



COMPLIANCE REVIEW REPORT

CALIFORNIA PUBLIC UTILITIES COMMISSION

Compliance Review Unit
State Personnel Board
March 26, 2024

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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." The SPB and the 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 the 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, the 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 Public Utilities Commission's (CPUC) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Examinations	In Compliance	Examinations Complied with Civil Service Laws and Board Rules
Examinations	In Compliance	Permanent Withhold Actions Complied with Civil Service Laws and Board Rules
Appointments	Serious	Probationary Evaluations Were Not Provided for All Appointments Reviewed ¹
Appointments	Technical	Appointment Documentation Was Not Kept for the Appropriate Amount of Time
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 ²

¹ Repeat Finding. The CPUC's May 11, 2017, compliance review report identified that the CPUC did not provide 17 probationary evaluations for 10 of the 40 appointments reviewed. The CPUC's August 5, 2020, compliance review report identified that the CPUC did not provide 2 probationary evaluations for 2 of the 14 appointments reviewed.

² Repeat Finding. The CPUC's May 11, 2017, compliance review report identified that the CPUC did not provide ethics training to 6 of 23 existing filers. In addition, the CPUC did not provide ethics training to four of six new filers within six months of their appointment. The CPUC's August 5, 2020, compliance review report identified that the CPUC did not provide ethics training to 104 of 547 existing filers. In addition, the CPUC did not provide ethics training to 23 of 66 new filers within 6 months of their appointment.

Area	Severity	Finding
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs ³
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees ⁴
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/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay
Compensation and Pay	Very Serious	Incorrect Authorization of Pay Differential ⁵
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay ⁶
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

³ Repeat Finding. The CPUC's May 11, 2017, compliance review report identified that the CPUC did not provide basic supervisory training to 10 of 14 new supervisors within 12 months of appointment. The CPUC's August 5, 2020, compliance review report identified that the CPUC did not provide basic supervisory training to 36 of 45 new supervisors within 12 months of appointment and did not provide manager training to 9 of 10 new managers within 12 months of appointment.

⁴ Repeat Finding. The CPUC's May 11, 2017, compliance review report identified that the CPUC did not provide sexual harassment prevention training to 4 of 14 new supervisors within 6 months of their appointment. In addition, the CPUC did not provide sexual harassment prevention training to 17 of 20 existing supervisors every 2 years. The CPUC's August 5, 2020, compliance review report identified that the CPUC did not provide sexual harassment prevention training to 37 of 40 new supervisors within 6 months of their appointment. In addition, the CPUC did not provide sexual harassment prevention training to 54 of 81 existing supervisors every 2 years.

⁵ Repeat Finding. The CPUC's August 5, 2020, compliance review report identified that the CPUC made 1 error in the 13 pay differentials reviewed.

⁶ Repeat Finding. The CPUC's August 5, 2020, compliance review report identified that the CPUC made 4 errors in the 13 OOC pay transactions reviewed.

Area	Severity	Finding
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
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	Very Serious	Injured Employees Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ⁷

BACKGROUND

The CPUC regulates privately owned electric, natural gas, telecommunications, water, railroad, rail transit, and passenger transportation companies in addition to authorizing video franchises. The CPUC's mission is to empower California through access to safe, clean, and affordable utility services infrastructure.

The Commission is overseen by five Commissioners appointed by the Governor, who along with staff, are dedicated to ensuring that consumers have safe, reliable utility service and infrastructure at reasonable rates, protecting against fraud, and promoting the health of California's economy. The CPUC employs approximately 1,500 employees across 15 divisions and offices in various capacities including: economists, engineers, administrative law judges, accountants, lawyers, and safety and transportation specialists.

⁷ Repeat Finding. The CPUC's August 5, 2020, compliance review report identified that the CPUC did not provide annual performance appraisals to 33 of 51 employees reviewed after the completion of the employee's probationary period.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CPUC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁸. The primary objective of the review was to determine if the CPUC'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 CPUC's examinations was selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the CPUC provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CRU also reviewed the CPUC's permanent withhold actions documentation, including Withhold Determination Worksheets, State applications (STD 678), class specifications, and withhold letters.

A cross-section of the CPUC'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 CPUC 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 CPUC did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CPUC did not make any additional appointments during the compliance review period.

The CPUC's appointments were also selected for review to ensure the CPUC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CPUC 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 e.g., hire above minimum (HAM) requests, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments.

⁸ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

The review of the CPUC'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 CPUC's PSC's were also reviewed.⁹ It was beyond the scope of the compliance review to make conclusions as to whether the CPUC's justifications for the contracts were legally sufficient. The review was limited to whether the CPUC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The CPUC'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 serving 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 reviewed the CPUC'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 CPUC's units to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CPUC'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 CPUC employees who used Administrative Time Off (ATO) to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of the CPUC's positive paid employees whose hours are tracked during the compliance review period to ensure that they adhered to procedural requirements.

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

⁹If 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.

The CPUC declined an exit conference to explain and discuss the CRU’s initial findings and recommendations. The CRU received and carefully reviewed the CPUC’s written response on March 5, 2024, 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, April 1, 2022, through December 31, 2022, the CPUC conducted 19 examinations. The CRU reviewed 15 of those examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Assistant Chief, Administrative Law Judge	Departmental Open	Training and Experience ¹⁰	Continuous	5

¹⁰ The Training and Experience examination is administered either online or in writing and asks the applicant to answer multiple-choice questions about his or her level of training and/or experience performing certain tasks typically performed by those in this classification. Responses yield point values.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Associate Railroad Track Inspector	Departmental Open	Written ¹¹	Continuous	1
Associate Transportation Operations Supervisor	Departmental Open	Written	Continuous	1
CEA A, Advisor to the Commissioner	CEA	Statement of Qualifications ¹²	6/10/22	8
Chief Hearing Reporter	Departmental Open	Training and Experience	Continuous	3
Consumer Affairs Representative	Departmental Open	Training and Experience	Continuous	9
Consumer Services Manager	Departmental Open	Training and Experience	Continuous	10
Consumer Services Supervisor	Departmental Open	Training and Experience	Continuous	12
Hearing Reporter	Departmental Open	Training and Experience	Continuous	2
Program and Project Supervisor	Departmental Open	Training and Experience	Continuous	17
Program Manager	Departmental Open	Training and Experience	Continuous	44
Senior Utilities Engineer (Specialist)	Departmental Open	Training and Experience	Continuous	26
Senior Utilities Engineer (Supervisor)	Departmental Open	Training and Experience	Continuous	3
Supervisor Operations and Safety Section	Departmental Open	Written	Continuous	15
Utilities Engineer	Departmental Open	Training and Experience	Continuous	151

IN COMPLIANCE	FINDING NO. 1 EXAMINATIONS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The CRU reviewed 1 CEA and 14 departmental open examinations which the CPUC administered to create eligible lists from which to make appointments. The CPUC

¹¹ A written examination is a testing procedure in which candidates' job-related knowledge and skills are assessed through the use of a variety of item formats. Written examinations are either objectively scored or subjectively scored.

