



COMPLIANCE REVIEW REPORT

SIERRA NEVADA CONSERVANCY

Compliance Review Unit
State Personnel Board
May 3, 2023

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INTRODUCTION

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

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

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

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

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

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

It should be noted that this report only contains findings from this hiring authority's compliance review. Other issues found in SPB appeals and special investigations as well

as audit and review findings by other agencies such as the CalHR and the California State Auditor are reported elsewhere.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Sierra Nevada Conservancy (SNC) personnel practices in the areas of appointments, EEO, PSCs, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Severity	Finding
Appointments	In Compliance	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	In Compliance	Equal Employment Opportunity Program Complied With All Civil Service Laws and Board Rules
Personal Services Contracts	In Compliance	Personal Services Contracts Complied with Procedural Requirements
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ¹
Compensation and Pay	In Compliance	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Out of Class Pay Authorization Complied With Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	In Compliance	Positive Paid Employees' Tracked Hours Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	In Compliance	Leave Auditing and Timekeeping 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

¹ Repeat finding. October 21, 2019, the SNC compliance review report identified 32 of 34 new filers who were not provided ethics training within 6 months of their appointment.

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

BACKGROUND

The SNC is a state agency whose mission is to improve the environmental, economic, and social well-being of the Sierra Nevada Region. The SNC leads the Sierra Nevada Watershed Improvement Program, a large-scale restoration program designed to restore the health of California’s primary watershed and create resilient Sierra Nevada communities. Spanning nearly 27 million acres, the Sierra Nevada Region encompasses all or part of 24 counties and runs from the Oregon border on the north to Kern County on the south. The Region provides water to more than 75 percent of Californians and vast swaths of Central Valley farmland.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the SNC’s appointments, EEO program, PSCs, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if the SNC’s personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

The SNC did not conduct any examinations or permanent withhold actions during the compliance review period.

A cross-section of the SNC’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 SNC provided, which included Notice of Personnel Action forms, Request for Personnel Actions, vacancy postings, certification

² Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

lists, transfer movement worksheets, employment history records, correspondence, and probation reports.

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

The SNC's appointments were also selected for review to ensure the SNC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the SNC 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: out-of-class assignments.

During the compliance review period, the SNC did not issue nor authorize hiring above minimum requests, red circle rate requests, arduous pay, monthly pay differentials, alternate range movements, and bilingual pay.

The review of the SNC'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 SNC's PSCs were also reviewed.³ It was beyond the scope of the compliance review to make conclusions as to whether the SNC's justifications for the contracts were legally sufficient. The review was limited to whether the SNC's practices, policies, and procedures relative to PSCs complied with procedural requirements.

The SNC'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 Career Executive Assignment (CEAs) employees were provided leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

³If 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 PSCs were challenged.

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

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

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

The SNC declined to have an exit conference to discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the SNC's written response on April 12, 2023, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Appointments

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

During the period under review, October 1, 2020, through September 30, 2021, the SNC made six appointments. The CRU reviewed four of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	1
Conservancy Project Development Analyst II	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	1

IN COMPLIANCE	FINDING NO. 1 APPOINTMENTS COMPLIED WITH CIVIL SERVICE LAWS AND BOARD RULES
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The SNC measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the three list appointments reviewed, the SNC ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

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

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

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring

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

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

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

IN COMPLIANCE	FINDING NO. 2 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 SNC’s EEO program provided employees with information and guidance on the EEO process including instructions on how to file discrimination claims. Furthermore, the EEO program outlines the roles and responsibilities of the EEO Officer, as well as supervisors and managers. The EEO Officer, who is at a managerial level, reports directly to the Executive Director of the SNC. The SNC 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 PSCs achieve cost savings for the state. PSCs 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 PSCs, a state agency is required to notify SPB of its intent to execute such a contract. (Gov. Code, § 19131.) For subdivision (b) contracts, the SPB reviews the adequacy of the proposed or executed contract at the request of an employee organization representing state employees. (Gov. Code, § 19132.)

