



2023 REPORT TO THE LEGISLATURE

COMPLIANCE REVIEW AND SPECIAL INVESTIGATION ACTIVITIES

Prepared by

State Personnel Board

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BACKGROUND

On July 1, 2012, the Governor's Reorganization Plan #1 (GRP1) of 2011 consolidated all the functions of the Department of Personnel Administration and the merit-related transactional functions of the State Personnel Board (SPB) into the Department of Human Resources (CalHR). Many of SPB's programs transferred to the CalHR along with the associated staff and funding. In addition, the SPB's administrative functions (accounting, business services, human resources, etc.), were transferred to the CalHR. The CalHR staff is now charged with providing these services to the SPB.

The GRP1 recognized and preserved the SPB's exclusive constitutional authority to administer the merit system. As a result, in addition to retaining the Appeals Division, the GRP1 created a Compliance Review Division (CRD) at the SPB to conduct reviews of departmental merit-related practices to ensure compliance with laws, rules, and Board policy. The CRD performs standard reviews on a three-year cycle of five major areas: examinations, appointments, equal employment opportunity (EEO), personal services contracts (PSC), and mandated trainings. The CRD also conducts special investigations of certain departments' personnel practices as determined by the Board. Special investigations may be initiated in response to a specific request or when the SPB obtains information suggesting a potential merit-related violation.

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

As such, SPB also conducts compliance reviews on behalf of CalHR 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.

Government Code section 18662, subdivision (e), provides in part, "the board shall report to the Chairperson of the Joint Legislative Budget Committee the audit and special investigation activities of the Board pursuant to this article from the preceding fiscal year. The Board shall include in the report the following information:

- (1) A summary of each audit and special investigation, including findings.

(2) The number and total cost of audits and special investigations, by department.”

This report describes the compliance review and special investigation activities of the CRD from July 1, 2022, to June 30, 2023. The report summarizes the compliance review and special investigation findings by state department and includes the numbers and total cost of compliance reviews and special investigations by state department in compliance with the statute cited above.

The CRD continues to post review findings and consult with departments during reviews to educate departments regarding appropriate personnel practices.

Since it started reviewing departments in 2012, the CRD has been able to identify common and repetitious violations. The CRD makes recommendations to CalHR to provide more guidance to departments on common and repetitious violations. The CRD also recommends that departments with repeated violations face further corrective action, including but not limited to mandated training, additional monitoring, voided examinations or appointments, and revocation or modification of delegated agreements.

FACTORS TO CONSIDER WHEN READING THIS REPORT

- Severity denotes the importance of the area reviewed, not the degree of non-compliance for the reviewed area.
- A department can be found to be out of compliance in a review area if there is just one deficiency.
- Since the CRD has been conducting reviews, there have been improvements overall in certain areas i.e., fewer salary mistakes, fewer applications with EEO data attached, and more employees in compliance with required training.¹
- CRD staff continually provide technical assistance to departments to facilitate compliance in a specific area.

¹ Departments that have invested in a Learning Management System (LMS) have been more successful in meeting training and performance evaluation requirements.

INDEX OF REVIEWED AREAS²

Department		Examinations	Appointments	Compensation & Pay	EEO	Leave	Mandated Training	PSCs	Policy
1	Air Resources Board	X	X	X	X	X	X	X	X
2	California Arts Council	N/A	X	X	X	X	X	X	X
3	California Business, Consumer Services & Housing Agency	N/A	X	X	X	X	X	X	X
4	California Environmental Protection Agency	N/A	X	X	X	X	X	X	X
5	California Exposition	X	X	X	X	X	X	X	X
6	California Health and Human Services Agency	X	X	X	X	X	X	X	X
7	California Health Benefits Exchange	X	X	X	X	X	X	X	X
8	California Highway Patrol	X	X	X	X	X	X	X	X
9	California Horse Racing Board	X	X	X	X	X	X	X	X
10	California Public Employees' Retirement System	X	X	X	X	X	X	X	X
11	California State Coastal Conservancy	X	X	X	X	X	X	X	X
12	California Student Aid Commission	X	X	X	X	X	X	X	X
13	Delta Stewardship Council	X	X	X	X	X	X	X	X
14	Department of Alcohol Beverage Control	X	X	X	X	X	X	X	X
15	Department of Developmental Services	X	X	X	X	X	X	X	X
16	Department of Education	X	X	X	X	X	X	X	X
17	Department of Health Care Services	X	X	X	X	X	X	X	X
18	Department of Industrial Relations	X	X	X	X	X	X	X	X
19	Department of Motor Vehicles	X	X	X	X	X	X	X	X
20	Department of Parks and Recreation	X	X	X	X	X	X	X	X
21	Department of Rehabilitation	X	X	X	X	X	X	X	X
22	Emergency Medical Services Authority	N/A	X	X	X	X	X	N/A	X
23	Office of the State Public Defender	X	X	X	X	X	X	X	X

² Not all areas are reviewed for all departments due to a variety of factors, including exemptions under existing law, or no activities under the specific area were conducted by the appointing authority. Findings by area are listed in Appendix A.

Department		Examinations	Appointments	Compensation & Pay	EEO	Leave	Mandated Training	PSCs	Policy
24	Public Employment Relations Board	N/A	X	X	X	X	X	X	X
25	Sacramento-San Joaquin Delta Conservancy	X	X	X	X	X	X	X	X
26	Secretary of State	X	X	X	X	X	X	X	X
27	Sierra Nevada Conservancy	N/A	X	X	X	X	X	X	X
28	State Council on Developmental Disabilities	X	X	X	X	X	X	X	X
29	State Lands Commission	N/A	X	X	X	X	X	X	X

Key:

EEO = Equal Employment Opportunity

PSC = Personal Services Contracts

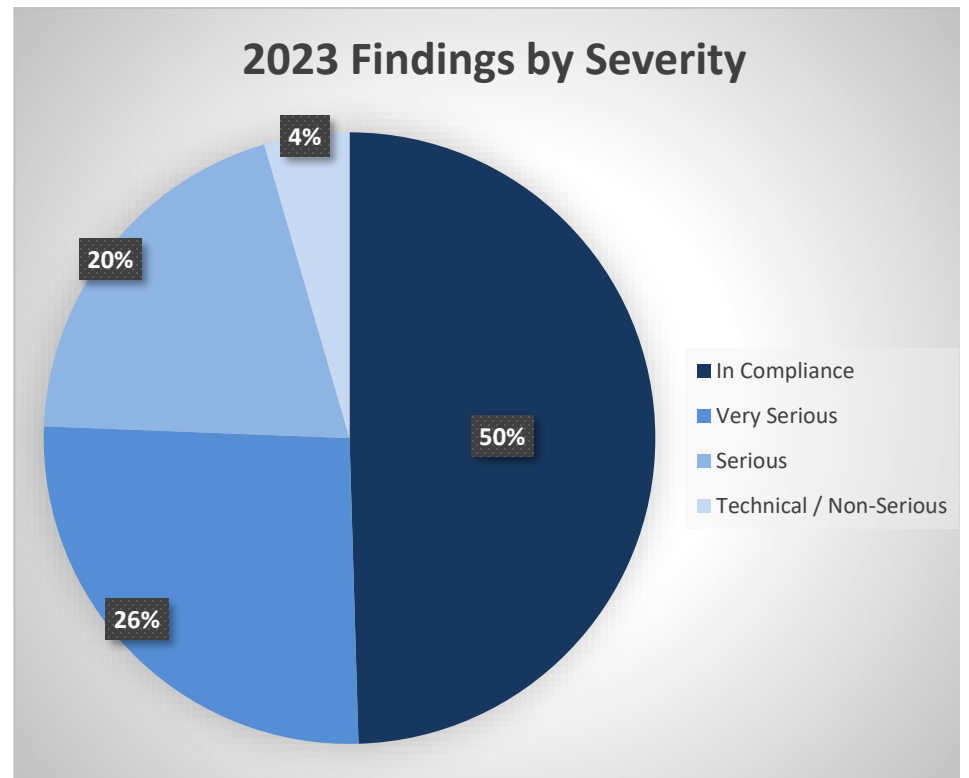
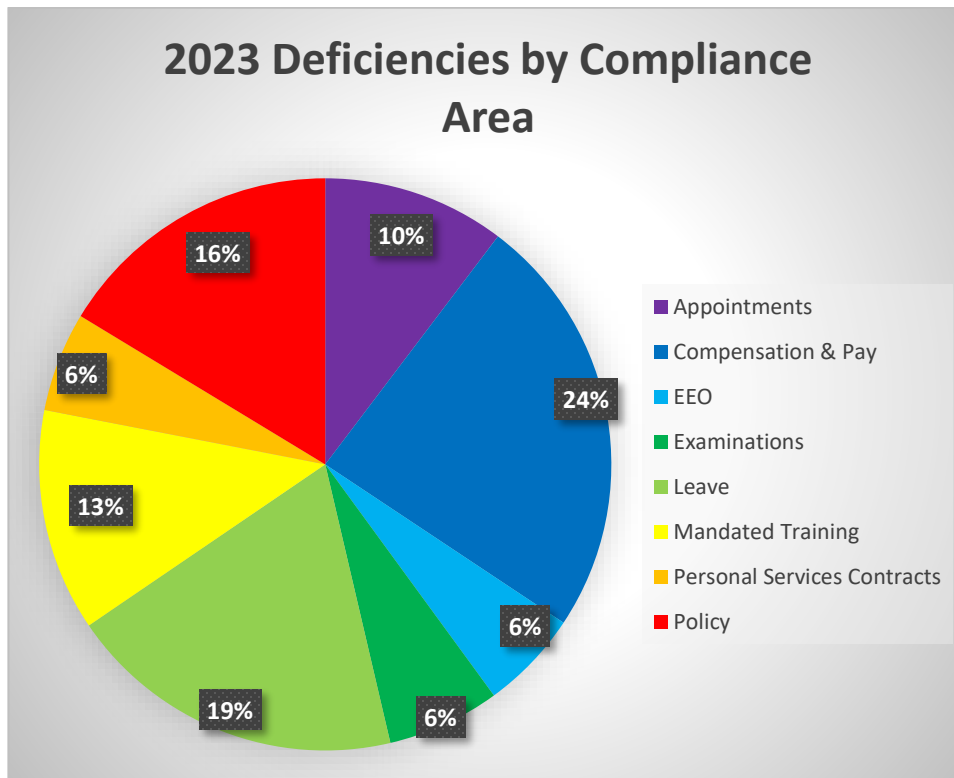
Policy = Policy and Processes

X Signifies that a review of the area was conducted.

N/A Signifies that a review of the area was not conducted

SUMMARY OF COMPLIANCE REVIEW FINDINGS

From July 1, 2022, to June 30, 2023, the CRD completed compliance reviews of 29 state departments. Deficiencies were found in all areas of review. The areas of mandated training, leave, compensation and pay, and policy have the largest number of violations.



2023 Findings by Compliance Rate

	# Departments Out of Compliance	% Departments Out of Compliance
Very Serious Issues		
Ethics Training Was Not Provided for All Filers	23	79%
Sexual Harassment Prevention Training Was Not Provided for All Employees	18	62%
Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs	16	55%
Incorrect Authorization of Out-of-Class Pay	11	38%
Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines	10	34%
Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment	10	34%
Incorrect Authorization of Bilingual Pay	8	28%
Sexual Harassment Prevention Training Was Not Provided for All Supervisors	8	28%
A Disability Advisory Committee Has Not Been Established	7	24%
Incorrect Authorization of Pay Differentials	7	24%
Incorrect Application of State Service and Leave Transaction(s)	5	17%
Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period	3	10%
Equal Employment Opportunity Officer's Duty Statement Does Not Reflect EEO Duties	2	7%
Equal Employment Opportunity Questionnaires Were Not Separated from Applications	2	7%
Incorrect Authorization of Hire Above the Minimum Requests	2	7%
Injured Employee(s) Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury	2	7%
Department Does Not Maintain a Current Written Nepotism Policy	1	3%
Department's Nepotism Policy Does Not Contain All Required Components	1	3%
Equal Employment Opportunity Officer Does Not Report Directly to the Head of the Agency	1	3%
Unlawful Appointment	1	3%
Unlawful Appointment By Way of Transfer	1	3%
Serious Issues		
Performance Appraisals Were Not Provided to All Employees	22	76%
Unions Were Not Notified of Personal Services Contracts	18	62%
Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely	17	57%

	# Departments Out of Compliance	% Departments Out of Compliance
Very Serious Issues		
Administrative Time Off Was Not Properly Documented	11	38%
Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely	8	28%
Positive Paid Temporary Employees' Work Exceeded Time Limitations	6	21%
Department Did Not Certify That All Leave Records Were Reviewed	5	17%
Department Did Not Retain Employee Time and Attendance Records	5	17%
Incorrectly Posted Leave Usage and/or Leave Credit	5	17%
Department Did Not Properly Monitor Time Worked for All Permanent Intermittent Positive Paid Employees	3	10%
Written Justification Was Not Provided for all Personal Services Contracts	3	10%
Positions Were Not Appropriately Allocated	1	3%
Emergency Appointment Exceeded Time Limitation	1	3%
4 - Technical / Non-Serious		
Appointment Documentation Was Not Kept for the Appropriate Amount of Time	12	41%
Department Did Not Provide a Complete Explanation of Benefits Prior to Acceptance of Appointment	12	41%
Promotion In Place was Not Properly Documented	1	3%

The violations described above are summarized in more detail in Appendix A.

Severity, Frequency and Repetition of Violations

Violations are categorized into one of three levels:

- Very Serious
- Serious
- Technical/Non-Serious

In addition, the frequency occurrence is classified as follows:

- 1-9% of departments reviewed = Low
- 10-19% of departments reviewed = Medium
- 20%+ of departments reviewed = High

Below is discussion of the frequency and repetition of all the findings, as well as the causes and expected corrective actions. A more detailed explanation of the criteria and severity of each finding is outlined further in Appendix A.

VERY SERIOUS ISSUES

ISSUE 1: ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS

Frequency: High. 23 out of 29 departments or 79%.

Repeat Finding: 15 out of 29 departments, or 52%.

Causes³: Inefficient tracking and monitoring; failure on the part of employees and/or managers to ensure compliance; inability to locate training certificates; new filers not being notified to complete ethics training timely; no Learning Management System (LMS).

