



# **COMPLIANCE REVIEW REPORT**

## **CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY**

Compliance Review Unit  
State Personnel Board  
November 29, 2021

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## **INTRODUCTION**

Established by the California Constitution, the State Personnel Board (the SPB or Board) is charged with enforcing and administering the civil service statutes, prescribing probationary periods and classifications, adopting regulations, and reviewing disciplinary actions and merit-related appeals. The SPB oversees the merit-based recruitment and selection process for the hiring of over 200,000 state employees. These employees provide critical services to the people of California, including but not limited to, protecting life and property, managing emergency operations, providing education, promoting the public health, and preserving the environment. The SPB provides direction to departments through the Board's decisions, rules, policies, and consultation.

Pursuant to Government Code section 18661, the SPB's Compliance Review Unit (CRU) conducts compliance reviews of appointing authorities' personnel practices in five areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC's), and mandated training, to ensure compliance with civil service laws and Board regulations. The purpose of these reviews is to ensure state agencies are in compliance with merit related laws, rules, and policies and to identify and share best practices identified during the reviews.

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." SPB and CalHR, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and were not being monitored on a statewide basis.

As such, SPB also conducts compliance reviews of appointing authorities' personnel practices to ensure that state departments are appropriately managing the following non-merit-related personnel functions: compensation and pay, leave, and policy and processes. These reviews will help to avoid and prevent potential costly litigation related to improper personnel practices, and deter waste, fraud, and abuse.

The SPB conducts these reviews on a three-year cycle.

The CRU may also conduct special investigations in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

### **EXECUTIVE SUMMARY**

The CRU conducted a routine compliance review of the California Pollution Control Financing Authority (CPCFA) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

| Area                         | Severity      | Finding  |
|------------------------------|---------------|--|
| Examinations                 | In Compliance | Examinations Complied with Civil Service Laws and Board Rules  |
| Examinations                 | In Compliance | Permanent Withhold Actions Complied with Civil Service Laws and Board Rules  |
| Appointments                 | In Compliance | Appointments Complied with Civil Service Laws and Board Rules  |
| Equal Employment Opportunity | In Compliance | Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules                                  |
| Personal Services Contracts  | In Compliance | Personal Services Contracts Complied with Procedural Requirements  |
| Mandated Training            | Very Serious  | Ethics Training Was Not Provided for All Filers  |
| Mandated Training            | Very Serious  | Sexual Harassment Prevention Training Was Not Provided for All Supervisors   |
| Compensation and Pay         | In Compliance | Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines                     |
| Leave                        | In Compliance | Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |
| Leave                        | In Compliance | Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines |

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

**BACKGROUND**

The CPCFA has been providing low-cost, innovative financing to California businesses since 1972 with the objective of making California more economically prosperous and environmentally clean. The CPCFA is committed to promoting access to capital through the delivery of financing options to California business and environmental industries for public and private partnerships. Additionally, the CPCFA is a leader in offering customized risk mitigation tools and at the forefront of projects which protect and restore the environment. The CPCFA partners with sister state agencies to achieve the State’s environmental policy objectives by administering high-impact financing programs designed to assist regulated entities and other stakeholders with accessing private capital. As a government agency that issues tax-exempt private activity bonds, the CPCFA can facilitate low cost financing to qualified waste and recycling projects; as well as other projects to control pollution and improve water supply.

The CPCFA also administers the California Capital Access Program, which encourages financial institutions to make loans to small businesses and provides for specialty programs targeted toward building an improved infrastructure for zero and partial-emission vehicles, and helps small businesses comply with the federal Americans With Disabilities Act.

The California State Treasurer's Office performs human resources operations for the CPCFA.

### **SCOPE AND METHODOLOGY**

The scope of the compliance review was limited to reviewing the CPCFA's examinations, appointments, EEO program, PSC's, mandated training, compensation, leave, and policy and processes<sup>1</sup>. The primary objective of the review was to determine if the CPCFA's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the CPCFA's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the CPCFA provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CPCFA's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CPCFA'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 CPCFA provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions, vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CPCFA did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CPCFA did not make any additional appointments during the compliance review period.

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

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<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 CPCFA did not issue or authorize: hiring above minimum requests, bilingual pay, monthly pay differentials, alternate range movements, out-of-class assignments, red circle rate requests, and arduous pay.

The review of the CPCFA'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 CPCFA'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 CPCFA's justifications for the contracts were legally sufficient. The review was limited to whether the CPCFA's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

The CRU reviewed the CPCFA's Leave Activity and Correction Certification forms to verify that the CPCFA 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 CPCFA's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CPCFA's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the CPCFA employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of CPCFA positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

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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.

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

The CPCFA declined an exit conference to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the CPCFA's written response on April 27, 2021, which is attached to this final compliance review report.