¹² 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.

published and distributed examination bulletins containing the required information for all examinations. Applications received by the CPUC were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the CPUC 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 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, April 1, 2022, through December 31, 2022, the CPUC conducted 47 permanent withhold actions. The CRU reviewed 24 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
Administrative Assistant II	0PBDF	2/23/21	6/23/22	Failed to Meet Minimum Qualifications (MQ's)

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Administrative Assistant II	0PBDF	10/21/21	6/23/22	Failed to Meet MQ's
Administrative Assistant II	0PBDF	6/6/22	6/23/22	Failed to Meet MQ's
Associate Governmental Program Analyst	9PB04	11/5/21	4/29/22	Failed to Meet MQ's
Associate Governmental Program Analyst	9PB06	4/21/22	5/3/22	Failed to Meet MQ's
Associate Governmental Program Analyst	9PB04	1/23/22	6/27/22	Failed to Meet MQ's
Associate Governmental Program Analyst	9PB08	7/19/22	9/1/22	Failed to Meet MQ's
Attorney III	8PB57	4/17/22	5/4/22	Failed to Meet MQ's
Legal Analyst	6PB11	1/1/22	3/24/22	Failed to Meet MQ's
Program and Project Supervisor	5UCPS	9/30/22	10/4/22	Failed to Meet MQ's
Public Utilities Regulatory Analyst I	7PB13	4/18/22	4/26/22	Failed to Meet MQ's
Public Utilities Regulatory Analyst II	7PB10	3/9/22	6/8/22	Failed to Meet MQ's
Public Utilities Regulatory Analyst II	7PB11	3/25/22	5/5/22	Failed to Meet MQ's
Public Utilities Regulatory Analyst II	7PB11	6/3/22	6/22/22	Failed to Meet MQ's
Public Utilities Regulatory Analyst II	7PB11	9/6/22	9/29/22	Failed to Meet MQ's
Public Utilities Regulatory Analyst IV	7PB11	9/8/22	11/15/22	Failed to Meet MQ's
Public Utilities Regulatory Analyst IV	7PB14	9/13/22	9/19/22	Failed to Meet MQ's
Public Utilities Regulatory Analyst V	7PB16	11/9/19	12/23/19	Failed to Meet MQ's
Public Utilities Regulatory Analyst V	7PB16	6/23/22	7/18/22	Failed to Meet MQ's
Public Utilities Regulatory Analyst V	7PB16	5/6/22	5/19/22	Failed to Meet MQ's
Research Data Analyst I	8PB37	6/6/22	9/12/22	Failed to Meet MQ's
Research Data Specialist II	8PB40	3/7/22	3/25/22	Failed to Meet MQ's
Senior Utilities Engineer, (Specialist)	5UCSP	4/15/22	6/6/22	Failed to Meet MQ's
Staff Service Manager I	2PBCY	3/28/22	4/8/22	Failed to Meet MQ's

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

Appointments

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

During the period under review, January 1, 2022, through September 30, 2022, the CPUC made 303 appointments. The CRU reviewed 46 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Administrative Law Judge II	Certification List	Permanent	Full Time	1
Assistant Chief, Administrative Law Judge	Certification List	Permanent	Full Time	2
Assistant Chief, Public Utilities Counsel	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	3
Attorney III	Certification List	Permanent	Full Time	4
Executive Assistant	Certification List	Permanent	Full Time	1
Information Technology Associate	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Program and Project Supervisor	Certification List	Permanent	Full Time	2
Program Manager	Certification List	Permanent	Full Time	2
Public Utilities Regulatory Analyst I	Certification List	Permanent	Full Time	3
Public Utilities Regulatory Analyst II	Certification List	Permanent	Full Time	3
Public Utilities Regulatory Analyst III	Certification List	Permanent	Full Time	3
Public Utilities Regulatory Analyst IV	Certification List	Permanent	Full Time	3
Public Utilities Regulatory Analyst V	Certification List	Permanent	Full Time	2
Research Data Specialist III	Certification List	Permanent	Full Time	1
Senior Telecommunications Engineer	Certification List	Permanent	Full Time	1
Senior Utilities Engineer (Specialist)	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Certification List	Permanent	Full Time	2
Staff Services Manager I	Certification List	Permanent	Full Time	1
Associate Personnel Analyst	Mandatory Reinstatement	Permanent	Full Time	1
Public Utilities Regulatory Analyst II	Permissive Reinstatement	Permanent	Full Time	1
Senior Management Auditor	Permissive Reinstatement	Permanent	Full Time	1
Staff Services Manager I	Permissive Reinstatement	Permanent	Full Time	1
Staff Services Manager I	Training and Development	Permanent	Full Time	1
Accountant Trainee	Transfer	Permanent	Full Time	1
Mailing Machines Operator II	Transfer	Permanent	Full Time	1
Staff Services Management Auditor	Transfer	Permanent	Full Time	1

SEVERITY: SERIOUS	FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED
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Summary: The CPUC did not provide probationary reports of performance for 5 of the 46 appointments reviewed. This is the third consecutive time this has been a finding for the CPUC.

Classification	Appointment Type	No. of Appointments	Total No. of Missing Probation Reports
Public Utilities Regulatory Analyst II	Certification List	1	1
Public Utilities Regulatory Analyst IV	Certification List	1	1
Public Utilities Regulatory Analyst V	Certification List	1	1
Information Technology Associate	Certification List	1	1
Senior Management Auditor	Transfer	1	1

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 CPUC states that not all required probation reports were submitted due to a lack of staffing for the Performance Unit and an ineffective tracking system and notification process.

Corrective Action: The CPUC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CPUC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19172. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: TECHNICAL	FINDING NO. 4 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
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Summary: Of the 46 appointments reviewed, the CPUC did not retain 13 NOPAs.

