



COMPLIANCE REVIEW REPORT

OFFICE OF TECHNOLOGY AND SOLUTIONS INTEGRATION

Compliance Review Unit
State Personnel Board
October 2, 2023

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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 Office of Technology and Solutions Integration¹ (OTSI) 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	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for all Appointments Reviewed ²
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees ³
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hire Above minimum Requests Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

¹ As of July 1, 2023, the Office of Systems Integration (OSI) changed its name to OTSI.

² Repeat Finding. The OSI's March 2, 2021, compliance review report identified 5 missing probationary reports for 4 of the 31 appointments reviewed. The OSI's November 30, 2016, compliance review report identified 10 missing probationary reports for 5 of the 12 appointments reviewed.

³ Repeat Finding. The OSI's March 2, 2021, compliance review report identified that the OSI did not provide Sexual Harassment Prevention training to 4 of 7 new supervisors within 6 months of their appointment; and 7 of 58 existing supervisors every 2 years.

Area	Severity	Finding
Compensation and Pay	In Compliance	Pay Differential Authorization Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Serious	Positive Paid Temporary Employee's Work Exceeded Time Limitations
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Serious	Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely ⁴
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Very Serious	Injured Employee Did Not Receive Claim Form Within One Working Day of Notice or Knowledge of Injury
Policy	Serious	Performance Appraisals Were Not Provided to All Employees

BACKGROUND

The OTSI provides project management, oversight, procurement, and support services for a multi-billion-dollar portfolio of high criticality projects. Its mission is to procure, manage, and deliver technology systems that support the delivery of health and human services to Californians. Accordingly, the OTSI coordinates communication, collaboration, and decision making among project stakeholders and program-side sponsors of the projects.

Additionally, the OTSI manages the procurement, contract negotiations, and contract management aspects of the acquisition of technology systems and services. After the procurement phase, the OTSI oversees the design, development, governance, and implementation of IT systems which serve health and human services programs. The OTSI workplace is comprised of approximately 400 employees with the majority in the

⁴ Repeat Finding. The OSI's March 2, 2021, compliance review report identified that the OTSI failed to provide completed Leave Activity and Correction Certification forms for two of three units reviewed.

Information Technology classifications and the balance of employees comprised in Administrative support and Legal services.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the OTSI's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁵. The primary objective of the review was to determine if the OTSI's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

The OTSI did not conduct any examinations during the compliance review period. However, the OTSI did conduct permanent withhold actions for statewide examinations during the compliance review period. The CRU reviewed the OTSI's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the OTSI's appointments was selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the OTSI provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

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

The OTSI's appointments were also selected for review to ensure the OTSI applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the OTSI 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

⁵ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

e.g., hire above minimum (HAM) requests, monthly pay differentials, and alternate range movements.

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

The review of the OTSI'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 OTSI's PSC's were also reviewed.⁶ It was beyond the scope of the compliance review to make conclusions as to whether the OTSI's justifications for the contracts were legally sufficient. The review was limited to whether the OTSI's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The OTSI's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, that all supervisors, managers, and those service in Career Executive Assignments (CEA) were provided leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRU also identified the OTSI'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 OTSI to provide a copy of their leave reduction policy.

The CRU reviewed the OTSI's monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely and ensure the department certified that all leave records have been reviewed and corrected if necessary. The CRU selected a small cross-section of the OTSI's units to ensure they maintained accurate and timely leave accounting records. Additionally, the CRU reviewed a selection of the OTSI employees who used Administrative Time Off (ATO) to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of OTSI positive paid

⁶If 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.

employees whose hours are tracked during the compliance review period to ensure that they adhered to procedural requirements.

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

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

The OTSI declined to have an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the OTSI's written response on September 6, 2023, 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, October 1, 2021, through June 30, 2022, the OTSI did not conduct any examinations.