## **FINDINGS AND RECOMMENDATIONS**

### **Examinations**

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

During the period under review, July 1, 2019, through June 30, 2020, the CPCFA conducted one examination. The CRU reviewed the one examination, which is listed below:

| Classification   | Exam Type | Exam Components                          | Final File Date | No. of Apps |
|--|-----------|--|-----------------|-------------|
| Career Executive Assignment (CEA) A, Deputy Executive Director | CEA       | Statement of Qualifications <sup>3</sup> | 10/24/2019      | 11          |

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

### Permanent Withhold Actions

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

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<sup>3</sup> In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

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, July 1, 2019, through June 30, 2020, the CPCFA conducted two permanent withhold actions. The CRU reviewed those two permanent withhold actions, which are listed below:

| Exam Title                       | Exam ID | Date List Eligibility Began | Date List Eligibility Ended | Reason Candidate Placed on Withhold   |
|----------------------------------|---------|-----------------------------|-----------------------------|---------------------------------------|
| Staff Services Analyst (General) | 7PB34   | 12/3/2018                   | 12/3/2019                   | Failed to Meet Minimum Qualifications |
| Staff Services Analyst (General) | 7PB34   | 1/10/2019                   | 1/10/2020                   | Failed to Meet Minimum Qualifications |

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

### **Appointments**

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are

not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, May 1, 2019, through April 30, 2020, the CPCFA made six appointments. The CRU reviewed two of those appointments, which are listed below:

| Classification                     | Appointment Type   | Tenure    | Time Base | No. of Appts. |
|------------------------------------|--------------------|-----------|-----------|---------------|
| Treasury Program Manager I         | Certification List | Permanent | Full Time | 1             |
| Associate Treasury Program Officer | Transfer           | Permanent | Full Time | 1             |

|                      |  |
|----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 3 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES</b> |
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The CPCFA measured each applicant’s ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For the one list appointment reviewed, the CPCFA 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 CPCFA 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 CPCFA verified the eligibility of each candidate to their appointed class.

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

**Equal Employment Opportunity**

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing

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

Pursuant to Government Code section 19795, subdivision (a), in a state agency with less than 500 employees, like CPCFA, 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).)

|                      |  |
|----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 4 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES</b> |
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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 CPCFA'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 CPCFA. The CPCFA also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

**Personal Services Contracts**

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has

an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

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

During the period under review, July 1, 2019, through June 30, 2020, the CPCFA had three PSC’s that were in effect. The CRU reviewed two of those, which are listed below:

| Vendor                          | Services       | Contract Date(s)     | Contract Amount | Justification Identified? | Union Notification? |
|---------------------------------|----------------|----------------------|-----------------|---------------------------|---------------------|
| Law Offices of Leslie M. Lava   | Legal Services | 6/1/2018 - 5/31/2020 | \$166,666       | Yes                       | Yes                 |
| Stradling Yocca Carlson & Rauth | Legal Services | 6/1/2018 - 5/31/2020 | \$166,666       | Yes                       | Yes                 |

|                      |  |
|----------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 5 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS</b> |
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The total dollar amount of all the PSC’s reviewed was \$333,332. It was beyond the scope of the review to make conclusions as to whether CPCFA justifications for the contract were legally sufficient. For all PSC’s reviewed, the CPCFA 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, CPCFA complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the CPCFA PSC’s complied with civil service laws and board rules.

## **Mandated Training**

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

Additionally, new supervisors must be provided sexual harassment prevention training within six months of appointment. Thereafter, each department must provide its supervisors two hours of sexual harassment prevention training every two years. (Gov. Code, § 12950.1, subds. (a) and (b); Gov. Code, § 19995.4.)

The Board may conduct reviews of any appointing power’s personnel practices to ensure compliance with civil service laws and Board regulations. (Gov. Code, § 18661, subd. (a).) In particular, the Board may audit personnel practices related to such matters as selection and examination procedures, appointments, promotions, the management of probationary periods, and any other area related to the operation of the merit principle in state civil service. (*Ibid.*) Accordingly, the CRU reviews documents and records related to training that appointing powers are required by the afore-cited laws to provide its employees.

The CRU reviewed the CPCFA’s mandated training program that was in effect during the compliance review period, July 1, 2018, through June 30, 2020.

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|-----------------------------------|--|
| <b>SEVERITY:<br/>VERY SERIOUS</b> | <b>FINDING NO. 6 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS</b> |
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**Summary:** The CPCFA did not provide ethics training to one of four existing filers. However, the CPCFA did provide ethics training to the one new filer within six months of their appointment.

**Criteria:** New filers must be provided ethics training within six months of appointment. Existing filers must be trained at least once during each

consecutive period of two calendar years commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3, subd. (b).)

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

**Cause:** While the CPFA states it requires all members, officers, and designated employees to take the mandated ethics training, it did not provide a reason its one existing filer did not take the training.