Criteria: As specified in section 26 of the Board’s Regulations, appointing powers are required to retain records related to affirmative action, equal employment opportunity, examinations, merit, selection, and appointments for a minimum period of five years from the date the record is created. These records are required to be readily accessible and retained in an orderly and systematic manner. (Cal. Code Regs., tit. 2, § 26.)

Severity: Technical. Without documentation, the CRU could not verify if the appointments were properly conducted.

Cause: The CPUC states that not all NOPAs were retained due to position vacancies and the transition of staff who oversaw the tracking of NOPAs.

Corrective Action: The CPUC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CPUC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26. Copies of relevant documentation demonstrating

that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

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

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

IN COMPLIANCE	FINDING NO. 5 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the CPUC'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 CPUC's Executive Director. The CPUC 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 the 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, April 1, 2022, through December 31, 2022, the CPUC 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?
Crowe LLP	Communication Carriers Services Auditing	\$620,536	Yes	Yes
Crowe LLP	Water Company Auditing	\$244,419	Yes	Yes
Electric Utility Consultants, Inc.	Cycle Power Plant and Electric Distribution System Training	\$9,570	Yes	Yes
Electric Utility Consultants, Inc.	Natural Gas Utility Operations and Regulation Training	\$10,837	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Emeritus Institute of Management, Inc.	Data Science Training	\$5,700	Yes	Yes
Financial Accounting Institute	Ratemaking Training	\$7,980	Yes	Yes
Level 4 Ventures, Inc.	Risk Analysis Consulting	\$249,663	Yes	Yes
Mark Steinwert DBA	Continuing Professional Education Training	\$3,600	Yes	Yes
National Association of Regulatory Utility Commissioners	Utility Ratemaking Training	\$49,999	Yes	Yes
National Association of Regulatory Utility Commissioners	NARUC Annual Membership Renewal	\$104,173	Yes	Yes
Shaw Law Group, PC	EEO Complaint Legal Services	\$49,000	Yes	Yes
Sjoberg Evashenk Consulting, Inc.	Audit of Electrical Corporations	\$1,365,237	Yes	Yes
The National Judicial College	Specialized Training Programs for ALJs.	\$50,000	Yes	Yes

IN COMPLIANCE	FINDING NO. 6 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC's reviewed was \$2,770,714. It was beyond the scope of the review to make conclusions as to whether the CPUC's justifications for the contract were legally sufficient. For all PSC's reviewed, the CPUC 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, the CPUC 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 CPUC 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 CEA position, the employee shall be provided leadership training and development, as prescribed by the 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 CPUC's mandated training program that was in effect during the compliance review period, January 1, 2021, through December 31, 2022.

SEVERITY: VERY SERIOUS	FINDING NO. 7 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The CPUC provided ethics training to all 127 of its existing filers. However, the CPUC did not provide ethics training to 5 of 72 new filers within 6 months of their appointment. This is the third consecutive time this has been a finding for the CPUC.

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

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

Cause: The CPUC states that an internal audit of the CPUC's Form 700 filing process discovered that some users' profiles may not have been created timely, which delayed or prevented notifications of the training requirement to employees

Corrective Action: Within 90 days of this report, the CPUC 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.

SEVERITY: VERY SERIOUS	FINDING NO. 8 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS
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Summary: The CPUC did not provide basic supervisory training to 5 of 25 new supervisors within 12 months of appointment; did not provide

manager training to 2 of 3 new managers within 12 twelve months of appointment; and did not provide CEA training to 2 of 4 new CEAs within 12 months of appointment. This is the third consecutive time this has been a finding for the CPUC.

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).)

Upon initial appointment of an employee to a managerial position, each employee must receive 40 hours of leadership training within 12 months of appointment. (Gov. Code, § 19995.4, subd. (d).)

Upon initial appointment of an employee to a Career Executive Assignment position, each employee must receive 20 hours of leadership training within 12 months of appointment. (Gov. Code, § 19995.4, subd. (e).)

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 CPUC states that not all training requirements for supervisors and managers were met due to manual processes that were in place.

Corrective Action: Within 90 days of the date of this report, the CPUC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that new supervisors are provided supervisory training within twelve months of appointment as required by Government Code section 19995.4. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

SEVERITY: VERY SERIOUS	FINDING NO. 9 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The CPUC did not provide sexual harassment prevention training to 25 of 71 new supervisors within 6 months of their appointment. In addition, the CPUC did not provide sexual harassment prevention

training to 1 of 288 existing supervisors every 2 years. This is the third consecutive time this has been a finding for the CPUC.

Furthermore, the CPUC did not provide sexual harassment prevention training to 7 of 65 existing 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 CPUC states that not all training requirements for supervisors and managers were met due to manual processes that were in place.

Corrective Action: Within 90 days of the date of this report, the CPUC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that all employees 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 the CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments

calculate and determine an employee’s salary rate¹³ 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, January 1, 2022, through September 30, 2022, the CPUC made 303 appointments. The CRU reviewed 21 of those appointments to determine if the CPUC applied salary regulations accurately and correctly processed employees’ compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Assistant Chief, Administrative Law Judge	Certification List	Permanent	Full Time	\$13,833
Assistant Chief, Public Utilities Counsel	Certification List	Permanent	Full Time	\$14,040
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,383
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,383
Attorney III	Certification List	Permanent	Full Time	\$11,069
Attorney III	Certification List	Permanent	Full Time	\$13,118
Executive Assistant	Certification List	Permanent	Full Time	\$4,536
Information Technology Associate	Certification List	Permanent	Full Time	\$5,822
Program and Project Supervisor	Certification List	Permanent	Full Time	\$11,326
Program Manager	Certification List	Permanent	Full Time	\$14,104
Public Utilities Regulatory Analyst I	Certification List	Permanent	Full Time	\$4,136
Public Utilities Regulatory Analyst I	Certification List	Permanent	Full Time	\$4,593
Public Utilities Regulatory Analyst III	Certification List	Permanent	Full Time	\$7,807
Research Data Specialist III	Certification List	Permanent	Full Time	\$8,065

¹³ “Rate” is any one of the salary rates in the resolution by the 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)
Senior Utilities Engineer (Specialist)	Certification List	Permanent	Full Time	\$11,792
Staff Services Analyst (General)	Certification List	Permanent	Full Time	\$4,476
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,543
Senior Management Auditor	Permissive Reinstatement	Permanent	Full Time	\$9,629
Accountant Trainee	Transfer	Permanent	Full Time	\$4,164
Associate Personnel Analyst	Transfer	Permanent	Full Time	\$5,935
Mailing Machines Operator II	Transfer	Permanent	Full Time	\$4,351