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 period under review, October 1, 2021, through June 30, 2022, the OTSI conducted two permanent withhold actions. The CRU reviewed two 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
Associate Governmental Program Analyst	JC-261821	07/07/2021	10/05/2021	Failed to Meet Minimum Qualifications
Information Technology Specialist I	JC-267069	08/23/2021	10/11/2021	Failed to Meet Minimum Qualifications

IN COMPLIANCE	FINDING NO. 1	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, be designed, and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, October 1, 2021, through June 30, 2022, the OTSI made 74 appointments. The CRU reviewed 25 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	2
Information Technology Associate	Certification List	Permanent	Full Time	1
Information Technology Manager I	Certification List	Permanent	Full Time	1
Information Technology Manager II	Certification List	Permanent	Full Time	1
Information Technology Specialist I	Certification List	Permanent	Full Time	2
Information Technology Specialist I	Certification List	Permanent	Full Time	2
Information Technology Specialist II	Certification List	Permanent	Full Time	2
Information Technology Specialist III	Certification List	Permanent	Full Time	1
Information Technology Supervisor II	Certification List	Permanent	Full Time	1
Office Technician (Typing)	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	1
Associate Budget Analyst	Training and Development	Permanent	Full Time	1
Staff Services Manager I	Training and Development	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Training and Development	Permanent	Full Time	1
Associate Personnel Analyst	Transfer	Retired Annuitant	Intermittent	1
Information Technology Specialist I	Transfer	Retired Annuitant	Intermittent	1
Staff Services Manager I	Transfer	Retired Annuitant	Intermittent	1
Information Technology Supervisor II	Transfer	Permanent	Full Time	1
Senior Personnel Specialist	Transfer	Permanent	Full Time	1
Staff Services Analyst (General)	Transfer	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 2 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary: The OTSI did not provide 24 probationary reports of performance for 12 of the 25 appointments reviewed by the CRU, as reflected in the table below. This is the third consecutive time the OTSI has had this finding.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Associate Governmental Program Analyst	Certification List	1	3
Information Technology Manager I	Certification List	1	3
Information Technology Specialist I	Certification List	3	4
Information Technology Specialist II	Certification List	2	5
Information Technology Supervisor II	Certification List	1	1
Staff Services Analyst (General)	Certification List	1	3

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Staff Services Manager I	Certification List	1	1
Staff Services Manager II (Supervisory)	Certification List	1	2
Senior Personnel Specialist	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; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (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 OTSI states that probationary evaluations were not provided for all appointments despite numerous reminders to supervisors and managers, process updates, and on-going trainings. As a result, the OTSI is in the process of implementing a human capital management system that will provide an automated system to pull reports, send

reminders to managers and supervisors, track compliance, and file employee probationary reports.

Corrective Action: The OTSI asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OTSI must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 19172.

Equal Employment Opportunity

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

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

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

IN COMPLIANCE	FINDING NO. 3 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 OTSI's EEO program provided employees with information

and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the OTSI. The OTSI also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

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

For cost-savings PSC’s, a state agency is required to notify SPB of Information Technology Specialist 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, October 1, 2021, through June 30, 2022, the OTSI had 22 PSC’s that were in effect. The CRU reviewed 13 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
County Of Kern	CWDS County SME	\$435,598	Yes	Yes
County of Los Angeles	County SME services for CWDS	\$746,000	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
County of Madera	County SME services for CWDS	\$450,873	Yes	Yes
County of Monterey	Monterey County SME consultant for CWDS	\$817,995	Yes	Yes
County Of San Bernardino	CWDS County SME	\$540,926	Yes	Yes
Eisel Consulting	Management coaching services	\$10,000	Yes	Yes
Enterprise Architected	BP Logix software and support services	\$298,373	Yes	Yes
Info-Tech Research Group, Inc.	Architectural analysis for OAIO	\$56,422	Yes	Yes
Magellan Health Services of CA	Employee assistance program training services	\$199,850	Yes	Yes
Metro Media Productions, Inc.	Data expo AV services for CalHHS	\$10,000	Yes	Yes
Taborda Solutions, Inc.	Salesforce training	\$19,805	Yes	Yes
Taborda Solutions, Inc.	Splunk admin services for ISO	\$160,359	Yes	Yes
Technology Management Solutions, Inc.	IV&V services for CWS-CARES	\$2,499,999	Yes	Yes

