018, through July 30, 2019, the MHSOAC authorized one HAM request. The CRU reviewed the authorized HAM request to determine if the MHSOAC correctly applied Government Code section 19836 and appropriately verified, approved and documented the candidate's extraordinary qualifications, which is listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Research Scientist III Social Behavioral	Certification List	Permanent	\$6,911 - \$8,651	\$8,651.00

**FINDING NO. 8 – Hire Above Minimum Request Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found that the HAM request the MHSOAC made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

### 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, May 1, 2018, through April 30, 2019, the MHSOAC issued a pay differential<sup>5</sup> to one employee. The CRU reviewed the pay differential to ensure compliance with applicable CalHR policies and guidelines. This is listed below:

Classification	Pay Differential	Monthly Amount
Research Scientist Supervisor II	434	3%

**FINDING NO. 9 – Pay Differential Authorization Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

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

## **Leave**

### **Positive Paid Employees**

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used 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.

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<sup>5</sup> For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

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).) 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 MHSOAC had three positive paid employees whose hours were tracked. The CRU reviewed two of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

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

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

Classification	Tenure	Time Frame	Time Worked
Information Officer II	Retired Annuitant	7/1/18 – 6/30/19	952.5 Hours
Staff Mental Health Specialist	Retired Annuitant	7/1/18 – 6/30/19	709.3 Hours

**FINDING NO. 10 – Positive Paid Employees’ Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The MHSOAC 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, May 1, 2018, through April 30, 2019, the MHSOAC placed three employees on ATO. The CRU reviewed the 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
Health Program Specialist I	8/24/2018 – 8/30/2018	44 Hours
Information Officer II	2/19/2019 – 2/28/2019	64 Hours
Staff Services Analyst	11/6/2018	2 Hours

**FINDING NO. 11 – 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 MHSOAC 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, February 1, 2019, through April 30, 2019, the MHSOAC reported one unit comprised of 35 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
March 2019	550	35	35	0

**FINDING NO. 12 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU reviewed employee leave records from one leave period to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review,



the CRU found no deficiencies. The MHSOAC 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.

### Leave Reduction Efforts

Departments must create a leave reduction policy for their organization and monitor employees' leave to ensure compliance with the departmental leave policy; and ensure employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. (Human Resources Manual Section 2124.)

Applicable Memorandums of Understanding and the California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. "If a represented employee is not permitted to use all of the vacation to which he or she is entitled in a calendar year, the employee may accumulate the unused portion."<sup>8</sup> (Cal. Code Regs., tit. 2, § 599.737.) If it appears an excluded employee will have a vacation or annual leave balance that will be above the maximum amount<sup>9</sup> as of January 1 of each year, the appointing power shall require the supervisor to notify and meet with each employee so affected by the preceding July 1, to allow the employee to plan time off, consistent with operational needs, sufficient to reduce their balance to the amount permitted by the applicable regulation, prior to January 1. (Cal. Code Regs., tit. 2, § 599.742.1.)

It is the intent of the state to allow employees to utilize credited vacation or annual leave each year for relaxation and recreation, ensuring employees maintain the capacity to optimally perform their jobs. (Cal. Code Regs., tit. 2, § 599.742.1.) For excluded employees, the employee shall also be notified by July 1 that, if the employee fails to take off the required number of hours by January 1, the appointing power shall require the employee to take off the excess hours over the maximum permitted by the applicable regulation at the convenience of the agency during the following calendar year. (*Ibid.*) To both comply with existing civil service rules and adhere to contemporary human resources principles, state managers and supervisors must cultivate healthy work- life balance by granting reasonable employee vacation and annual leave requests when operationally feasible. (Human Resources Manual Section 2124.)

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<sup>8</sup> For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for Bargaining Unit 06 there is no established limit and for Bargaining Unit 05 the established limit is 816 hours.

<sup>9</sup> Excluded employees shall not accumulate more than 80 days.

As of December 2018, four MHSOAC employees exceeded the established limits of vacation or annual leave. The CRU reviewed all of those employees' leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit	Leave Reduction Plan Provided
CEA	M01	211	Yes
CEA	M01	691.5	Yes
Health Program Specialist I	R01	142.5	Yes
Research Program Specialist III	R01	30.5	Yes
<b>Total</b>		1,075.5	

**FINDING NO. 13 – Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

The CRU reviewed employee vacation and annual leave to ensure that those employees who have significant “over-the-cap” leave balances have a leave reduction plan in place and are actively reducing hours. In addition, the CRU reviewed the department’s leave reduction policy to verify its compliance with applicable rule and law, and to ensure its accessibility to employees. Based on our review, 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.*)