IN COMPLIANCE	FINDING NO. 10	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 CPUC 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 the CalHR's 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, January 1, 2022, through September 30, 2022, the CPUC employees made 12 alternate range movements within a classification. The CRU reviewed 10 of those alternate range movements to determine if the CPUC 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)
Attorney	A	B	Full Time	\$7,622
Legal Secretary	A	B	Full Time	\$4,887
Public Utilities Regulatory Analyst I	A	B	Full Time	\$4,481
Public Utilities Regulatory Analyst I	A	B	Full Time	\$4,481
Public Utilities Regulatory Analyst I	B	C	Full Time	\$5,384
Public Utilities Regulatory Analyst I	A	B	Full Time	\$4,481
Staff Services Management Auditor	B	C	Full Time	\$4,936
Utilities Engineer	C	D	Full Time	\$10,431
Utilities Engineer	B	C	Full Time	\$7,940
Utilities Engineer	A	B	Full Time	\$6,865

IN COMPLIANCE	FINDING NO. 11 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 CPUC 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 an 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.¹⁴ (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, January 1, 2022, through September 30, 2022, the CPUC authorized 41 HAM requests. The CRU reviewed 21 of those authorized HAM requests to determine if the CPUC correctly applied Government Code section 19836 and appropriately verified, approved and documented candidates' extraordinary qualifications, which are listed below:

¹⁴ 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)
Associate Signal and Train Control Inspector	Certification List	Permanent	\$6,530 – \$8,176	\$7,850
Associate Signal and Train Control Inspector	Certification List	Permanent	\$6,371 – \$7,977	\$7,850
Attorney III	Certification List	Permanent	\$9,976 – \$12,798	\$11,458
Hearing Reporter Public Utilities Commission	Certification List	Permanent	\$6,131 – \$7,672	\$7,672
Legal Analyst	Certification List	Permanent	\$4,701 – \$5,885	\$5,885
Public Utilities Regulatory Analyst I	Certification List	Permanent	\$4,136 – \$5,177	\$5,026
Public Utilities Regulatory Analyst I	Certification List	Permanent	\$5,384 – \$6,743	\$6,548
Public Utilities Regulatory Analyst I	Certification List	Permanent	\$4,136 – \$5,177	\$4,935
Public Utilities Regulatory Analyst I	Certification List	Permanent	\$5,519 – \$6,912	\$6,043
Public Utilities Regulatory Analyst I	Certification List	Permanent	\$5,384 – \$6,743	\$5,384
Public Utilities Regulatory Analyst I	Certification List	Permanent	\$4,136 – \$5,177	\$5,026
Public Utilities Regulatory Analyst I	Certification List	Permanent	\$4,593 – \$5,749	\$5,524
Public Utilities Regulatory Analyst I	Certification List	Permanent	\$4,136 – \$5,177	\$5,026
Public Utilities Regulatory Analyst I	Certification List	Permanent	\$5,384 – \$6,743	\$5,384
Public Utilities Regulatory Analyst III	Certification List	Permanent	\$7,303 – \$9,146	\$9,146
Public Utilities Regulatory Analyst III	Certification List	Permanent	\$7,125 – \$8,923	\$8,923
Public Utilities Regulatory Analyst V	Certification List	Permanent	\$8,599 – \$10,762	\$10,762
Research Data Specialist III	Certification List	Permanent	\$7,137 – \$8,932	\$8,065
Senior Utilities Engineer (Specialist)	Certification List	Permanent	\$10,311 – \$12,905	\$12,905
Senior Utilities Engineer (Supervisor)	Certification List	Permanent	\$10,311 – \$12,905	\$11,608
Utilities Engineer	Certification List	Permanent	\$8,756 – \$10,956	\$10,200

IN COMPLIANCE	FINDING NO. 12 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 authorizations the CPUC made during the compliance review period satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

A certified bilingual position is a position where the incumbent uses bilingual skills on a continuous basis and averages 10 percent or more of the total time worked. According to the Pay Differential 14, the 10 percent time standard is calculated based on the time spent conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with the specific bilingual transactions.

Typically, the department must review the position duty statement to confirm the percentage of time performing bilingual skills and verify the monthly pay differential is granted to a certified bilingual employee in a designated bilingual position. The position, not the employee, receives the bilingual designation and the department must verify that the incumbent successfully participated in an Oral Fluency Examination prior to issuing the additional pay.

During the period under review, January 1, 2022, through September 30, 2022, the CPUC issued bilingual pay to 23 employees. The CRU reviewed 14 of these bilinguals pay authorizations to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Consumer Affairs Representative	R01	Full Time	1
Consumer Services Supervisor	S01	Full Time	1
Program and Project Supervisor	S09	Full Time	2
Program Manager	M09	Full Time	1
Public Utilities Regulatory Analyst II	R01	Full Time	1
Public Utilities Regulatory Analyst III	R01	Full Time	1
Public Utilities Regulatory Analyst V	R01	Full Time	1
Senior Legal Analyst	R01	Full Time	1
Senior Utilities Engineer (Specialist)	R09	Full Time	2
Staff Services Analyst (General)	R01	Full Time	2
Utilities Engineer	R09	Full Time	1

SEVERITY: VERY SERIOUS	FINDING NO. 13 INCORRECT AUTHORIZATION OF BILINGUAL PAY
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Summary: The CRU found 10 errors in the CPUC 's 14 authorizations of bilingual pay:

Classification	Description of Findings	Criteria
Consumer Services Supervisor	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Government Code section 7296 and Pay Differential 14
Program and Project Supervisor		
Program Manager		
Public Utilities Regulatory Analyst II		
Public Utilities Regulatory Analyst V		
Senior Legal Analyst		
Senior Utilities Engineer (Specialist)		
Staff Services Analyst (General)		
Public Utilities Regulatory Analyst III	Department failed to provide supporting documentation that the employee has been tested and certified bilingual.	Government Code section 7296
Utilities Engineer	Department failed to provide certification that the employee's duties required use of bilingual skills for at least 10% of their time.	Pay Differential 14

Criteria: For any state agency, a "qualified" bilingual employee, person, or interpreter is someone who the CalHR has tested and certified, someone who was tested and certified by a state agency or other approved testing authority, and/or someone who has met the testing or certification standards for outside or contract interpreters as proficient in both the English language and the non-English language to be used. (Gov. Code, § 7296, subd. (a)(3).)