IN COMPLIANCE	FINDING NO. 4 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC's reviewed was \$6,246,202.34. It was beyond the scope of the review to make conclusions as to whether OTSI justifications for the contracts were legally sufficient. For all PSC's reviewed, the OTSI provided specific and detailed factual information in the written justifications as to how each of the contracts met at least one condition set forth in Government Code section 19130, subdivision (b). Additionally, OTSI complied with proper notification to all organizations that represent state employees who perform or could perform the type or work contracted as required

by California Code of Regulations section 547.60.2. Accordingly, the OTSI PSC's complied with civil service laws and board rules.

Mandated Training

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

Upon the initial appointment of any employee designated in a supervisory position, the employee shall be provided a minimum of 80 hours of training, as prescribed by the CalHR. (Gov. Code, § 19995.4, subd. (b).) The training addresses such topics as the role of the supervisor, techniques of supervision, performance standards, and sexual harassment and abusive conduct prevention. (Gov. Code, §§ 12950.1, subds. (a) and (b), & 19995.4, subd. (b).) Additionally, the training must be successfully completed within the term of the employee's probationary period or within six months of the initial appointment, unless it is demonstrated that to do so creates additional costs or that the training cannot be completed during this time period due to limited availability of supervisory training courses. (Gov. Code, § 19995.4, subd. (c).)

Within 12 months of the initial appointment of an employee to a management or Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*)

New employees 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 and non-supervisors one hour 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 OTSI’s mandated training program that was in effect during the compliance review period, July 1, 2020, through June 30, 2022. The OTSI’s ethics training was found to be in compliance, while the OTSI’s supervisory training and sexual harassment prevention training were found to be out of compliance.

SEVERITY: VERY SERIOUS	FINDING NO. 5 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS
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Summary: The OTSI did not provide basic supervisory training to 3 of 9 new supervisors within 12 months of appointment; and did not provide manager training to 2 of 4 new managers within 12 months of appointment.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. (Gov. Code, § 19995.4, subd. (b).)

Severity: Very Serious. The department does not ensure its leaders are properly trained. Without proper training, leaders may not properly carry out their leadership roles, including managing employees.

Cause: The OTSI states that it experienced technical issues with the Learning Management System and did not have fully automated learning plans to timely notify employees designated to complete the mandated training during the 12-month time frame. Additionally, the OTSI attributes its training cancellations to the COVID-19 pandemic.

Corrective Action: The OTSI asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OTSI must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 19995.4.

SEVERITY: VERY SERIOUS	FINDING NO. 6 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The OTSI did not provide sexual harassment prevention training to 7 of 18 new supervisors within 6 months of their appointment. In addition, the OTSI did not provide sexual harassment prevention training to 27 of 37 existing supervisors every 2 years. This is the second consecutive time the OTSI has had this finding.

Furthermore, the OTSI did not provide sexual harassment prevention training to 17 of 153 non-supervisors every 2 years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years and non-supervisory employees one hour of sexual harassment prevention training every two years. New employees 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 employees 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 OTSI states it experienced technical issues with the Learning Management System and did not have automated notifications to employees designated to complete the sexual harassment prevention training. As a result, some employees were not notified timely of the training requirements.

Corrective Action: The OTSI asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OTSI must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 12950.1; and Government Code section 19995.4.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁷ 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, October 1, 2021, through June 30, 2022, the OTSI made 74 appointments. The CRU reviewed 10 of those appointments to determine if the OTSI applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,383
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,884
Information Technology Manager I	Certification List	Permanent	Full Time	\$9,230
Information Technology Manager II	Certification List	Permanent	Full Time	\$11,793
Information Technology Specialist III	Certification List	Permanent	Full Time	\$10,834
Staff Services Manager I	Certification List	Permanent	Full Time	\$7,289
Staff Services Manager II (Supervisory)	Certification List	Permanent	Full Time	\$8,190
Staff Services Manager I	Retired Annuitant	Temporary	Part Time	\$7,954
Senior Personnel Specialist	Transfer	Permanent	Full Time	\$5,766