**Corrective Action:** The CPCFA indicates it has implemented a tracking system to monitor training completion. Nonetheless, this finding indicates the systems the CPCFA has in place need strengthening. Within 90 days of this report, the CPCFA must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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

**Summary:** The CPCFA did provide sexual harassment prevention training to its one new supervisor within six months of appointment. However, the CPCFA did not provide sexual harassment prevention training to any of its three existing supervisors every 2 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, subs. (a) and (b); Gov. Code, § 19995.4.)

**Severity:** Very Serious. The department does not ensure that all new and existing supervisors are properly trained to respond to sexual harassment or unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment of a sexual nature. This limits the department's ability to retain a quality workforce,

impacts employee morale and productivity, and subjects the department to litigation.

**Cause:** While the CPCFA states it requires all members, officers, and designated employees to take the mandated sexual harassment prevention training, it did not provide a reason its three existing supervisors did not take the training.

**Corrective Action:** The CPCFA indicates it has implemented a tracking system to monitor training completion. Nonetheless, this finding indicates the systems the CPCFA has in place need strengthening. Within 90 days of the date of this report, the CPCFA 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>4</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, May 1, 2019, through April 30, 2020, the CPCFA made six appointments. The CRU reviewed two of those appointments to determine if the CPCFA applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

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<sup>4</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).

| Classification                     | Appointment Type   | Tenure    | Time Base | Salary (Monthly Rate) |
|------------------------------------|--------------------|-----------|-----------|-----------------------|
| Treasury Program Manager I         | Certification List | Permanent | Full Time | \$ 5,677              |
| Associate Treasury Program Officer | Transfer           | Permanent | Full Time | \$ 6,259              |

|                      |   |
|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 8 SALARY DETERMINATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---|

The CRU found no deficiencies in the salary determinations that were reviewed. The CPCFA appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

## Leave

### Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days<sup>5</sup> worked and paid absences<sup>6</sup>, 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 month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

<sup>5</sup> For example, two hours or ten hours count as one day.

<sup>6</sup> For example, vacation, sick leave, compensating time off, etc.

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

| Classification                         | Tenure            | Time Frame           | Time Worked |
|--|-------------------|----------------------|-------------|
| Associate Governmental Program Analyst | Retired Annuitant | 7/1/2019 – 6/30/2020 | 669 hours   |
| Office Technician (Typing)             | Retired Annuitant | 7/1/2019 – 6/30/2020 | 6.5 hours   |
| Office Technician (Typing)             | Retired Annuitant | 7/1/2019 – 6/30/2020 | 947.5 hours |

|                      |   |
|----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 9 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---|

The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CPCFA 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, April 1, 2019, through March 31, 2020, the CPCFA placed one employee on ATO. The CRU reviewed one ATO appointment to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which is listed below:

| Classification  | Time Frame              | Amount of Time on ATO |
|---|-------------------------|-----------------------|
| Executive Secretary, California Pollution Control Financing Authority/State Treasurer | 03/13/2020 - 03/30/2020 | 18 days               |

|                      |                           |   |
|----------------------|---------------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO.<br/>10</b> | <b>ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---------------------------|---|

The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CPCFA 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, 2020, through March 31, 2020, the CPCFA reported 1 unit comprised of 30 active employees. The pay period 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 |
|------------------------|---------------|---------------------|-------------------------------|------------------------------|
| February 2020          | 002           | 30                  | 30                            | 0                            |

|                      |                       |   |
|----------------------|-----------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO. 11</b> | <b>LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|-----------------------|---|

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

State Service

The state recognizes two different types of absences while an employee is on pay status; paid or unpaid. The unpaid absences can affect whether a pay period is considered to be a qualifying or non-qualifying pay period for state service and leave accruals.

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.<sup>7</sup> (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

<sup>7</sup> Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees<sup>8</sup> shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, May 1, 2019, through April 30, 2020, the CPCFA had two employees with non-qualifying pay period transactions. The CRU reviewed three transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

| Type of Transaction       | Time base | Number Reviewed |
|---------------------------|-----------|-----------------|
| Non-Qualifying Pay Period | Full Time | 2               |
| Qualifying Pay Period     | Full Time | 1               |

<sup>8</sup> As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

|                      |                           |   |
|----------------------|---------------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO.<br/>12</b> | <b>SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---------------------------|---|

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

### **Policy and Processes**

#### Nepotism

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

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|----------------------|---------------------------|--|
| <b>IN COMPLIANCE</b> | <b>FINDING NO.<br/>13</b> | <b>NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---------------------------|--|

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

|               |                   |  |
|---------------|-------------------|--|
| IN COMPLIANCE | FINDING NO.<br>14 | <b>WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES</b> |
|---------------|-------------------|--|