An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting or transcribing in a second language and

time spent on closely related activities performed directly in conjunction with specific bilingual transactions. (Pay Differential 14.)

Severity: Very Serious. Failure to comply with the state civil service pay plan by incorrectly applying compensation rules in accordance with CalHR policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay.

Cause: The CPUC states that they previously coordinated various responsibilities of the bilingual program between multiple divisions. When the bilingual coordinator position became vacant, the coordinator's duties were not reassigned. This created a void regarding roles and responsibilities of the bilingual program, processes and procedures for proper tracking and maintenance.

Corrective Action: Within 90 days of the date of this report, the CPUC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 7296, and/or Pay Differential 14. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Pay Differentials

A pay differential is special additional pay recognizing unusual competencies, circumstances, or working conditions applying to some or all incumbents in select classes. A pay differential may be appropriate in those instances when a subgroup of positions within the overall job class might have unusual circumstances, competencies, or working conditions that distinguish these positions from other positions in the same class. Typically, pay differentials are based on qualifying pay criteria such as: work locations or shift assignments; professional or educational certification; temporary responsibilities; special licenses, skills or training; performance-based pay; incentive-based pay; or recruitment and retention. (Classification and Pay Manual Section 230.)

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, 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, January 1, 2022, through September 30, 2022, the CPUC authorized 152 pay differentials.¹⁵ The CRU reviewed 50 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Administrative Law Judge	84	5%
Assistant Chief, Administrative Law Judge	84	5%
Assistant Chief, Administrative Law Judge	84	5%
Assistant Chief, Administrative Law Judge	84	5%
Executive Assistant	52	\$258.10
Executive Assistant	52	\$393.60
Legal Secretary	141	2 steps over base salary
Legal Secretary	141	5%
Legal Secretary	141	2 steps over base salary
Legal Support Supervisor I	141	2 steps over base salary
Materials and Stores Specialist	409	5%
Materials and Stores Specialist	409	5%
Personnel Specialist	211	5%
Personnel Specialist	211	5%
Personnel Supervisor I	211	10%
Program and Project Supervisor	433	5.5%
Program and Project Supervisor	433	5.5%
Program and Project Supervisor	433	5.5%
Program and Project Supervisor	433	5.5%
Program and Project Supervisor	433	5.5%

¹⁵ For the purposes of CRU's review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Program and Project Supervisor	433	5.5%
Program and Project Supervisor	433	5.5%
Program and Project Supervisor	433	5.5%
Program Manager	433	4%
Program Manager	433	5.5%
Program Manager	433	5.5%
Program Manager	433	5.5%
Senior Legal Typist	141	2 steps over base salary
Senior Legal Typist	141	2 steps over base salary
Senior Utilities Engineer (Specialist)	433	5.5%
Senior Utilities Engineer (Specialist)	433	4%
Senior Utilities Engineer (Specialist)	433	2%
Senior Utilities Engineer (Specialist)	433	3%
Senior Utilities Engineer (Specialist)	433	5%
Senior Utilities Engineer (Supervisor)	433	5%
Utilities Engineer	433	3%
Utilities Engineer	433	5.5%
Utilities Engineer	433	5.5%

SEVERITY: VERY SERIOUS	FINDING NO. 14 INCORRECT AUTHORIZATION OF PAY DIFFERENTIAL
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Summary: The CRU found 1 error in the 50 pay differentials reviewed. This is the second consecutive time this has been a finding for the CPUC.

/Classification	Area	Description of Finding	Criteria
Legal Secretary	Recruitment and Retention Pay	This employee did not receive two step increases with over 24 qualifying pay periods. Employee was undercompensated.	Pay Differential 141

Criteria: A pay differential may be appropriate 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. 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. (CalHR Classification and Pay Manual Section 230.)

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

Cause: The CPUC states that they experienced vacancies in the Transactions Unit that processed pay differentials and as a result some of the newly hired staff were not provided adequate training to accurately process payments.

Corrective Action: The CPUC asserts that it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CPUC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Pay Differential 141 and ensure that employees are compensated correctly and that transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Out-of-Class Assignments and Pay

For excluded¹⁶ and most rank-and-file employees, out-of-class (OOC) work is defined as performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(2).) A higher classification is one with a salary range maximum that is any amount higher than the salary range maximum of the classification to which the employee is appointed. (Cal. Code Regs., tit. 2, § 599.810, subd. (a)(3).)

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

¹⁶ “Excluded employee” means an employee as defined in Government Code section 3527, subdivision (b) (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to Government Code section 18801.1.

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

During the period under review, January 1, 2022, through September 30, 2022, the CPUC issued OOC pay to 18 employees. The CRU reviewed 14 of these OOC assignments to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Assistant Chief, Public Utilities Counsel	M02	Director, Public Advocates Office	1/1/22 – 2/6/22
Associate Governmental Program Analyst	R01	Staff Services Manager I	1/1/22 – 3/22/23
CEA B ¹⁷	M01	CEA B, Deputy Executive Director	4/3/22 – 8/31/22
Digital Print Operator II	R14	Staff Services Analyst	1/1/22 – 3/31/22
Legal Secretary	R04	Legal Support Supervisor II	6/15/22 – 8/31/22
Legal Secretary	R04	Legal Support Supervisor II	1/3/22 – 5/2/22
Program and Project Supervisor	S09	Program Manager	5/2/22 – 8/29/22
Public Utilities Regulatory Analyst IV	R01	Public Utilities Regulatory Analyst V	8/1/22 – 8/31/22
Public Utilities Regulatory Analyst V	R01	Program and Project Supervisor	1/3/22 – 1/31/22
Public Utilities Regulatory Analyst V	R01	Program and Project Supervisor	1/1/22 – 2/4/22
Public Utilities Regulatory Analyst V	R01	Program and Project Supervisor	5/16/22 – 8/31/22
Senior Utilities Engineer (Specialist)	R09	Program and Project Supervisor	1/1/22 – 1/11/22

¹⁷ Employee was asked to temporarily perform the duties of the Deputy Executive Director, which had a higher starting rate. Therefore, the employee was provided with OOC pay.