⁷ "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)
Staff Services Analyst (General)	Transfer	Permanent	Full Time	\$4,476

IN COMPLIANCE	FINDING NO. 7 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the salary determinations that were reviewed. The OTSI appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

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, October 1, 2021, through June 30, 2022, the OTSI employees made 12 alternate range movements within a classification. The CRU reviewed 10 of those alternate range movements to determine if the OTSI 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 Technology Associate	B	C	Full Time	\$5,657
Information Technology Specialist I	A	B	Full Time	\$6,732
Information Technology Specialist I	A	B	Full Time	\$6,394
Information Technology Specialist I	A	B	Full Time	\$8,183
Information Technology Specialist I	A	B	Full Time	\$8,183
Information Technology Specialist I	A	B	Full Time	\$6,732
Information Technology Specialist I	A	B	Full Time	\$6,411

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Information Technology Specialist I	B	C	Full Time	\$8,999
Staff Services Analyst (General)	B	C	Full Time	\$4,476
Student Assistant	B	C	Intermittent	\$3,110

IN COMPLIANCE	FINDING NO. 8 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 OTSI 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 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.⁸ (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, October 1, 2021, through June 30, 2022, the OTSI authorized seven HAM requests. The CRU reviewed six of those authorized HAM requests to determine if the OTSI correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates’ extraordinary qualifications and subsequent salaries, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Information Technology Specialist I	Certification List	New to State	\$7,021 - \$9,408	\$8,700
Information Technology Specialist I	Certification List	New to State	\$7,021 - \$9,408	\$9,408
Information Technology Specialist II	Certification List	New to State	\$7,700 - \$10,318	\$10,318

⁸ 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)
Information Technology Specialist II	Certification List	New to State	\$7,700 - \$10,318	\$10,318
Information Technology Specialist II	Certification List	New to State	\$7,700 - \$10,318	\$10,318
Information Technology Specialist II	Certification List	New to State	\$7,700 - \$10,318	\$10,318

IN COMPLIANCE	FINDING NO. 9 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM requests the OTSI 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, 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, October 1, 2021, through June 30, 2022, the OTSI authorized one pay differential.⁹ The CRU reviewed this pay differential to ensure compliance with applicable CalHR policies and guidelines, which is listed below:

Classification	Pay Differential	Monthly Amount
Executive Assistant	52	1.5 Salary Steps

IN COMPLIANCE	FINDING NO. 10	PAY DIFFERENTIAL AUTHORIZATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differential that the OTSI 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 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 the working days of a month. When counting 189 days, every day worked, including partial days¹⁰ worked and paid absences¹¹, 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-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

⁹ For the purposes of CRU’s review, only monthly pay differentials were selected for review at this time.

¹⁰ For example, two hours or ten hours count as one day.

¹¹ For example, vacation, sick leave, compensating time off, etc.

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).)

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 OTSI had 25 positive paid employees whose hours were tracked. The CRU reviewed 18 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
Associate Personnel Analyst	Retired Annuitant	07/01/2020 – 06/30/2021	930.5 Hours
Chief Counsel II CEA	Retired Annuitant	07/01/2020 – 06/30/2021	450 Hours
Information Technology Specialist I	Retired Annuitant	07/01/2020 – 06/30/2021	783 Hours
Information Technology Specialist I	Retired Annuitant	07/01/2020 – 06/30/2021	832 Hours
Information Technology Specialist I	Retired Annuitant	07/01/2020 – 06/30/2021	845 Hours
Information Technology Specialist I	Retired Annuitant	07/01/2020 – 06/30/2021	952 Hours
Information Technology Specialist I	Retired Annuitant	07/01/2020 – 06/30/2021	958 Hours
Information Technology Specialist II	Retired Annuitant	07/01/2020 – 06/30/2021	960 Hours
Senior Personnel Specialist	Retired Annuitant	07/01/2020 – 06/30/2021	530.5 Hours