During the period under review, December 1, 2020, through November 30, 2021, the SNC had five PSCs that were in effect. The CRU reviewed all of those, which are listed below:

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Sierra Valley Moving and Storage	Moving and Modular Furniture	1/21 - 1/24	15,000	Yes	Yes
Sonitrol of Sacramento LLC	Alarm Monitoring, Maintenance, and Support	7/21 - 7/23	7,112.54	Yes	Yes
Sonitrol of Sacramento LLC	Alarm Monitoring, Maintenance, and Support	7/21 - 7/23	6,288.13	Yes	Yes
NetProtex, Inc.	IT Consulting and Support Services	7/21 - 7/24	180,900.00	Yes	Yes

Vendor	Services	Contract Dates	Contract Amount	Justification Identified?	Union Notification?
Valley Communications, Inc.	AV Equipment and Installation	11/21-4/22	13,795.93	Yes	Yes

IN COMPLIANCE	FINDING NO. 3	PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSCs reviewed was \$223,097.00. It was beyond the scope of the review to make conclusions as to whether SNC justifications for the contract were legally sufficient. For all PSCs reviewed, the SNC 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 SNC complied with proper notification to all organizations that represent state employees who perform the type or work contracted. Accordingly, the SNC PSCs complied with civil service laws and board rules.

Mandated Training

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

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

Within 12 months of the initial appointment of an employee to a management or Career Executive Assignment (CEA) position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biennial basis. (*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 SNC’s mandated training program that was in effect during the compliance review period, December 1, 2019, through November 30, 2021. The SNC’s supervisory training and sexual harassment prevention training was found to be in compliance, while ethics training was found to be out of compliance.

SEVERITY: VERY SERIOUS	FINDING NO. 4 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The SNC did not provide ethics training to three of seven new filers within six months of their appointment. This is the second consecutive time this has been a finding for the SNC.

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 three filers who did not complete the required Ethics training within six months of appointment were newly appointed Board members. Many of SNC's Board members are appointed from the Supervisors of the 24 counties within SNC's Sierra-Cascade region. Ensuring that these public officials complete the ethics training for state officials can be challenging, especially because they have already completed an ethics course for their elected appointment.

Corrective Action: The SNC asserts it has taken steps to ensure compliance in this area. Within 90 days of the date of this report, the SNC must submit to the SPB documentation which demonstrates the corrections the department has implemented to ensure conformity with Government Code section 11146.3.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁴ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

Typically, agencies appoint employees to the minimum rate of the salary range for the class. Special provisions for appointments above the minimum exist to meet special recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, October 1, 2020, through September 30, 2021, the SNC made six appointments. The CRU reviewed four of those appointments to determine if the SNC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

⁴ "Rate" is any one of the salary rates in the resolution by CalHR which establishes the salary ranges and steps of the Pay Plan (Cal. Code Regs., tit. 2, section 599.666).

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Associate Governmental Program Analyst	List Appointment	Permanent	Full Time	\$5,383.00
Associate Governmental Program Analyst	Transfer Appointment	Permanent	Full Time	\$5,631.37
Conservancy Project Development Analyst II	List Appointment	Permanent	Full Time	\$4,907.83
Staff Services Manager I	List Appointment	Permanent	Full Time	\$6,328.48

IN COMPLIANCE	FINDING NO. 5 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 SNC appropriately calculated and keyed the salaries for each appointment and correctly determined employees' anniversary dates ensuring that subsequent merit salary adjustments will satisfy civil service laws, Board rules and CalHR policies and guidelines.

Out-of-Class Assignments and Pay

For excluded⁵ 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 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

⁵ "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.