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Staff Services Manager III	M01	CEA A, Director, Human Resources Division	1/1/22 – 1/3/22
Supervising Transportation Representative	S01	Program and Project Supervisor	6/16/22 – 8/31/22

SEVERITY: VERY SERIOUS	FINDING NO. 15 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
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Summary: The CRU found 3 errors in the CPUC’s 14 authorizations of OOC pay. This is the second consecutive time this has been a finding for the CPUC.

Classification	Out-of-Class Classification	Description of Findings	Criteria
Legal Secretary	Legal Support Supervisor II	OOB was not properly calculated for May 2022, resulting in the employee being undercompensated.	Pay Differential 236
Senior Utilities Engineer (Specialist)	Program and Project Supervisor	OOB was not properly calculated for January 2022, resulting in the employee being overcompensated.	Pay Differential 236
Staff Services Manager III	CEA A, Director, Human Resources Division	OOB was not properly calculated for January 2022, resulting in the employee being undercompensated.	Pay Differential 236

Criteria: An employee may be temporarily required to perform out-of-class work by his/her department for up to one hundred twenty (120) calendar days in any twelve (12) consecutive calendar months when it determines that such an assignment is of unusual urgency, nature, volume, location, duration, or other special characteristics; and cannot feasibly be met through use of other civil service or administrative alternatives. Departments may not use out-of-class assignments to avoid giving civil service examinations or to avoid using existing eligibility lists created as the result of a civil service examination.

Employees may be compensated for performing duties of a higher classification provided that: the assignment is made in advance in

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

For excluded employees, there shall be no compensation for assignments that last for 15 consecutive working days or less. (Cal. Code Regs., tit. 2, § 599.810, subd. (c).) An excluded employee performing in a higher class for more than 15 consecutive working days shall receive the rate of pay the excluded employee would receive if appointed to the higher class for the entire duration of the assignment, not to exceed one year. (Cal. Code Regs., tit. 2, § 599.810, subd. (d).) An excluded employee may be assigned out-of-class work for more than 120 calendar days during any 12-month period only if the appointing power files a written statement with the CalHR certifying that the additional out-of-class work is required to meet a need that cannot be met through other administrative or civil service alternatives. (Cal. Code Regs., tit. 2, § 599.810, subd. (e).)

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

Cause: The CPUC experienced vacancies in the Transactions Unit that processed the out-of-class pay; as a result some of the newly hired staff were not provided adequate training to accurately process payments.

Corrective Action: The CPUC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the CPUC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differential 236. Copies of relevant documentation demonstrating

that the corrective action has been implemented must be included with the corrective action response.

Leave

Positive Paid Employees

Actual Time Worked (ATW) is a method that can be used to keep track of a Temporary Authorization Utilization (TAU) employee's time to ensure that the Constitutional limit of 9 months in any 12 consecutive months is not exceeded. The ATW method of counting time is used 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 days¹⁸ worked and paid absences¹⁹, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

It is an ATW appointment because the employee does not work each workday of the month, and it might become desirable or necessary for the employee to work beyond nine calendar months. The appointing power shall monitor and control the days worked to ensure the limitations set forth are not exceeded. (Cal. Code Regs., tit. 2, § 265.1, subd. (f).)

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June),

¹⁸ For example, two hours or ten hours count as one day.

¹⁹ For example, vacation, sick leave, compensating time off, etc.

regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

At the time of the review, the CPUC had 40 positive paid employees whose hours were tracked. The CRU reviewed 27 of those positive paid appointments to ensure compliance with applicable laws, regulations, policies and guidelines, which are listed below:

Classification	Tenure	Time Frame	Hours Worked
Administrative Law Judge	Retired Annuitant	7/1/21 – 6/30/22	418
Administrative Law Judge	Retired Annuitant	7/1/21 – 6/30/22	206.4
Associate Governmental Program Analyst	Retired Annuitant	7/1/21 – 6/30/22	475.5
Associate Personnel Analyst	Retired Annuitant	7/1/21 – 6/30/22	960
Attorney III	Retired Annuitant	7/1/21 – 6/30/22	578.4
Consumer Affairs Representative	Retired Annuitant	7/1/21 – 6/30/22	617
Information Technology Manager I	Retired Annuitant	7/1/21 – 6/30/22	387
Legal Analyst	Retired Annuitant	7/1/21 – 6/30/22	258.75
Personnel Specialist	Retired Annuitant	7/1/21 – 6/30/22	960
Personnel Specialist	Retired Annuitant	7/1/21 – 6/30/22	960
Program and Project Supervisor	Retired Annuitant	7/1/21 – 6/30/22	409.65
Program Technician III	Retired Annuitant	7/1/21 – 6/30/22	678.5
Public Utilities Regulatory Analyst V	Retired Annuitant	7/1/21 – 6/30/22	958.5
Public Utilities Regulatory Analyst V	Retired Annuitant	7/1/21 – 6/30/22	408
Public Utilities Regulatory Analyst V	Retired Annuitant	7/1/21 – 6/30/22	413
Public Utilities Regulatory Analyst V	Retired Annuitant	7/1/21 – 6/30/22	636.2
Public Utilities Regulatory Analyst V	Retired Annuitant	7/1/21 – 6/30/22	694.5
Public Utilities Regulatory Analyst V	Retired Annuitant	7/1/21 – 6/30/22	960
Public Utilities Regulatory Analyst V	Retired Annuitant	7/1/21 – 6/30/22	960
Senior Utilities Engineer (Specialist)	Retired Annuitant	7/1/21 – 6/30/22	636
Senior Utilities Engineer (Specialist)	Retired Annuitant	7/1/21 – 6/30/22	666
Senior Utilities Engineer (Specialist)	Retired Annuitant	7/1/21 – 6/30/22	960

Classification	Tenure	Time Frame	Hours Worked
Senior Utilities Engineer (Specialist)	Retired Annuitant	7/1/21 – 6/30/22	947
Staff Services Manager II (Supervisory)	Retired Annuitant	7/1/21 – 6/30/22	956
Utilities Engineer	Retired Annuitant	7/1/21 – 6/30/22	972
Youth Aid	Temporary	7/1/22 – 3/1/23	133
Youth Aid	Temporary	7/1/22 – 3/1/23	95

IN COMPLIANCE	FINDING NO. 16 POSITIVE PAID EMPLOYEES' TRACKED HOURS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the positive paid employees reviewed during the compliance review period. The CPUC 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, October 1, 2021, through September 30, 2022, the CPUC authorized 500 ATO transactions. The CRU reviewed 45 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
Accounting Administrator II	2/1/22 – 2/11/22	72 hours
Associate Governmental Program Analyst	5/6/22 – 5/13/22	48 hours
Associate Governmental Program Analyst	8/9/22 – 8/12/22	32 hours
Associate Governmental Program Analyst	3/8/22 – 3/22/22	72 hours
Associate Governmental Program Analyst	5/26/22 – 5/27/22	16 hours
Associate Management Analyst	7/28/22 – 8/1/22	24 hours