Classification	Tenure	Time Frame	Time Worked
Staff Services Manager I	Retired Annuitant	07/01/2020 – 06/30/2021	959.5 Hours
Student Assistant	Temporary	09/01/2021 – 09/30/2022	1137 Hours
Student Assistant	Temporary	12/01/2020 – 12/31/2021	1555 Hours

SEVERITY: SERIOUS	FINDING NO. 11 POSITIVE PAID TEMPORARY EMPLOYEE’S WORK EXCEEDED TIME LIMITATIONS
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Summary: The OTSI did not consistently monitor the actual number of days and/or hours worked to ensure that the positive paid employee did not exceed the 1,500-hour limitation in any 12-consecutive month period.

Specifically, the following employee exceeded the 1,500-hour limitation:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Student Assistant	Temporary	12/01/2020 – 12/31/2021	1555 Hours	55 Hours

Criteria: If any employee is appointed to an intermittent time base position on a TAU basis, there are two controlling time limitations that must be considered. The first controlling factor is the constitutional limit of nine months in any 12 consecutive months for temporary appointments that cannot be extended for any reason. (Cal Const., art. VII, § 5.) Time worked shall be counted on a daily basis with every 21 days worked counting as one month or 189 days equaling nine months. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) Another controlling factor limits the maximum work time for student, youth, and seasonal classifications to 1,500 hours. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Severity: Serious. The number of days or hours an individual may work in a temporary appointment is limited in the state civil service. TAU appointments are distinguished from other appointments as they can be made in the absence of an appropriate employment list.

Cause: The OTSI states that this error was due to tracking the employee’s hours manually instead of through the California Leave Accounting System. Additionally, program staff were incorrectly tracking hours based on the calendar year instead of a consecutive 12-month period.

Corrective Action: The OTSI asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OTSI must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 21224, and California Code of Regulations, title 2, section 599.665, and/or applicable Bargaining Unit agreement.

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, April 1, 2021, through March 31, 2022, the OTSI authorized 76 ATO transactions. The CRU reviewed 34 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	04/29/2021	2 Hours
Associate Governmental Program Analyst	06/04/2021	1 Day
Associate Governmental Program Analyst	04/07/2021 – 06/25/2021	9 Days, 3.5 Hours
Associate Personnel Analyst	04/23/2021 – 04/23/2021	2 Hours
Information Technology Associate	03/16/2021	1 Day
Information Technology Associate	06/10/2021 – 06/11/2021	2 Days
Information Technology Associate	05/20/2021 – 06/30/2021	11 Days
Information Technology Associate	08/20/2021	1 Day

Classification	Time Frame	Amount of Time on ATO
Information Technology Associate	09/10/2021	4 Days
Information Technology Associate	01/03/2022 – 01/10/2022	6 Days
Information Technology Manager I	04/15/2021 – 04/16/2021	2 Days
Information Technology Manager I	01/03/2022 – 01/05/2022	3 Days
Information Technology Manager I	03/01/2022 – 03/10/2022	8 Days
Information Technology Specialist I	04/15/2021	1 Day
Information Technology Specialist I	04/20/2021	1 Day
Information Technology Specialist I	04/29/2021	1 Day
Information Technology Specialist I	05/27/2021	1 Day
Information Technology Specialist I	06/24/2021 – 06/25/2021	2 Days
Information Technology Specialist I	08/17/2021 – 08/19/2021	3 Days
Information Technology Specialist I	09/14/2021 – 09/17/2021	4 Days
Information Technology Specialist I	08/20/2021 – 10/08/2021	11 Days
Information Technology Specialist I	01/03/2022 – 01/06/2022	4 Days
Information Technology Specialist I	01/24/2022 – 01/28/2022	5 Days
Information Technology Specialist I	02/11/2022	1 Day
Information Technology Specialist II	04/08/2021 – 04/09/2021	2 Days
Information Technology Supervisor III	07/20/2021 – 07/30/2021	9 Days
Office Technician	03/15/2021	1 Day
Office Technician	04/07/2021, 04/27/2021	2 Days
Office Technician	06/01/2021 – 06/29/2021	14 Hours
Staff Services Analyst (General)	09/22/2021	1 Day