Corrective Action: Departments were required to submit corrective action plans that demonstrated appropriate steps were taken to ensure that filers will be provided ethics training within the time periods prescribed in Government Code section 11146.3.

³ Causes are a brief summary reported by departments in their departmental responses.

ISSUE 2: SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Frequency: High. 18 out of 29 departments or 62%.

Repeat Finding: 13 out of 29 departments, or 45%.

Causes: Inefficient tracking and monitoring; failure on the part of employees and/or managers to ensure compliance; inability to locate training certificates; no LMS, workload and/or scheduling constraints; human error.

Corrective Action: Departments were required to submit corrective action plans which demonstrated the actions taken to ensure supervisors will be provided sexual harassment prevention training in accordance with Government Code section 12950.1.

ISSUE 3: SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS AND CEAS
--

Frequency: High. 16 out of 29 departments or 55%.

Repeat Finding: 11 out of 29 departments, or 38%.

Causes: No system in place for tracking and monitoring training; failure on the part of employees and/or managers to ensure compliance; inability to locate training certificates; no LMS, workload and/or scheduling constraints; human error.

Corrective Action: Departments were required to submit corrective action plans which demonstrated the actions taken to ensure that new supervisors, managers, and CEAs are provided leadership and development training within twelve months of appointment, and that thereafter, they receive a minimum of 20 hours of leadership training biennially, as required by Government Code section 19995.4.

ISSUE 4: INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY

Frequency: High. 11 out of 29 departments or 38%.

Repeat Finding: 3 out of 29 departments, or 10%.

Causes: Human error; lack of training; misunderstanding of pay rules; absence of checks and balances; inadequate staffing.

Corrective Action: Departments were required to submit corrective action plans to ensure compliance with California Code of Regulations, title 2, section 599.810 and outline corrections they implemented to ensure conformity with the out-of-class pay requirements of applicable pay differentials.

ISSUE 5: ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
--

Frequency: High. 10 out of 29 departments or 34%.

Repeat Finding: 3 out of 29 departments, or 10%.

Causes: Misinterpretation and misunderstanding of alternate range criteria; insufficient checks and balances.

Corrective Action: Departments were required to submit corrective action plans which demonstrated the corrections the department implemented to ensure that employees will be compensated correctly. They were also required to establish an audit system to correct current compensation transactions as well as future transactions.

ISSUE 6: INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES

Frequency: High. 10 out of 29 departments or 34%.

Repeat Finding: 3 out of 29 departments, or 10%.

Causes: Human error; lack of checks and balances; misunderstanding of salary determination rules; staffing issues; lack of training.

Corrective Action: Departments were required to submit corrective action plans which demonstrated the corrections they implemented to ensure that employees will be compensated correctly. They were also required to establish an audit system to correct current compensation transactions as well as future transactions.

ISSUE 7: INCORRECT AUTHORIZATION OF BILINGUAL PAY
--

Frequency: High. 8 out of 29 departments or 28%.

Repeat Finding: 4 out of 29 departments, or 14%.

Causes: Poor record keeping; lack of understanding of bilingual pay rules; inefficiencies within the organization; human error; inconsistent application of bilingual pay requirements.

Corrective Action: Departments were required to submit corrective action plans which demonstrated the corrections the department implemented to ensure conformity with Government Code section 7296 and Pay Differential 14.

ISSUE 8: SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS
--

Frequency: High. 8 out of 29 departments or 28%.

Repeat Finding: 5 out of 29 departments, or 17%.

Causes: Poor record keeping; incomplete training within the required time periods; no LMS, inaccurate reporting; workload and/or scheduling constraints; human error.

Corrective Action: Departments were required to submit corrective action plans which demonstrated the actions taken to ensure supervisors will be provided sexual harassment prevention training in accordance with Government Code section 12950.1.

ISSUE 9: A DISABILITY ADVISORY COMMITTEE HAS NOT BEEN ESTABLISHED
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Frequency: High. 7 out of 29 departments or 24%.

Repeat Finding: 2 out of 29 departments, or 7%.

Causes: Attrition through retirements and other staff departures; lack of interest from staff; telework, other work priorities; agency was not aware that departments could collaborate with other departments to form a multi-agency DAC.

Corrective Action: Departments were required to submit corrective action plans to demonstrate that appropriate steps were taken to ensure the establishment of a DAC consisting of members who have or have an interest in disability issues, set forth in Government Code section 19795.

ISSUE 17: DEPARTMENT DOES NOT MAINTAIN A CURRENT WRITTEN NEPOTISM POLICY

Frequency: Low. 1 out of 29 departments, or 3%.

Repeat Finding: 1 out of 29 departments, or 3%.

Causes: Draft nepotism policy was not approved or disseminated; outdated policy which does not contain the required elements of regulation and/or policy; lack of awareness by department of requirement to maintain its own written policy.

Corrective Action: Departments were required to submit corrective action plans, including providing an updated nepotism policy inclusive of the requirements outlined in Human Resources Manual Section 1204 and documentation demonstrating that it had been distributed to all staff.

ISSUE 18: DEPARTMENT'S NEPOTISM POLICY DOES NOT CONTAIN ALL REQUIRED COMPONENTS

Frequency: Low. 1 out of 29 departments, or 3%.

Repeat Finding: N/A

Causes: Outdated policy which does not contain the required elements of regulation and/or policy.

Corrective Action: Departments were required to submit corrective action plans, including providing an updated nepotism policy inclusive of the requirements outlined in Human Resources Manual Section 1204 and documentation demonstrating that it had been distributed to all staff.

ISSUE 19: EQUAL EMPLOYMENT OPPORTUNITY OFFICER DOES NOT REPORT DIRECTLY TO THE HEAD OF THE AGENCY

Frequency: Low. 1 out of 29 departments, or 3%.

Repeat Finding: N/A

Causes: Lack of oversight to ensure all EEO requirements are met.

Corrective Action: Departments were required to submit corrective action responses which included verification of a formal structure that ensured that the EEO Officer directly reports to the head of the agency on EEO matters to ensure conformity with Government Code section 19795.

ISSUE 20: UNLAWFUL APPOINTMENT

Frequency: Low. 1 out of 29 departments, or 3%.

Repeat Finding: N/A

Causes: Error in interpreting minimum qualifications.

Corrective Action: Departments were required to submit written corrective action plans which demonstrated the corrections they implemented to improve their hiring practices.

ISSUE 21: UNLAWFUL APPOINTMENT BY WAY OF TRANSFER
--

Frequency: Low. 1 out of 29 departments, or 3%.

Repeat Finding: N/A

Causes: Misapplication of the State's transfer rules and procedures

Corrective Action: The department was required to submit a written corrective action response which demonstrated the corrections they implemented to improve its hiring practices.

SERIOUS ISSUES

ISSUE 22: PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
--

Frequency: High. 22 out of 29 departments or 76%.

Repeat Finding: 18 out of 29 departments, or 62%.

Causes: Tracking issues; workload and staff shortages; no current process or policy in place; failure to follow through on completion by management.

Corrective Action: Departments were required to submit corrective action plans to ensure compliance with Government Code section 19992.2 and California Code of Regulations, title 2, section 599.798.

ISSUE 23: UNIONS WERE NOT NOTIFIED OF PERSONAL SERVICES CONTRACTS
--

Frequency: High. 18 out of 29 departments or 62%.