Classification	Time Frame	Amount of Time on ATO
Attorney III	5/16/22 – 5/20/22	40 hours
Attorney III	8/30/22 – 8/31/22	16 hours
Attorney IV	6/14/22 – 6/17/22	32 hours
Attorney IV	6/1/22 – 6/8/22	48 hours
Digital Print Operator II	1/3/22 – 1/10/22	32 hours
Executive Secretary I	12/8/21	2 hours
Hearing Reporter	1/17/22 – 1/30/22	80 hours
Information Technology Associate	8/3/22 – 8/10/22	40 hours
Information Technology Associate	1/3/22 – 1/13/22	72 hours
Information Technology Specialist I	9/23/22 – 9/30/22	48 hours
Information Technology Specialist I	10/1/21 – 10/7/21	40 hours
Information Technology Specialist II	6/24/22 – 6/30/22	40 hours
Information Technology Supervisor II	2/3/22 – 2/4/22	16 hours
Information Technology Supervisor II	7/14/22 – 7/19/22	32 hours
Management Services Technician	10/18/21	8 hours
Program and Project Supervisor	7/18/22	8 hours
Public Utilities Regulatory Analyst I	6/3/22 – 6/13/22	56 hours
Public Utilities Regulatory Analyst I	7/7/22 – 7/15/22	56 hours
Public Utilities Regulatory Analyst I	7/6/22 – 7/15/22	64 hours
Public Utilities Regulatory Analyst II	7/25/22 – 7/29/22	40 hours
Public Utilities Regulatory Analyst III	12/3/21	2 hours
Public Utilities Regulatory Analyst III	1/4/22 – 1/14/22	72 hours
Public Utilities Regulatory Analyst III	12/16/21	2 hours
Public Utilities Regulatory Analyst III	7/18/22 – 7/22/22	40 hours
Public Utilities Regulatory Analyst IV	8/8/22 – 8/10/22	24 hours
Public Utilities Regulatory Analyst IV	9/27/22	8 hours
Public Utilities Regulatory Analyst IV	6/6/22 – 6/10/22	40 hours
Public Utilities Regulatory Analyst V	5/2/22 – 5/6/22	34 hours
Public Utilities Regulatory Analyst V	7/1/22 – 7/7/22	26 hours
Senior Transportation Operations Supervisor	12/2/21 – 12/8/21	40 hours
Senior Utilities Engineer (Specialist)	4/18/22 – 4/28/22	72 hours
Senior Utilities Engineer (Specialist)	2/14/22 – 2/18/22	40 hours
Senior Utilities Engineer (Specialist)	5/26/22 – 5/27/22	16 hours
Senior Utilities Engineer (Specialist)	9/26/22 – 9/30/22	40 hours
Staff Services Manager I	6/10/22 – 6/23/22	64 hours
Staff Services Manager I	7/7/22 – 7/15/22	56 hours
Staff Services Analyst	12/8/21	2 hours
Supervising Transportation Representative	8/3/22 – 8/12/22	64 hours
Utilities Engineer	3/21/22 – 3/22/22	16 hours

IN COMPLIANCE	FINDING NO. 17 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 CPUC 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, July 1, 2022, through September 30, 2022, the CPUC reported 150 units comprised of 1,396 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
July 2022	103	14	14	0
July 2022	139	10	10	0
July 2022	305	13	13	0
July 2022	435	10	10	0
July 2022	855	12	12	0
August 2022	117	5	5	0
August 2022	129	8	8	0
August 2022	735	14	14	0

Timesheet Leave Period	Unit Reviewed	No. of Employees	No. of Timesheets Reviewed	No. of Missing Timesheets
August 2022	601	15	15	0
August 2022	417	21	21	0
August 2022	328	10	10	0
September 2022	103	14	14	0
September 2022	855	12	12	0
September 2022	741	16	16	0
September 2022	130	7	7	0
September 2022	428	3	3	0
September 2022	624	5	5	0
September 2022	321	11	11	0

IN COMPLIANCE	FINDING NO. 18 LEAVE AUDITING AND TIMEKEEPING COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The CPUC 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 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.²⁰ (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.

²⁰ 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 employees²¹ 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, January 1, 2022, through September 30, 2022, the CPUC had three employees with qualifying and non-qualifying pay period transactions. The CRU reviewed four transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	No. Reviewed
Qualifying Pay Period	Full Time	3
Non-Qualifying pay period	Full Time	1

IN COMPLIANCE	FINDING NO. 19 SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU determined that the CPUC 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.

²¹ 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.

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. 20	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 CPUC's commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the CPUC'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 CPUC did not employ volunteers during the compliance review period.

SEVERITY: VERY SERIOUS	FINDING NO. 21 INJURED EMPLOYEES DID NOT RECEIVE CLAIM FORMS 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, three of them were 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 with 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 CPUC states that not all employees were provided the proper Worker's Compensation forms within the required one working day of notice or knowledge of injury due to staff vacancies in the unit that oversaw the worker's compensation program.

Corrective Action: Within 90 days of the date of this report, the CPUC 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 73 permanent CPUC 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. 22 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The CPUC did not provide annual performance appraisals to 32 of 73 employees reviewed after the completion of the employee’s probationary period. This is the second consecutive time this has been a finding for the CPUC.

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 CPUC states that not all the required Performance Appraisal reports were submitted due to a lack of staffing in the Performance Management Unit and an ineffective tracking system and notification process.

Corrective Action: Within 90 days of the date of this report, the CPUC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

DEPARTMENTAL RESPONSE

The CPUC's Departmental Response is attached as Attachment 1.

SPB REPLY

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

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA. 94102-3298



March 5, 2024

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

Subject: California Public Utilities Commission's response to draft State Personnel Board Compliance Review Report

Dear Suzanne M. Ambrose:

The California Public Utilities Commission (CPUC) hereby provides its response to the draft report findings of the State Personnel Board's report entitled, *Compliance Review Report*.

The CPUC agrees with the findings and is committed to continuous improvement of its operations. Therefore, the CPUC has prepared a cause statement and will establish corrective action plans and timelines towards implementing the recommendations.