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, October 1, 2020, through September 30, 2021, the SNC issued OOC pay to one employee. The CRU reviewed the OOC assignment to ensure compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. The OOC assignment is listed below:

Classification	Collective Bargaining Identifier	Out-of-Class Classification	Time Frame
Office Technician (Typing)	R04	Staff Services Analyst (General)	12/2020 – 09/2021

IN COMPLIANCE	FINDING NO. 6 OUT OF CLASS PAY AUTHORIZATION COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the OOC pay assignments that the SNC authorized during the compliance review period. OOC pay was issued appropriately to employees 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.

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 days⁶

⁶ For example, two hours or ten hours count as one day.

worked and paid absences⁷, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day is not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

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

Generally, permanent intermittent employees may work up to 1500 hours in any calendar year. (Applicable Bargaining Unit Agreements.) However, Bargaining Unit 6 employees may work up to 2000 hours in any calendar year.

Additionally, according to Government Code section 21224, retired annuitant appointments shall not exceed a maximum of 960 hours in any fiscal year (July-June), regardless of the number of state employers, without reinstatement, loss or interruption of benefits.

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

Classification	Tenure	Time Frame	Time Worked
Associate Governmental Program Analyst	Permanent	Intermittent	1383.75
Associate Governmental Program Analyst	Permanent	Intermittent	1340.50
Attorney III	Retired Annuitant	Intermittent	942

⁷ For example, vacation, sick leave, compensating time off, etc.

Classification	Tenure	Time Frame	Time Worked
Conservancy Project Development Analyst II	Permanent	Intermittent	1283
Conservancy Project Development Manager	Retired Annuitant	Intermittent	940
Staff Services Analyst (General)	Permanent	Intermittent	1260.50

IN COMPLIANCE	FINDING NO. 7 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 SNC 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, September 1, 2020, through August 31, 2021, the SNC authorized 15 ATO transactions. The CRU reviewed all 15 ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	10/22/2020	1 hour
Conservancy Project Development Analyst II	9/8/2020 - 9/11/2020	4 days
Conservancy Project Development Analyst II	1/19/2021	1 hour
Conservancy Project Development Analyst II	9/8/2020 - 9/9/2020	9 hours
Conservancy Project Development Analyst II	9/14/2020 -9/18/2020	4 days and
Conservancy Project Development Analyst II	9/8/2020	3 hours
Conservancy Project Development Analyst II	1/19/21 - 1/25/21	4 hours
Conservancy Project Development Analyst II	10/26/2020	3 days

Classification	Time Frame	Amount of Time on ATO
Conservancy Project Development Analyst II	1/25/2021	4.25 hours
Environmental Scientist	9/8/2020 - 9/9/2020	1.5 hours
Environmental Scientist	10/26/2020 -10/27/2020	2 days
Management Services Technician	1/19/2021 -1/20/2021	2 days
Research Data Analyst II	10/22/2020	2 days
Staff Services Analyst (General)	10/27/2020	4 hours
Staff Services Manager I	10/26/2020	1 day

IN COMPLIANCE	FINDING NO. 8 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 SNC 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, June1, 2021, through August 31, 2021, the SNC reported one unit comprised of 147 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
June 2021	001	52	52	0
July 2021	001	52	52	0
August 2021	001	43	43	0

IN COMPLIANCE	FINDING NO. 9 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 SNC 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.

Policy and Processes

Nepotism

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

IN COMPLIANCE	FINDING NO. 10	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 SNC’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the SNC’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 SNC did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 11	WORKERS' COMPENSATION PROCESS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the SNC provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law.

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

IN COMPLIANCE	FINDING NO. 12	PERFORMANCE APPRAISAL POLICY AND PROCESSES COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the performance appraisals selected for review. Accordingly, the SNC performance appraisal policy and processes satisfied civil service laws, Board rules, policies and guidelines.

DEPARTMENTAL RESPONSE

The SNC's departmental response is attached as Attachment 1.

SPB REPLY

Based upon the SNC's written response, the SNC 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 action specified must be submitted to the CRU.