Repeat Finding: 9 out of 29 departments, or 31%.

Causes: Staff turnover; lack of following processes consistently; lack of standardized process; staff unaware of the notification requirements; notification documents were not retained; inadequate contract checklist; lack of training; human error; different interpretation of Government Code.

Corrective Action: Departments were required to submit corrective action plans which demonstrated the corrections the department implemented to ensure conformity with the requirements of Government Code section 19132.

ISSUE 24:	<ul style="list-style-type: none">• PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED• PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY
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Frequency: High. 17 out of 29 departments or 59%.

Repeat Finding: 11 out of 29 departments, or 38%.

Causes: No formal system in place to provide management with reminders; lack of compliance from managers; staff turnover; lack of tracking process; errors in sending reminders; miscommunication with the Human Resources Department.

Corrective Action: Departments were required to submit corrective action plans which demonstrated the corrections they implemented to achieve

conformity with the probationary requirements of Government Code section 19172 and California Code of Regulations, title 2, section 599.795.

ISSUE 25: ADMINISTRATIVE TIME OFF (ATO) WAS NOT PROPERLY DOCUMENTED

Frequency: High. 11 out of 29 departments or 38%.

Repeat Finding: N/A

Causes: Changing Covid-19 ATO rules; lack of monitoring and/or staff oversight; delays in submission of timesheets; human error.

Corrective Action: Departments were required to submit corrective action plans to demonstrate the correction they implemented to achieve compliance with Government Code section 19991.10 and Human Resources Manual Section 2121.

ISSUE 26: DEPARTMENT HAS NOT IMPLEMENTED A MONTHLY INTERNAL AUDIT PROCESS TO VERIFY ALL LEAVE INPUT IS KEYED ACCURATELY AND TIMELY

Frequency: High. 8 out of 29 departments or 28%.

Repeat Finding: 5 out of 29 departments, or 17%.

Causes: Untrained and/or inexperienced staff; keying errors; late entries; employees and supervisors did not get timesheets in timely; auditing difficult due to staff shortages; lack of oversight.

Corrective Action: Departments were required to submit corrective action responses that demonstrated the corrections they implemented to ensure their monthly internal audit process will be documented and all leave input will be keyed accurately and timely.

ISSUE 27: POSITIVE PAID EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS

Frequency: High. 6 out of 29 departments or 21%.

Repeat Finding: 2 out of 29 departments, or 7%.

Causes: No effective tracking/noticing mechanism; human error.

Corrective Action: Departments were required to submit written corrective action plans that demonstrated the corrections they implemented to ensure conformity with Government Code section 21224, and California Code of Regulations, title 2, section 599.665, and/or applicable Bargaining Unit agreement(s).

ISSUE 28: DEPARTMENT DID NOT RETAIN EMPLOYEE TIME AND ATTENDANCE RECORDS

Frequency: Medium. 5 out of 29 departments or 17%.

Repeat Finding: 1 out of 29 departments, or 3%.

Causes: Telework; no effective tracking/noticing mechanism; human error.

Corrective Action: Departments were required to submit written corrective action plans that demonstrated the corrections they implemented to ensure conformity with Government Code section 21224, and California Code of Regulations, title 2, section 599.665, and/or applicable Bargaining Unit agreement(s).

ISSUE 29: DEPARTMENT DID NOT CERTIFY THAT ALL LEAVE RECORDS WERE REVIEWED

Frequency: Medium. 5 out of 29 departments or 17%.

Repeat Finding: 1 out of 29 departments, or 3%.

Cause: Records were only certified if there were problems; misunderstanding of CalHR's requirements.

Corrective Action: Department was required to submit a written corrective action plan that addressed the corrections the department implemented to ensure that its monthly internal audit process will be documented and that all leave input will be keyed accurately and timely.

ISSUE 30: INCORRECTLY POSTED LEAVE USAGE AND/OR LEAVE CREDIT

Frequency: Medium. 5 out of 29 departments or 17%.

Repeat Finding: 2 out of 29 departments, or 7%.

Causes: Human error; procedures not properly followed; staffing shortages; delays with staff and managers completing time sheets.

Corrective Action: Departments were required to submit corrective action plans which demonstrated the corrections they implemented to ensure conformity with Human Resources Manual Section 2101.

ISSUE 31: WRITTEN JUSTIFICATION WAS NOT PROVIDED FOR ALL PERSONAL SERVICES CONTRACTS

Frequency: Medium. 5 out of 29 departments or 17%.

Repeat Finding: 2 out of 29 departments, or 7%.

Causes: Staff turnover; not following outlined procedures; human error.

Corrective Action: Departments were required to submit written corrective action plans that demonstrated the corrections they implemented to ensure conformity with the requirements of Government Code section 19130, subdivision (b), and California Code of Regulations, title 2, section 547.60, subdivision (a).

TECHNICAL ISSUES

ISSUE 33: APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
--

Frequency: High. 12 out of 29 departments or 41%.

Repeat Finding: 4 out of 29 departments, or 14%.

Causes: Human error; telework; lack of auditing resources; staff not following retention procedures; manual process susceptible to error.

Corrective Action: Departments were required to submit written corrective action plans that addressed the corrections the departments implemented to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26.

ISSUE 34: DEPARTMENT DID NOT PROVIDE A COMPLETE EXPLANATION OF BENEFITS PRIOR TO ACCEPTANCE OF APPOINTMENT

Frequency: High. 12 out of 29 departments or 41%.

Repeat Finding: N/A

Cause: Insufficient documentation process; staff unaware of requirement.

Corrective Action: Departments were required to submit written corrective action plans that addressed the corrections the departments implemented to ensure conformity with Human Resources Manual Section 1105 in processing withhold actions.

ISSUE 35: PROMOTION IN PLACE WAS NOT PROPERLY DOCUMENTED

Frequency: Low. 1 out of 29 departments or 3%.

Repeat Finding: N/A

Cause: Insufficient documentation process.

Corrective Action: Departments were required to submit written corrective action plans that addressed the corrections the departments implemented to ensure conformity with the PIP documentation requirements of California Code of Regulations, title 2, section 242.

INDEX OF FINDINGS FOR COMPLIANCE REVIEWS⁴

Air Resources Board

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Incorrect Authorization of Bilingual Pay
- A Disability Advisory Committee Has Not Been Established
- Incorrect Application of State Service and Leave Transaction(s)
- Administrative Time Off Was Not Properly Documented
- Department Did Not Properly Monitor Time Worked for All Permanent Intermittent Positive Paid Employees
- Department Did Not Retain Employee Time and Attendance Records
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Supervisors
- Unions Were Not Notified of Personal Services Contracts
- Performance Appraisals Were Not Provided to All Employees

California Arts Council

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Department Did Not Provide a Complete Explanation of Benefits Prior to Acceptance of Appointment
- Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
- Incorrect Authorization of Out-of-Class Pay
- A Disability Advisory Committee Has Not Been Established
- Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period
- Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Unions Were Not Notified of Personal Services Contracts
- Written Justification Was Not Provided for all Personal Services Contracts
- Department Does Not Maintain a Current Written Nepotism Policy
- Performance Appraisals Were Not Provided to All Employees