Finding No. 3 – Probationary Evaluations Were Not Provided for All Appointments Reviewed

Cause: CPUC acknowledges that not all required probation reports were submitted. This was due to a lack of staffing for the Performance Unit and an effective tracking system and notification process.

Action: CPUC has filled all vacant positions in the Performance Unit and developed a notification process and improved the tracking to inform supervisors and managers of probation deadlines. CPUC is currently under contract with a vendor to develop and implement an automated Talent Resource Management System, that includes a Probation Report tracking feature. This system will allow for a more automated tracking and notification to supervisors and managers and reporting system for Human Resources (HR). Executive management and HR will continue to emphasize the importance of probation reports with supervisors and managers.

Finding No. 4 – Appointment Documentation Was Not Kept for the Appropriate Amount of Time

Cause: CPUC experienced vacancies and transition of staff in the role within the Transactions Unit that oversaw the responsibility of tracking and maintaining the Notice of Personnel Action (NOPA) forms.

Action: The vacant positions have recently been filled and the new staff are receiving training on the NOPA process. CPUC will develop a process to ensure NOPAs are retained in accordance with record retention rules and understands the importance of proper record keeping and alignment to the validation and confirmation that appointments are properly conducted.

Finding No. 7 – Ethics Training Was Not Provided for All Filers

Cause: CPUC's ethics training is part of an automated system that is used in conjunction with Form 700 filing requirements which automatically sends notifications of the training requirement to the employee's email. However, the notifications can only be sent if the profiles of new users are created in a timely manner. It was discovered after an internal audit of our Form 700 filing process that some users' profiles may not have been created timely.

Action: CPUC is dedicated to ensuring compliance with all training requirements. The Learning & Development team will work with the CPUC Form 700 Filing Officer, who manages the employee profiles within the electronic system, to review where improvements can be made to ensure notification of new profiles is entered timely. In addition, the HR division is currently updating its new employee onboarding checklist that will provide details on the required training and completion due dates.

Finding No. 8 – Supervisory Training Was Not Provided for All Supervisors, Managers, And CEAs

Cause: CPUC acknowledges that not all training requirements for supervisors and managers were met due to manual processes that were in place.

Action: CPUC began utilizing an electronic Learning Management System that automates tracking of training taken by CPUC employees and in 2023 developed an escalation notification process to ensure compliance of these trainings. CPUC will continue to monitor the escalation notification process to ensure supervisors/managers compliance.

Finding No. 9 – Sexual Harassment Prevention Training Was Not Provided for All Employees

Cause: CPUC acknowledges that not all training requirements for supervisors and managers were met due to manual processes that were in place.

Action: CPUC began utilizing an electronic Learning Management System that automates tracking of training taken by CPUC employees and in 2023 developed an escalation notification process to ensure compliance of these trainings. CPUC will continue to monitor the escalation notification process to ensure supervisors/managers compliance.

Finding No. 13 – Incorrect Authorization of Bilingual Pay

Cause: CPUC previously coordinated various responsibilities of the bilingual program between multiple divisions and when the bilingual coordinator position became vacant, the role was not filled, and the coordinator's duties were not reassigned. This created a void regarding roles and responsibilities of the bilingual program, processes and procedures for proper tracking and maintenance.

Action: CPUC's HR will coordinate with necessary parties to ensure the bilingual program, process and procedures are established, to include designating a bilingual coordinator. The CPUC is committed to ensuring appropriate designated bilingual positions, testing and certification, and meeting the pay differential criterion for accurate pay to its bilingual certified employees.

Finding No. 14 – Incorrect Authorization of Pay Differential

Cause: CPUC experienced vacancies in the Transactions Unit that processed pay differentials and as a result some of the newly hired staff were not provided adequate training to accurately process payments.

Action: CPUC's Transactions Unit is fully staffed, and HR has focused on ensuring Personnel Specialists receive all necessary training to ensure proper processing of pay differentials. CPUC will review its procedures to ensure a process for validation of pay differentials and that those completed by new staff are reviewed and verified by more experienced staff and/or supervisor. CPUC is committed to ensuring proper pay is provided to all employees.

Finding No. 15 - Incorrect Authorization of Out-Of-Class Pay

Cause: CPUC experienced vacancies in the Transactions Unit that processed the Out-Of-Class (OOC) Pay and as a result some of the newly hired staff were not provided adequate training to accurately process payments.

Action: CPUC's Transactions Unit is fully staffed, and HR has focused on ensuring Personnel Specialists receive all necessary training to ensure proper processing of OOC pay. CPUC will continue to focus on providing proper training to staff to ensure the accuracy of its OOC pay calculations. CPUC will also review its procedures to ensure that its payment calculations completed by new staff are reviewed and verified by more experienced staff and/or supervisor. CPUC is committed to ensuring proper pay is provided to all employees.

Finding No. 21 – Injured Employees Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury

Suzanne M. Ambrose
March 5, 2024

Cause: CPUC acknowledges that not all employees were provided the proper Worker's Compensation forms within the required one working day of notice or knowledge of injury due to staff vacancies in the unit that oversaw the worker's compensation program.

Action: The Worker's Compensation responsibilities were moved to a new unit that better aligns with the requirements of this program. CPUC will ensure that proper tracking and processing are in place and provide required documentation to employees during a work-related injury. HR will also ensure communication and education is provided to employees, supervisors, and managers so that they understand the proper process and appropriate contact person for reporting work-related injuries. CPUC understands the sensitivity of these timelines and will work to meet the requirement.

Finding No. 22 – Performance Appraisals Were Not Provided to All Employees

Cause: CPUC acknowledges that not all required Performance Appraisal reports were submitted due to a lack of staffing in the Performance Management Unit and an effective tracking system and notification process.

Action: CPUC has filled all vacant positions in this unit and developed a notification process and improved its tracking system to inform supervisors and managers of Performance Appraisal deadlines. CPUC is currently under contract with a vendor to develop and implement an automated Talent Resource Management System, that includes a Performance Appraisal report tracking feature. This system will allow for a more automated tracking and notification to supervisors and managers and reporting system for HR. Executive management and HR will continue to emphasize the importance of Performance Appraisal reports with all department supervisors and managers.

Conclusion:

The CPUC appreciates the work performed by the State Personnel Board and the opportunity to provide this initial response to the draft report. If you have further questions, please contact me at 415-757-7844.

Sincerely,



Rachel Peterson
Executive Director