**FINDING NO. 14 – Department Does Not Maintain a Current Written Nepotism Policy**

- Summary:** The MHSOAC does not maintain a current written nepotism policy designed to prevent favoritism or bias in the recruiting, hiring, or assigning of employees.
- Criteria:** It is the policy of the State of California to recruit, hire and assign all employees on the basis of fitness and merit in accordance with civil service statutes, rules and regulations. (Human Resources Manual Section 1204). All department 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.*)
- Severity:** Very Serious. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. Departments must take proactive steps to ensure that the recruitment, hiring, and assigning of all employees is done on the basis of merit and fitness in accordance with civil service statutes. Maintaining a current written nepotism policy, and its dissemination to all staff, is the cornerstone for achieving these outcomes.
- Cause:** The MHSOAC drafted a Nepotism Policy in August, 2019; however, it had not been formally approved before the compliance review was performed.
- Corrective Action:** Within 90 days of the date of this report, the MHSOAC must submit to the SPB a written corrective action response which includes an updated nepotism policy which contains requirements outlined in Human Resources Manual section 1204, and documentation demonstrating that it has been distributed to all staff.

## 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 subds. (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 MHSOAC did not employ volunteers during the compliance review period.

### **FINDING NO. 15 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

The CRU verified that the MHSOAC provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. The MHSOAC did not receive any worker's compensation claims during the compliance review period.

## 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 five permanent MHSOAC 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
Administrative Advisor II	6/30/2018
Associate Governmental Program Analyst	2/9/2018
Research Data Specialist II	10/18/2018
Staff Mental Health Specialist	6/24/2018
Staff Services Manager II	2/1/2018

**FINDING NO. 16 – Performance Appraisals Were Not Provided to All Employees**

**Summary:** The MHSOAC did not provide annual performance appraisals to four of five employees reviewed after the completion of the employee's probationary period.

**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:** While the MHSOAC's human resources office sends out monthly reminders to the department's managers; unfortunately, due to large workloads it has been challenging for the managers to complete these Performance Appraisal Reports.

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

### **SPB REPLY**

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

LYNNE ASHBECK

Chair

MARA MADRIGAL-WEISS

Vice Chair

TOBY EWING

Executive Director

November 13, 2020

To Whom It May Concern:

Below is the Mental Health Services Oversight and Accountability Commission's (MHSOAC) response to the State Personnel Board's (SPB) Compliance Review Report dated October 23, 2020.

**Response to Finding 3-EEO Officer does not report directly to the Head of the Agency**

**Explanation:** The department was not aware that the EEO Office must report directly to the Executive Director.

**Corrective Action:** The department has assigned the EEO Officer duties to the Deputy Director of Program, Legislation, and Administrative Services who directly reports the Executive Director.

**Response to Finding 4-Unions were not notified of Personal Services Contracts**

**Explanation:** The MHSOAC discovered that when contracts are executed with a short turn around, the Union Notification would sometimes get overlooked.

**Corrective Action:** The MHSOAC understands the severity of this issue and has hired additional staff in the contracts unit to help ensure this oversight does not occur in the future.

**Response to Finding 5-Sexual Harassment Prevention Training was not provided for all Supervisors**

**Explanation:** The department had initially scheduled all of the managers for Sexual Harassment Prevention Training within the two year period as required. Some of the scheduled training was cancelled and was inadvertently rescheduled outside of the two year window.

**Corrective Action:** Since the previous Training Officer's retirement, we have put into place a more efficient process in tracking the mandatory training for the department. Our new Training Officer has ensured that Sexual Harassment Trainings are being completed timely by all staff-including management. There are two managers that are

past due for Sexual Harassment Training this will be corrected within the 90-day requirement as outlined by SPB.

**Response to Finding 6 - Incorrect application of Salary Determination Laws, Rules, and CalHR Policies and guidelines for appointment.**

**Explanation:** The department was not aware of the salary rules for a limited term appointment status that a salary determination would be based on the employee's permanent full-time appointment and not the highest A01 list appointment assignment. This department has not ever hired an employee from a limited term appointment until recently. We now will ensure that this salary rule will be followed

**Corrective Action:** The department has assigned all HR staff members to attend Salary Determination/Advanced Salary Determination training through State Controllers webinar training course. The HR manager has met with HR regarding this finding and has specifically provided the salary rule information pertaining to Limited Term appointments. Additionally, we are working directly with CalHR to ensure we accurately correct the salary determination that gave rise to this finding.

**Response to Finding 14-Department does not maintain a current Nepotism Policy**

**Explanation:** Our department drafted a Nepotism Policy on 8/01/2019, this policy has been submitted to the executive/legal level for approval. Unfortunately, it was not finalized prior to the Compliance Review.

**Corrective Action:** Due to the time constraints of our legal team we have not had this particular policy approved as of yet. However, it has been resubmitted we anticipate to provide SPB with the approved policy within the 90-day requirement as outlined by SPB in the Compliance Review Report.