⁴ Findings denoted with a “○” indicate a repeat finding

California Business, Consumer Services & Housing Agency

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Department Did Not Provide a Complete Explanation of Benefits Prior to Acceptance of Appointment
- Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
- Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
 - Incorrectly Posted Leave Usage and/or Leave Credit
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Unions Were Not Notified of Personal Services Contracts
 - Performance Appraisals Were Not Provided to All Employees

California Environmental Protection Agency

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
- Equal Employment Opportunity Officer Does Not Report Directly to the Head of the Agency
- Administrative Time Off Was Not Properly Documented
- Department Did Not Retain Employee Time and Attendance Records
 - Ethics Training Was Not Provided for All Filers
 - Sexual Harassment Prevention Training Was Not Provided for All Employees
- Unions Were Not Notified of Personal Services Contracts
 - Performance Appraisals Were Not Provided to All Employees

California Exposition

- Department Did Not Provide a Complete Explanation of Benefits Prior to Acceptance of Appointment
- Department Did Not Properly Monitor Time Worked for All Permanent Intermittent Positive Paid Employees
 - Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
 - Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
 - Unions Were Not Notified of Personal Services Contracts

California Health and Human Services Agency

- Department Did Not Provide a Complete Explanation of Benefits Prior to Acceptance of Appointment
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Promotion In Place Was Not Properly Documented
- Incorrect Authorization of Pay Differentials
- Administrative Time Off Was Not Properly Documented
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Performance Appraisals Were Not Provided to All Employees

California Health Benefits Exchange

- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Incorrect Authorization of Bilingual Pay
- Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period
- Department Did Not Certify That All Leave Records Were Reviewed
- Positive Paid Temporary Employees' Work Exceeded Time Limitations
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Performance Appraisals Were Not Provided to All Employees

California Highway Patrol

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
- Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
- Incorrect Authorization of Bilingual Pay
- Incorrect Authorization of Pay Differentials
- Equal Employment Opportunity Officer's Duty Statement Does Not Reflect EEO Duties
- Incorrect Application of State Service and Leave Transaction(s)
- Administrative Time Off Was Not Properly Documented
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs

- Unions Were Not Notified of Personal Services Contracts
- Performance Appraisals Were Not Provided to All Employees

California Horse Racing Board

- Incorrectly Posted Leave Usage and/or Leave Credit
- Performance Appraisals Were Not Provided to All Employees

California Public Employees' Retirement System

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Performance Appraisals Were Not Provided to All Employees

California State Coastal Conservancy

- Department Did Not Provide a Complete Explanation of Benefits Prior to Acceptance of Appointment
- A Disability Advisory Committee Has Not Been Established
- Administrative Time Off Was Not Properly Documented
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Department's Nepotism Policy Does Not Contain All Required Components
- Performance Appraisals Were Not Provided to All Employees

California Student Aid Commission

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Performance Appraisals Were Not Provided to All Employees

Delta Stewardship Council

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely

- Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
- A Disability Advisory Committee Has Not Been Established
- Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Unions Were Not Notified of Personal Services Contracts

Department of Alcohol Beverage Control

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Incorrect Authorization of Bilingual Pay
- Incorrect Authorization of Pay Differentials
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Unions Were Not Notified of Personal Services Contracts
- Written Justification Was Not Provided for all Personal Services Contracts

Department of Developmental Services

- Unlawful Appointment By Way of Transfer
- Positions Were Not Appropriately Allocated
- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
- Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
- Incorrect Authorization of Bilingual Pay
- Incorrect Authorization of Out-of-Class Pay
- Incorrect Authorization of Pay Differentials
- Incorrect Application of State Service and Leave Transaction(s)
- Administrative Time Off Was Not Properly Documented
- Department Did Not Certify That All Leave Records Were Reviewed
- Positive Paid Temporary Employees' Work Exceeded Time Limitations
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Supervisors
- Unions Were Not Notified of Personal Services Contracts
- Performance Appraisals Were Not Provided to All Employees

Department of Education

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Department Did Not Provide a Complete Explanation of Benefits Prior to Acceptance of Appointment
- Incorrect Authorization of Bilingual Pay
- Incorrect Authorization of Out-of-Class Pay
- A Disability Advisory Committee Has Not Been Established
- Department Did Not Certify That All Leave Records Were Reviewed
- Department Did Not Properly Monitor Time Worked for All Permanent Intermittent Positive Paid Employees
- Ethics Training Was Not Provided for All Filers
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Performance Appraisals Were Not Provided to All Employees

Department of Health Care Services

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Department Did Not Provide a Complete Explanation of Benefits Prior to Acceptance of Appointment
- Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
- Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
- Incorrect Authorization of Out-of-Class Pay
- Department Did Not Retain Employee Time and Attendance Records
- Positive Paid Temporary Employees' Work Exceeded Time Limitations
- Sexual Harassment Prevention Training Was Not Provided for All Supervisors
- Unions Were Not Notified of Personal Services Contracts
- Performance Appraisals Were Not Provided to All Employees

Department of Industrial Relations

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Department Did Not Provide a Complete Explanation of Benefits Prior to Acceptance of Appointment

- Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
- Incorrect Authorization of Bilingual Pay
 - Incorrect Authorization of Hire Above the Minimum Requests
- Incorrect Authorization of Out-of-Class Pay
- Incorrect Authorization of Pay Differentials
- Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period
 - Incorrect Application of State Service and Leave Transaction(s)
- Administrative Time Off Was Not Properly Documented
 - Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
 - Positive Paid Temporary Employees' Work Exceeded Time Limitations
 - Ethics Training Was Not Provided for All Filers
 - Sexual Harassment Prevention Training Was Not Provided for All Employees
 - Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
 - Unions Were Not Notified of Personal Services Contracts
 - Performance Appraisals Were Not Provided to All Employees

Department of Motor Vehicles

- Administrative Time Off Was Not Properly Documented
 - Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Department did not provide benefit information in accordance with civil service law
 - Department Did Not Retain Employee Time and Attendance Records
 - Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
 - Ethics Training Was Not Provided for All Filers
- Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
 - Incorrect Application of State Service and Leave Transaction(s)
 - Incorrect Authorization of Out-of-Class Pay
 - Incorrect Authorization of Pay Differentials
 - Performance Appraisals Were Not Provided to All Employees
 - Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
 - Sexual Harassment Prevention Training Was Not Provided for All Employees
 - Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Unions Were Not Notified of Personal Services Contracts

Department of Parks and Recreation

- Administrative Time Off Was Not Properly Documented
- Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
 - Appointment Documentation Was Not Kept for the Appropriate Amount of Time
 - Ethics Training Was Not Provided for All Filers
- Incorrect Authorization of Out-of-Class Pay
- Incorrect Authorization of Pay Differentials
 - Performance Appraisals Were Not Provided to All Employees
- Positive Paid Temporary Employees' Work Exceeded Time Limitations
 - Sexual Harassment Prevention Training Was Not Provided for All Supervisors
 - Unions Were Not Notified of Personal Services Contracts