IN COMPLIANCE	FINDING NO. 12 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 OTSI 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, January 1, 2022, through March 31, 2022, the OTSI reported 4 units comprised of 346 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	No. of Employees	No. of Timesheets Reviewed	No. of Missing Timesheets
January 2022	730	54	54	0
February 2022	340	14	14	0
February 2022	719	5	5	0
March 2022	215	10	10	0

SEVERITY: SERIOUS	FINDING NO. 13 DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY
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Summary: The OTSI failed to implement a monthly internal audit process to verify all timesheets were keyed accurately and timely and to certify that all leave records have been reviewed and corrected if necessary. This is the second consecutive time the OTSI has had this finding.

Criteria: Each appointing power shall 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 an audit process to verify all leave input is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall identify and record all errors found and shall certify that all leave records for the unit/pay period identified have been reviewed and all leave errors identified have been corrected. *(Ibid.)* Attendance records shall be corrected by the pay period following the pay period in which the error occurred. *(Ibid.)*

Severity: Serious. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. Failure to audit leave could put 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 OTSI states that it has had repeated staff turnover, and as a result, the new staff were not trained accurately on the required internal processes.

Corrective Action: The OTSI asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OTSI must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure that their monthly internal audit process is documented and that all leave input is keyed accurately and timely. The OTSI must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected.

Policy and Processes

Nepotism

It is the policy of the State of California to hire, transfer, and promote all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. (Cal. Code Regs., tit. 2, § 87.) (*Ibid.*) All appointing powers shall adopt an anti-nepotism policy that includes the following components: (1) a statement that the appointing power is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system; (2) a definition of "nepotism" as an employee's use of influence or power to hire, transfer, or promote an applicant or employee because of a personal relationship; (3) a definition of "personal relationship" as persons related by blood, adoption, current or former marriage, domestic partnership or cohabitation; (4) a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the applicant, as defined in section 83.6; (5) a statement that prohibits the direct or first-line supervision of an employee with whom the supervisor has a personal relationship, as defined in section 83.6; (6) a process for addressing issues of direct supervision when personal relationships between employees exist. (*Ibid.*)

IN COMPLIANCE	FINDING NO. 14 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 OTSI's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the OTSI'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 OTSI did not employ volunteers during the compliance review period.

SEVERITY: VERY SERIOUS	FINDING NO. 15 INJURED EMPLOYEE DID NOT RECEIVE CLAIM FORM WITHIN ONE WORKING DAY OF NOTICE OR KNOWLEDGE OF INJURY
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Summary: Of the five workers' compensation claim forms reviewed by the CRU, one of them was not provided to the employee within one working day of notice or knowledge of injury.

Criteria: An employer shall provide a claim form and notice of potential eligibility for workers' compensation benefits to its employee within one working day of notice or knowledge that the employee has suffered a work-related injury or illness. (Cal. Lab. Code, § 5401, subd. (a).)

Severity: Very Serious. An injured employee was not provided the required form within the 24-hour time period. Providing the form within 24-hours of injury prevents any delay in treatment to which the employee is entitled. A work-related injury can result in lost time beyond the employee's work shift at the time of injury and/or result in additional medical treatment beyond first aid.

Cause: The OTSI acknowledges an injured employee did not receive the claim form within one working day of notice of injury. The OTSI states the workers' compensation paperwork was erroneously sent to the employee's work email during the timeframe the employee was placed off work and did not have access to their work email. The paperwork was later sent to the employee's personal email address.

Corrective Action: Within 90 days of the date of this report, the OTSI must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Labor Code, section 540.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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 50 permanent OTSI employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 16 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The OTSI did not provide annual performance appraisals to any of the 50 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 employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The OTSI states that its Human Resources Division sends an annual notice requiring supervisors and managers to conduct performance appraisals for each of their staff. However, the supervisors and managers have not conducted performance evaluations for all employees as required.