The CRU verified that the CPCFA provides notice to their employees to inform them of their rights and responsibilities under California’s Workers’ Compensation Law. Furthermore, the CRU verified that when the CPCFA received workers’ compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must “prepare performance reports.” Furthermore, California Code of Regulations, title 2, section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

The CRU selected six permanent CPCFA employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

| Classification                     | Date Performance Appraisals Due |
|------------------------------------|---------------------------------|
| Associate Treasury Program Officer | 09/01/2019                      |
| Executive Assistant                | 04/01/2019                      |
| Office Technician (Typing)         | 09/07/2019                      |
| Staff Services Analyst (General)   | 12/31/2019                      |
| Treasury Program Manager I         | 11/01/2019                      |
| Treasury Program Manager II        | 09/01/2019                      |

|                      |                           |   |
|----------------------|---------------------------|---|
| <b>IN COMPLIANCE</b> | <b>FINDING NO.<br/>15</b> | <b>PERFORMANCE APPRAISAL POLICY AND PROCESSES<br/>COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES,<br/>AND/OR CALHR POLICIES AND GUIDELINES</b> |
|----------------------|---------------------------|---|

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

### **DEPARTMENTAL RESPONSE**

The CPCFA's response is attached as Attachment 1.

### **SPB REPLY**

Based upon the CPCFA's written response, the CPCFA 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 POLLUTION CONTROL FINANCING AUTHORITY

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915 Mailing Address, P.O. Box 942809, Sacramento, CA 94209, p (916) 654-5610, Fax(916)589-2805

April 26, 2021

Suzanne M. Ambrose, Executive Director  
State Personnel Board  
801 Capitol Mall  
Sacramento, CA 95814

Dear Ms. Ambrose,

### Response to Compliance Review Report

The State Treasurer's Office (STO) provides personnel services for the CA Pollution Control Financing Authority (CPCFA). On behalf of CPCFA, the STO submits this letter in response to the State Personnel Board's (SPB) compliance review of the CPCFA personnel practices for the period July 1, 2019 to June 30, 2020. CPCFA and the STO appreciate SPB's review and the opportunity to respond to its findings. Please reference the enclosed Attachment A for detailed responses.

CPCFA agrees with the two SPB findings noted on Attachment A. CPCFA in coordination with the STO has taken or will take immediate steps to develop and submit a Corrective Action Plan within 60 days of the release of the report to address the deficiencies identified.

Thank you for the opportunity to respond to your draft report. If you have any questions, or require additional information, please do not hesitate to contact me at (916) 653-3382, or by email at [csneed@treasurer.ca.gov](mailto:csneed@treasurer.ca.gov).

Sincerely,

s/

Christopher Sneed  
Chief of Management Services

Enclosure

cc: Rebecca Grajski, Administration Division Director, STO  
Genevieve Jopanda, Chief Deputy Treasurer, STO  
Derek Chernow, Interim Executive Secretary, CPCFA

**FINDING No. 1 – Examinations Complied with Civil Service Laws and Board Rules**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 2 – Permanent Withhold Actions Complied with Civil Service Laws and Board Rules**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 3 – Appointments Complied with Civil Service Laws and Board Rules**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 4 – Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 5 – Personal Services Contracts Complied with Procedural Requirements**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 6 – Ethics Trainings Was Not Provided for All Filers**

**Cause:** The CPCFA did not provide ethics training to one of four existing filers. However, the CPCFA did provide ethics training to the one new filer within six months of their appointment.

**Department's Response:** CPCFA, in coordination with the STO, requires that all members, officers, or designated employees who are required to file a statement of economic interest complete ethics training in accordance with Government Code § 11146.1 and § 11146.3. The STO has a tracking mechanism in place to monitor ethics training completion status; however, the one individual in question did not complete the mandatory training. The STO's training office has implemented a notification process that reminds employees of the ethics training requirement and will continue to send email reminders to these employees, with a copy to their supervisor or manager.

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**FINDING No. 7 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors**

**Cause:** The CPCFA did provide sexual harassment prevention training to its one new supervisor within six months of appointment. However, the CPCFA did not provide sexual harassment prevention training to any of its three existing supervisors every two years.

**Department's Response:** CPCFA, in coordination with the STO, requires that all supervisors and managers attend the sexual harassment training in accordance with Government Code §12950.1. The STO has a tracking mechanism in place to monitor employee training status; however, the three supervisors in question did not complete the mandatory training in the required time period. The STO training office will emphasize this training requirement at the time of appointment and continue to send out reminder notifications to all employees who are required to complete sexual harassment prevention. Additionally, CPCFA management will ensure sexual harassment training is completed in compliance with Government Code §12950.1.

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**FINDING No. 8 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 9 – Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 10 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 13 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 14 – Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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**FINDING No. 15 – Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines**

**Cause:** None

**Department's Response:** No adverse findings were reported during the Compliance Review.

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