Department of Rehabilitation

- A Disability Advisory Committee Has Not Been Established
- Administrative Time Off Was Not Properly Documented
- Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Department did not provide benefit information in accordance with civil service law
 - Ethics Training Was Not Provided for All Filers
- Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
 - Incorrect Authorization of Out-of-Class Pay
 - Incorrectly Posted Leave Usage and/or Leave Credit
 - Performance Appraisals Were Not Provided to All Employees
 - Positive Paid Temporary Employees' Work Exceeded Time Limitations
 - Probationary Evaluations Were Not Provided for All Appointments Reviewed
 - Sexual Harassment Prevention Training Was Not Provided for All Supervisors
 - Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
 - Unions Were Not Notified of Personal Services Contracts

Emergency Medical Services Authority

- A Disability Advisory Committee Has Not Been Established
- Department Did Not Certify That All Leave Records Were Reviewed
- Emergency Appointment Exceeded Time Limitation
- Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
 - Performance Appraisals Were Not Provided to All Employees
 - Probationary Evaluations Were Not Provided for All Appointments Reviewed

- Sexual Harassment Prevention Training Was Not Provided for All Supervisors
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs

Office of the State Public Defender

- Ethics Training Was Not Provided for All Filers
- Incorrectly Posted Leave Usage and/or Leave Credit
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Unlawful Appointment

Public Employment Relations Board

- Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
- Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
- Equal Employment Opportunity Officer's Duty Statement Does Not Reflect EEO Duties
- Equal Employment Opportunity Questionnaires Were Not Separated from Applications
- Ethics Training Was Not Provided for All Filers
- Incorrect Authorization of Out-of-Class Pay
- Sexual Harassment Prevention Training Was Not Provided for All Supervisors
- Unions Were Not Notified of Personal Services Contracts

Sacramento-San Joaquin Delta Conservancy

- Department Did Not Certify That All Leave Records Were Reviewed

Secretary of State

- Administrative Time Off Was Not Properly Documented
- Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
- Department did not provide benefit information in accordance with civil service law
- Ethics Training Was Not Provided for All Filers
- Incorrect Authorization of Bilingual Pay
- Incorrect Authorization of Out-of-Class Pay
- Injured Employee(s) Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury
- Performance Appraisals Were Not Provided to All Employees

- Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some That Were Provided Were Untimely
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Unions Were Not Notified of Personal Services Contracts

Sierra Nevada Conservancy

- Ethics Training Was Not Provided for All Filers

State Council on Developmental Disabilities

- Appointment Documentation Was Not Kept for the Appropriate Amount of Time
- Department did not provide benefit information in accordance with civil service law
- Department Did Not Retain Employee Time and Attendance Records
- Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely
- Ethics Training Was Not Provided for All Filers
- Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
- Incorrectly Posted Leave Usage and/or Leave Credit
- Injured Employee(s) Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury
- Performance Appraisals Were Not Provided to All Employees
- Sexual Harassment Prevention Training Was Not Provided for All Employees
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Unions Were Not Notified of Personal Services Contracts
- Written Justification Was Not Provided for all Personal Services Contracts

State Lands Commission

- Equal Employment Opportunity Questionnaires Were Not Separated from Applications
- Incorrect Authorization of Hire Above the Minimum Requests
- Incorrect Authorization of Out-of-Class Pay
- Performance Appraisals Were Not Provided to All Employees
- Sexual Harassment Prevention Training Was Not Provided for All Supervisors
- Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs
- Unions Were Not Notified of Personal Services Contracts

APPENDIX A: DESCRIPTION OF FINDINGS AND THEIR SEVERITY BY REVIEW AREA

APPOINTMENTS

Appointment Documentation Was Not Kept for the Appropriate Amount of Time

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.

Department Did Not Provide a Complete Explanation of Benefits Prior to Acceptance of Appointment

An appointing power, before offering employment to an applicant, shall provide the applicant, in writing, with an explanation of benefits that accompany state service. These documents shall include a summary of the applicable civil service position with salary ranges and steps within them, as well as information on benefits afforded by membership in the Public Employees' Retirement System and benefits and protections provided to public employees by the State Civil Service Act. (Gov. Code, § 19057.2.)

Severity: Technical. An applicant is entitled to have all the information regarding benefits relating to their potential employment prior to deciding whether to accept or decline the appointment.

Emergency Appointments Exceeded Time Limitation

Emergency appointments are appointments that are short in duration, i.e., no more than 60 days within a consecutive 12-month period (Gov. Code, § 19888.1; Cal. Code Regs., tit. 2, § 303); do not require appointments to be from an employment list (Gov. Code, § 19888.1); and do not require the incumbent to meet the minimum qualifications. No person may serve in one or more positions under temporary appointment longer than 9 months in 12 consecutive months. (California Constitution, Article VII, section 5).

Severity: Serious. The department did not restrict the number of months emergency employees worked to the maximum constitutional limit of 9 months worked in a 12-consecutive month period for all temporary employees.

Equal Employment Opportunity Questionnaires Were not Separated from Applications

Government Code section 19704 makes it unlawful for a hiring department to require or permit any notation or entry to be made on any application indicating or in any way suggesting or pertaining to any protected category listed in Government Code section 12940, subdivision (a) (e.g., a person's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status). Applicants for employment in state civil service are asked to voluntarily provide ethnic data about themselves where such data is determined by the CalHR to be necessary to an assessment of the ethnic and sex fairness of the selection process and to the planning and monitoring of affirmative action efforts. (Gov. Code, § 19705.) The EEO questionnaire of the state application form (STD. 678) states, "This questionnaire will be separated from the application prior to the examination and will not be used in any employment decisions."

Severity: Very Serious. The applicants' protected classes were visible, subjecting the agency to potential liability.

Positions Were Not Appropriately Allocated

A person shall not be assigned to perform the duties of any class other than that to which his or her position is allocated, except as permitted by Section 19050.85. (Gov. Code, § 19818.8)

CalHR may audit position allocations. If CalHR finds that an appointing power has allocated positions inappropriately, it may order corrective action, including, but not limited to, reallocating positions, voiding lawful personal transactions, and revoking or restricting the appointing power's ability to allocate positions. (Gov. Code, § 19818.14)

Severity: Serious. As primary administrator of the classification plan, the appointing authority has primary responsibility for ensuring that positions are assigned duties appropriate for their classifications and for identifying and correcting misallocations. Misallocations harm the employees performing the duties in that they may not be appropriately compensated in the duties they perform and expose the state to potential liability relative to upward mobility and compensation.

⁵ Gov. Code, § 19050.8 proscribes rules related to the temporary assignment or loan of employees.

- **Probationary Evaluations Were Not Provided for all Appointments Reviewed**
- **Probationary Evaluations Were Not Timely**
- **Probationary Evaluations Were Not Provided for all Appointments Reviewed and Some That Were Provided Were Untimely**

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.

- **Promotion in Place Was Not Properly Documented**

As mandated by California Code of Regulations, title 2, section 242, subdivision (a), a permanent employee may receive a promotion in place where all of the following apply:

- (1) The employee has demonstrated satisfactory or higher job performance in their current position and shown the ability and willingness to succeed at the higher level classification;
- (2) The position currently occupied by the employee is reallocated to the "to" class without a change in unit or location;
- (3) The employee competed in and passed an examination for the "to" class and is currently placed on the employment list for that examination in one of the top three ranks; and,

(4) The appointing power documents the reasons why the selected employee was chosen for the promotion in place.

Severity: Technical. Without documentation, the CRU could not verify if the appointment was properly conducted.