Corrective Action: The OTSI asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the OTSI must submit to the SPB written documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798.

DEPARTMENTAL RESPONSE

The OTSI’s response is attached as Attachment 1.

SPB REPLY

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



California Health and Human Services Agency
Office of Technology and Solutions Integration
2495 Natomas Park Drive, Ste. 530
Sacramento, California 95833



GAVIN NEWSOM
GOVERNOR

September 6, 2023

Suzanne Ambrose, Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Dear Ms. Ambrose:

SUBJECT: State Personnel Board (SPB) Compliance Review (CR) – Corrective Action Plan

The Office of Technology and Solutions Integration (OTSI) thanks the Compliance Review Unit (CRU) staff for their dedication and professionalism throughout the audit process. We understand that external audits are an important component of ensuring the management and integrity of the State's hiring process and other laws and rules. In whole, the audit contributes to the overall effectiveness and efficiency of the OTSI's business practices.

The OTSI takes the compliance findings very seriously, has taken into consideration the findings identified in the CR report, and has begun implementing the corrective actions below to bring the Department into compliance.

Finding 2: Probationary Evaluations Were Not Provided for all Appointments Reviewed

Cause: The OTSI acknowledges probationary evaluations were not provided for all appointments. The OTSI is aware of the requirement and recognizes the importance of evaluating the work and efficiency of a probationer to keep the probationer adequately informed of their performance on the job. The OTSI Human Resources Division (HRD) makes a good-faith effort to inform supervisors and managers regarding the requirements of completing probationary evaluations. Upon the appointment of probationary employees, the HRD notifies supervisors and managers of the probationary dates of each employee, and it is the responsibility of the supervisors and managers to forward the completed evaluations to the HRD for filing in the official personnel file (OPF).

Corrective Action: Since the 2019 audit, the OTSI HRD has created a probationary tracking log and follows up with the supervisor and manager three (3) times if the probationary evaluations are not received. Most recently, the HRD has updated our process to remind each supervisor and manager that probationary evaluations are due within thirty (30) days of the due date. The OTSI has also developed a Probationary Period Business Process in addition to providing on-going training to supervisors.

Furthermore, OTSI is in the process of implementing a human capital management (HCM) system, Workday, which will provide an automated system to pull reports, send reminders to managers and supervisors, track compliance, and file employee probationary reports.

Finding 5: Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs

Cause: The OTSI acknowledges all supervisors, managers, and CEAs did not complete mandated supervisory training. The OTSI experienced technical issues with the Learning Management System (LMS) and did not have fully automated learning plans to timely notify employees designated to complete the mandated training during the 12-month time frame. The OTSI was still processing some training manually as part of the change management process. As a result, some employees were not notified timely of the training requirement. Additionally, during the reporting period, a number of trainings were cancelled due to COVID, creating longer wait times to enroll managers and supervisors in the training. Due to the lack of automated reminders, insufficient internal procedures, and manual processes, trainings were cancelled due to COVID, and the required training was not completed for all employees.

Corrective Action: The OTSI acknowledges and recognizes the importance of compliance with mandatory training requirements. The OTSI executive leadership team is committed to ensuring all mandated trainings are completed within the required timeframes and will emphasize the importance of this to staff impacted by this training requirement. The OTSI is developing a more robust training and onboarding business process that aligns with our LMS tracking system and notification procedures to ensure all mandated training is tracked and completed within the required timeframes. Additionally, a monthly internal audit will be completed to ensure all supervisory positions have completed their training within the established periods outlined in Government Code § 19995.4. The OTSI is working towards ensuring all staff are compliant.

Finding 6: Sexual Harassment Prevention Training Was Not Provided for All Employees

Cause: The OTSI acknowledges all employees did not complete sexual harassment prevention training, and we recognize the beneficial information this training provides. The OTSI LMS system did not have fully automated learning plans to timely notify employees designated to complete the mandated training. Also, the OTSI was using an additional LMS platform separate from our existing platform to enroll staff in the training, which was still a manual process to add to employees learning plan. As a result, some employees were not notified timely of the training requirement.