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TO: Ms. Diana Campbell
Compliance Manager, SPB Compliance Review Team
State Personnel Board

FROM: Jennifer Barnes
HR Manager

DATE: April 12, 2023

RE: SNC RESPONSE – SPB DRAFT COMPLIANCE REVIEW REPORT

Thank you for the opportunity to respond to the Compliance Review Report dated April 4, 2023. We are proud that only one finding showed Sierra Nevada Conservancy (SNC) as not in compliance:

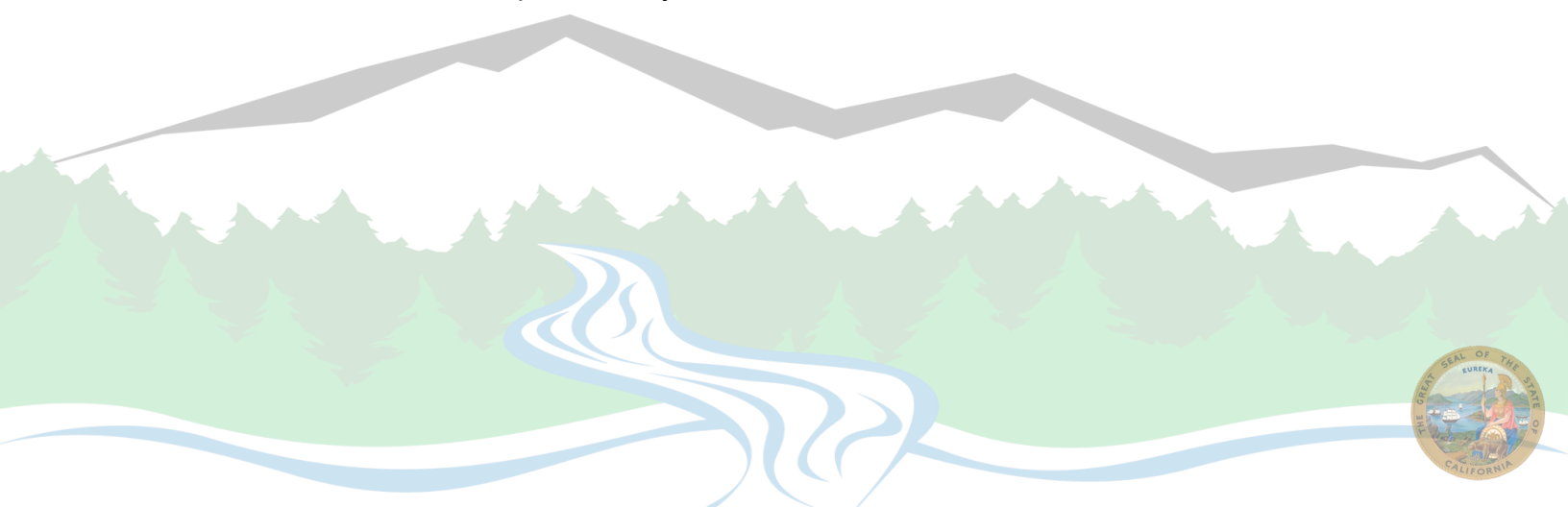
Finding No. 4 - Ethics Training Was Not Provided for All Filers

Summary: The SNC did not provide ethics training to three of seven new filers within six months of their appointment. This is the second consecutive time this has been a finding for the SNC.

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: To be provided by the SNC.



SNC Response

Cause: The three filers that did not complete the required Ethics training within six months of appointment were newly appointed Board members. Many of SNC's Board members are appointed from the Supervisors of the 24 counties within SNC's Sierra-Cascade region. Ensuring that these public officials complete the ethics training for state officials can be challenging, especially because they have already completed an ethics course for their elected appointment.

Response: The SNC absolutely understands the seriousness of this finding. New procedures have been put in place that have greatly improved SNC's success rate in complying with this criteria. SNC's dedicated Board Liaison has implemented a new monitoring and tracking database to ensure future and ongoing compliance. Since June 2021, all newly appointed Board members – as well as all new employees – have completed the required Ethics training within six months of their appointment.