Unlawful Appointment(s)

California Code of Regulations, title 2, section 254 mandates that each vacancy for a class in which the certification of eligibles is under Government Code sections 19057.1 and 19057.3, the department shall fill a vacancy by eligibles in the three highest ranks certified.

Pursuant to Government Code section 18931, subdivision (a), the Board shall establish minimum qualifications for determining the fitness and qualifications of employees for each class of position. In accordance with California Code of Regulations, title 2, section 249.4, appointing powers shall verify that the candidate satisfies the minimum qualifications of the classification before the candidate is appointed.

Severity: Very Serious. An unlawful appointment provides the employee with an unfair and unearned appointment advantage over other employees whose appointments have been processed in compliance with the requirements of civil service law. Unlawful appointments which are not corrected also create appointment inconsistencies that jeopardize the equitable administration of the civil service merit system.

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If "bad faith" is determined on the part of the appointing power, civil or criminal action may be initiated. Disciplinary action may also be pursued against any officer or employee in a position of authority who directs any officer or employee to take action in violation of the appointment laws. If bad faith is determined on the part of the employee, the employee may be required to reimburse all compensation resulting from the unlawful appointment and may also be subject to disciplinary action.

Unlawful Appointment(s) By Way of Transfer

Government Code section 19050.4 provides, in part, that a transfer may be accomplished without examination pursuant to rule.

California Code of Regulations, title 2, section 428 provides that classes meeting the criteria established by this article shall be considered to involve substantially the same level of duties, responsibility and salary for the purposes of Government Code section 19050.4, provided that the Board or the Executive Officer may prohibit transfer between such classes based on a specific finding that they are in a promotional relationship.

Article VII, Section 1, subdivision (b) of the California Constitution requires that permanent appointment and promotion shall be made under a general system based on merit ascertained by competitive examination. Therefore, a transfer may only be made if the employee has held a permanent appointment made as a result of a competitive examination in the same class or a class substantially the same as the class to which the person is transferring.

Severity: Very Serious. An unlawful appointment provides the employee with an unfair and unearned appointment advantage over other employees whose appointments have been processed in compliance with the requirements of civil service law. Unlawful appointments which are not corrected also create appointment inconsistencies that jeopardize the equitable administration of the civil service merit system.

When an unlawful appointment is voided, the employee loses any tenure in the position, as well as seniority credits, eligibility to take promotional examinations, and compensation at the voided appointment level. If “bad faith” is determined on the part of the appointing power, civil or criminal action may be initiated. Disciplinary action may also be pursued against any officer or employee in a position of authority who directs any officer or employee to take action in violation of the appointment laws. If bad faith is determined on the part of the employee, the employee may be required to reimburse all compensation resulting from the unlawful appointment and may also be subject to disciplinary action.

EQUAL EMPLOYMENT OPPORTUNITY

A Disability Advisory Committee Has Not Been Established

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).)

Severity: Very Serious. The agency head does not have direct information on issues of concern to employees or other persons with disabilities and input to correct any

underrepresentation. The lack of a DAC may limit an agency's ability to recruit and retain a qualified workforce, impact productivity, and subject the agency to liability.

Complainants Were Not Notified of the Reasons for Delays in Decisions Within the Prescribed Time Period

The appointing power must issue a written decision to the complainant within 90 days of the complaint being filed. (Cal. Code Regs., tit. 2, § 64.4, subd. (a).) If the appointing power is unable to issue its decision within the prescribed time period, the appointing power must inform the complainant in writing of the reasons for the delay. (*Ibid.*)

Severity: Very Serious. Employees were not informed of the reasons for delays in decisions for discrimination complaints. Employees may feel their concerns are not being taken seriously, which can leave the agency open to liability and low employee morale.

EEO Officer Does Not Report Directly to the Head of the Agency EEO Officer's Duty Statement Does Not Reflect EEO Duties

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).) The EEO Officer shall, among other duties, analyze and report on appointments of employees, bring issues of concern regarding EEO to the appointing power and recommend appropriate action, and perform other duties necessary for the effective implementation of the agency EEO plans. (Gov. Code, § 19795, subd. (a).)

Severity: Very Serious. The EEO Officer does not have direct access to the head of the organization, diminishing the significance of the EEO program. To have an effective EEO program, the head of the organization must be actively involved.

Furthermore, The EEO Officer is responsible for developing, implementing, coordinating, and monitoring an effective EEO program. Due to the substantial responsibilities held by each department's EEO Officer, it is essential that each department, dedicate sufficient staff resources to successfully maintain an effective EEO program.

COMPENSATION AND PAY

Alternate Range Movements Did Not Comply with Civil Service Laws, Rules, and CalHR Policies and Guidelines

Alternate ranges are designed to recognize increased competence in the performance of class duties based upon experience obtained while in the class. The employee gains status in the alternate range as though each range were a separate classification. (Classification and Pay Guide Section 220.)

Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. Incorrectly applying compensation laws and rules not in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment

Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. Incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Incorrect Authorization of Bilingual Pay

For any state agency, a "qualified" bilingual employee, person, or interpreter is someone who 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's policies and

guidelines results in civil service employees receiving incorrect and/or inappropriate pay.

Incorrect Authorization of Hire Above Minimum Requests

CalHR may authorize payment at any step above the minimum salary limit to classes or positions in order to meet recruiting problems, to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.)

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

Incorrect Authorization of Out-of-Class Pay

For bargaining unit 1 employees only: 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.

For excluded employees only: 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. Incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate compensation.

Incorrect Authorization of Pay Differentials

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. Incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate compensation.

LEAVE

Administrative Time Off Was Not Properly Documented

Appointing authorities are authorized to approve ATO for up to five (5) working days. (Gov. Code, § 19991.10.) Furthermore, they "have delegated authority to approve up to 30 calendar days." (Human Resources Manual Section 2121.) Any ATO in excess of 30 calendar days must be approved in advance by the CalHR. (*Ibid.*) In most cases, if approved, the extension will be for an additional 30 calendar days. (*Ibid.*) The appointing authority is responsible for submitting ATO extension requests to CalHR at least 5 working days prior to the expiration date of the approved leave. (*Ibid.*)

When requesting an ATO extension, the appointing authority must provide a justification establishing good cause for maintaining the employee on ATO for the additional period of time. (*Ibid.*) ATO may not be used and will not be granted for an indefinite period. (*Ibid.*) If CalHR denies a request to extend ATO, or the appointing authority fails to request approval from CalHR to extend the ATO, the employee must be returned to work in some capacity. (*Ibid.*)

Regardless of the length of ATO, appointing authorities must maintain thorough documentation demonstrating the justification for the ATO, the length of the ATO, and the approval of the ATO. (*Ibid.*)

Severity: Serious. Because an employee on ATO is being paid while not working, a failure to closely monitor ATO usage could result in costly abuse. The use of ATO is subject to audit and review by CalHR and other control agencies to ensure policy compliance. Findings of non-compliance may result in the revocation of delegated privileges.

Department Did Not Certify That All Leave Records Were Reviewed

Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.) Departments are directed to create an audit process to verify all leave input is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall identify and record all errors found and shall certify that all leave records for the unit/pay period identified have been reviewed and all leave errors identified have been corrected. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

Severity: Serious. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. Failure to audit leave could put the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

Department Did Not Properly Monitor Time Worked for All Permanent Intermittent Positive Paid Employees

A permanent intermittent employee may work up to 1,500 hours in any calendar year. The number of hours and schedule of work shall be determined based upon the operational needs of each department. (Applicable Bargaining Unit Agreements.)