Corrective Action: The OTSI acknowledges and recognizes the importance of compliance with mandatory training requirements. The OTSI executive leadership team is committed to ensuring all mandated trainings are completed within the required timeframes and will emphasize the importance of this training requirement to all employees. The OTSI is working towards ensuring all staff are compliant. The OTSI is

developing a more robust training and onboarding business process that aligns with our LMS tracking system and notification procedures to ensure all mandated training is tracked and completed within the required timeframes. Additionally, a monthly internal audit will be completed to ensure all supervisory and non-supervisory positions have completed their training within the established periods outlined in Government Code (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code § 19995.4).

Finding 11: Positive Paid Temporary Employee’s Work Exceeded Time Limitations

Cause: The OTSI acknowledges a positive paid temporary employee’s work exceeded time limitations and recognizes the impact it could have on the employee and the department. The OTSI tracks the hours manually instead of through CLAS. In addition, program staff were incorrectly tracking hours based on the calendar year instead of a rolling 12 consecutive month period.

Corrective Action: The OTSI has implemented a new tracking log for positive paid temporary employees, their supervisors, and HRD to use. In addition, CLAS has been updated to track intermittent benefit hours, allowing OTSI HRD to verify the accuracy of the student logs. Program staff now receive the Benefits LAB report and updated student logs every month to ensure all parties have the same and most current information. Furthermore, once implemented, the OTSI will utilize Workday for all leave and time tracking, including for positive pay employees, to ensure positive pay employees do not go over their hour limitations.

Finding 13: Department Did Not Certify That All Leave Records Were Reviewed

Cause: The OTSI acknowledges we did not certify that all leave records were reviewed. The OTSI HRD had a period of repeated staff turnover, and as a result, the new staff were not trained accurately on the OTSI internal processes. Specifically, the Leave Activity and Correction Certification (CalHR 139) document requirement had not been relayed to the new staff, therefore it was not being completed.

Corrective Action: The OTSI HRD has updated our internal process and the Transaction Unit’s Monthly Checklist to ensure the reconciliation of leave, utilizing the CalHR 139, occurs every month. Also, OTSI is in the testing phase of implementing Workday, an HCM system that will offer real-time leave and time tracking.

Finding 15: Injured Employee Did Not Receive Claim Form Within One Working Day Of Notice Of Injury

Cause: The OTSI acknowledges an injured employee did not receive the claim form within one working day of notice of injury. The claim form was sent to the employee’s work email within one working day; however, the employee did not receive the form to their personal email address.

Corrective Action: The Workforce Unit now requires all employees to provide an alternative email address to facilitate timely communication.

Finding 16: Performance Appraisals Were Not Provided to All Employees

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Cause: The OTSI acknowledges that performance appraisals were not provided to all employees and understands employees not serving a probationary period are to be provided a performance appraisal annually. Currently, on an annual basis, the OTSI HRD sends a departmental notice requiring supervisors and managers to conduct performance appraisals for each of their staff; however, it is the responsibility of the supervisors and managers to conduct the performance evaluations.

Corrective Action: The OTSI has developed a performance review tracking process to ensure all performance appraisals are completed. Additionally, the OTSI is in the process of implementing a HCM system, Workday, which will track, send reminders to managers and supervisors, and ensure all performance appraisals are initiated for all employees that are not on probation on an annual basis. Once implemented, the OTSI will be able to ensure timely completion of performance appraisals.

The OTSI strives to ensure all Merit System principles, practices, laws and rules are observed in order to ensure an objective and fair appointment system. Thank you for the opportunity to revisit our processes in support of our ongoing process improvement.

If you have any questions or concerns, please contact Yolanda Rodriguez, Chief of Human Resources at (916) 263-3265 or Yolanda.Rodriguez@osi.ca.gov.

Sincerely,

DocuSigned by:

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Robert Huskison
Deputy Director
Enterprise Operations

cc: Adam Dondro, Agency Information Officer/Director
Office of Technology and Solutions Integration