**Response to Finding 16- Performance Appraisals were not provided to all employees**

**Explanation:** The department's HR office does send out monthly reminders to the department's managers. Unfortunately, due to large workload and the newly added programs that the department has oversight of, this has been challenging for the managers to complete these Performance Appraisal Reports.

**Corrective Action:** The department plans to have these Performance Appraisal Reports completed for all staff within the 90-day requirement.

Respectfully,



Norma Pate  
Deputy Director of Program, Legislation, and Administrative Services



The Corrective Action Response (CAR) is an opportunity for departments to demonstrate necessary steps have been implemented to correct the non-compliant Findings (deficiency) found as a result of the Compliance Review.

For each non-compliant Finding, refer to the Corrective Action section of that Finding in the review report. Copies of relevant documentation demonstrating that the Corrective Action has been or is in the process of being corrected must be included with the CAR. Examples include, but are not limited to, updated internal policies or procedures (should be included for most findings), a training log for mandated training, and/or any new or updated forms, plans, or documents that have been implemented.

### CORRECTIVE ACTION RESPONSE

DEPARTMENT: Mental Health Services Oversight & Accountability Commission	BRANCH/DIVISION/PROGRAM: Human Resources/Administrative Services
CONTACT PERSON (NAME AND TITLE): Kimberly Watkins Staff Services Manager I (S)	CORRECTIVE ACTION RESPONSE DATE: March 17,2021

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)	POLICY/PROCEDURE
Finding as stated in the report, by number	Description of 1) completed or planned corrective action(s) and 2) of supporting documentation	Actual or Estimated Completion Date	Is a copy of the updated Policy or Procedure Included?
Response to Finding 3- EEO Officer does not report directly to the Head of the Agency	The department was not aware that the EEO Office must report directly to the Executive Director. Due to the size of our department EEO duties will report directly to the Executive Director and other HR duties EEO Officer to report to Chief of Administration.	March 17, 2021	Yes-attached Org Chart showing reporting relationship
Response to Finding 4- Unions were not notified of Personal Services Contracts	The MHSOAC understands the severity of this issue and has hired additional staff in the contracts unit to help ensure this oversight does not occur in the future.	Second staff hired 7/31/2020	No

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)	POLICY/PROCEDURE
Response to Finding 5- Sexual Harassment Prevention Training was not provided for all Supervisors	<p>The department had initially scheduled all of the managers for Sexual Harassment Prevention Training within the two-year period as required. Some of the scheduled training was cancelled and was inadvertently rescheduled outside of the two-year window.</p> <p>Since the previous Training Officer's retirement, we have put into place a more efficient process in tracking the mandatory training for the department. Our new Training Officer has ensured that Sexual Harassment Trainings are being completed timely by all staff-including management. There are two managers that are past due for Sexual Harassment Training this will be corrected within the 90-day requirement as outlined by SPB.</p>	<p>Completed:  September 2019 June 2018</p>	<p>Yes-certificate attached</p>
Response to Finding 6 - Incorrect application of Salary Determination Laws, Rules, and CalHR Policies and guidelines for appointment.	<p>The department was not aware of the salary rules for a limited term appointment status that a salary determination would be based on the employee's permanent full-time appointment and not the highest A01 list appointment assignment. This department has not ever hired an employee from a limited term appointment until recently. We now will ensure that this salary rule will be followed.</p> <p>The department has assigned all HR staff members to attend Salary Determination/Advanced Salary Determination training through State Controllers webinar training course. The HR manager has met with HR regarding this finding and has specifically provided the salary rule information pertaining to Limited Term appointments. Additionally, we are working directly with CalHR to ensure we accurately correct the salary determination that gave rise to this finding.</p>	<p>Intro Salary completed 1/2020</p> <p>Advanced Salary Determination completed 02/2020</p>	<p>Yes-certificate attached</p>

FINDING (DEFICIENCY) BY NUMBER	ACTION ITEM(S) ALREADY OR TO BE COMPLETED	TIMEFRAME(S)	POLICY/PROCEDURE
Response to Finding 14- Department does not maintain a current Nepotism Policy	<p>Our department drafted a Nepotism Policy on 8/01/2019, this policy has been submitted to the executive/legal level for approval. Unfortunately, it was not finalized prior to the Compliance Review.</p> <p>Due to the time constraints of our legal team we have not had this particular policy approved as of yet. However, it has been resubmitted we anticipate to provide SPB with the approved policy within the 90-day requirement as outlined by SPB in the Compliance Review Report.</p>	February 2021 completed	Yes
Response to Finding 16- Performance Appraisals were not provided to all employees	<p>The department's HR office does send out monthly reminders to the department's managers. Unfortunately, due to large workload and the newly added programs that the department has oversight of, this has been challenging for the managers to complete these Performance Appraisal Reports.</p> <p>The department plans to have these Performance Appraisal Reports completed for all staff within the 90-day requirement.</p>	90-day requirement sent to managers to have performance appraisal completed	Yes-Emails attached that were sent to managers