Severity: Serious. The number of days or hours an individual may work in a permanent intermittent appointment is limited in the state civil service. To ensure permanent intermittent appointments are not made on a full-time basis, a maximum of 1,500 hours has been placed on the number of hours which a permanent intermittent employee may work any calendar year.

Department Did Not Retain Employee Time and Attendance Records

Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.) Such records shall be kept in the form

and manner prescribed by the Department of Finance in connection with its powers to devise, install and supervise a modern and complete accounting system for state agencies. (*Ibid.*)

Severity: Serious. The department was unable to reconcile timesheets against their leave accounting system at the conclusion of the pay period, which could have affected employee leave accruals and compensation.

Department Has Not Implemented a Monthly Internal Audit Process to Verify All Leave Input is Keyed Accurately and Timely

Each appointing power shall keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.) Departments are directed to create an audit process to verify all leave input is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall identify and record all errors found and shall certify that all leave records for the unit/pay period identified have been reviewed and all leave errors identified have been corrected. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

Severity: Serious. Departments must document that they reviewed all leave input into their leave accounting system to ensure accuracy and timeliness. Failure to audit leave could put the department at risk of incurring additional costs from the initiation of collection efforts from overpayments, and the risk of liability related to recovering inappropriately credited leave hours and funds.

Incorrect Application of State Service and Leave Transaction(s)

In the application of Government Code section 19837, an employee shall be considered to have a month of state service if the employee either: (1) has had 11 or more working days of service in a monthly pay period; or (2) would have had 11 or more working days of service in a monthly pay period but was laid off or on a leave of absence for the purpose of lessening the impact of an impending layoff. (Cal. Code Regs., tit.2, § 599.608.) Absences from state service resulting from permanent separation for more than 11 consecutive working days which fall into two consecutive pay periods shall disqualify one of the pay periods. (*Ibid.*)

Hourly or daily rate employees working in a state agency 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.) When an employee has a break in service or changes to full-time, any combination of time

worked which does not equal one qualifying month of full-time service shall not be accumulated or counted. (*Ibid.*)

Severity: Very Serious. For audit purposes, accurate and timely attendance reporting is required of all departments. If the length of an informal leave results in a non-qualifying pay period, a state service transaction must be processed. Inappropriately authorizing state service credits and leave accruals to employees who did not earn them results in a monetary loss for the department.

Incorrectly Posted Leave Usage and/or Leave Credit

Departments shall create a monthly internal audit process to verify that all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) If an employee's attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*)

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

Positive Paid Temporary Employees' Work Exceeded Time Limitations

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

According to Government Code Section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June) for all state employers without reinstatement or loss or interruption of benefits.

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

Existing law allows a person retired from state service to be rehired by the State as a retired annuitant. However, retired annuitants shall not work more than 960 hours each fiscal year without reinstatement, loss, or interruption of benefits for all state employers.

MANDATED TRAINING

Ethics Training Was Not Provided for All Filers

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.

- **Sexual Harassment Prevention Training Was Not Provided for All Supervisors**
- **Sexual Harassment Prevention Training Was Not Provided for All Employees**

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 supervisors AND 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.

Supervisory Training Was Not Provided to All Supervisors, Managers, and CEAs

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.

PERSONAL SERVICES CONTRACTS

Unions Were Not Notified of Personal Services Contracts

The contract shall not be executed until the state agency proposing to execute the contract has notified all organizations that represent state employees who perform the type of work to be contracted. (Gov. Code, § 19132, subd. (b)(1).)

Severity: Serious. Unions must be notified of impending personal services contracts to ensure they are aware contracts are being proposed for the type of work that their members could perform.

Written Justification Was Not Provided for All Personal Services Contracts

Whenever an agency executes a personal services contract under Government Code section 19130, subdivision (b), the agency shall document, with specificity and detailed factual information, the reasons why the contract satisfies one or more of the conditions specified in Government Code section 19130, subdivision (b). (Cal. Code Reg., tit. 2, § 547.60, subd. (a).) The agency shall maintain the written justification for the duration of the contract and any extensions of the contract or in accordance with the record retention requirements of section 26, whichever is longer. (Cal. Code Reg., tit. 2, § 547.60, subd. (b).)

Severity: Serious. Without specific written justification detailing why a PSC satisfies one or more conditions specified in Government Code section 19130, the CRU cannot determine whether the department's PSC's complied with current procedural requirements.

POLICY

- **Department Does not Maintain a Current Written Nepotism Policy**
- **Department's Nepotism Policy Does Not Contain All Required Components**

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. (Human Resources Manual Section 1204). All department nepotism policies shall include six specific components which emphasize that nepotism is antithetical to merit-based civil service and include definitions and prohibitions integral to upholding the merit system. (Cal. Code Regs., tit. 2, § 87.)

Severity: Very Serious. Nepotism is expressly prohibited in the state workplace because it is antithetical to California's merit based civil service. Departments must take proactive steps to ensure that the hiring, transferring, and promoting of all employees is done on the basis of merit and fitness in accordance with civil service statutes. Maintaining a current written nepotism policy, and its dissemination to all staff, is the cornerstone for achieving these outcomes.

Injured Employee(s) Did Not Receive Claim Forms Within One Working Day of Notice or Knowledge of Injury

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. (Lab. Code, § 540.1, subd. (a).)

Severity: Very Serious. Injured employee(s) were not provided the required forms within the 24-hour time period. Providing the forms within 24 hours of injury prevents any delay in treatment to which an 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.

Performance Appraisals Were Not Provided to All Employees

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 its employees are apprised of work performance issues and/or goals in a systematic manner.

APPENDIX B: INDEX OF COMPLIANCE REVIEW COSTS

Department Name	Cost
Air Resources Board	\$ 58,752
California Arts Council	\$ 11,016
California Business, Consumer Services & Housing Agency	\$ 14,688
California Environmental Protection Agency	\$ 18,360
California Exposition	\$ 40,392
California Health and Human Services Agency	\$ 14,688
California Health Benefit Exchange	\$ 58,752
California Highway Patrol	\$ 168,912
California Horse Racing Board	\$ 14,688
California Public Employees' Retirement System	\$ 102,816
California State Coastal Conservancy	\$ 22,032
California Student Aid Commission	\$ 40,392
Delta Stewardship Council	\$ 22,032
Department of Alcoholic Beverage Control	\$ 40,392
Department of Developmental Services	\$ 102,816
Department of Education	\$ 102,816
Department of Health Care Services	\$ 102,816
Department of Industrial Relations	\$ 102,816
Department of Motor Vehicles	\$ 113,832
Department of Parks and Recreation	\$ 102,816
Department of Rehabilitation	\$ 58,752
Emergency Medical Services Authority	\$ 22,032
Office of the State Public Defender	\$ 22,032
Public Employment Relations Board	\$ 22,032
Sacramento-San Joaquin Delta Conservancy	\$ 11,016
Secretary of State	\$ 58,752
Sierra Nevada Conservancy	\$ 14,688
State Council on Developmental Disabilities	\$ 22,032
State Lands Commission	\$ 40,392