



COMPLIANCE REVIEW REPORT

COMMISSION ON TEACHER CREDENTIALING

Compliance Review Unit
State Personnel Board
March 8, 2021

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INTRODUCTION

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

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

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

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

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

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

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

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the Commission on Teacher Credentialing's (CTC) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

Area	Finding
Examinations	Examinations Complied with Civil Service Laws and Board Rules
Appointments	Probationary Evaluations Were Not Timely
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules
Personal Services Contracts	Unions Were Not Notified of Personal Services Contracts
Mandated Training	Ethics Training Was Not Provided for All Filers
Mandated Training	Sexual Harassment Prevention Training Was Not Provided for All Supervisors
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Bilingual Pay Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Department Did Not Properly Monitor Time Worked for All Positive Paid Employees
Leave	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

Area	Finding
Leave	Leave Activity and Correction Certification Forms Were Not Completed for All Leave Records
Leave	Incorrect Application of Non-qualifying Pay Period Transaction
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Policy Not Provided to New Employees by the End of First Pay Period
Policy	Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

A color-coded system is used to identify the severity of the violations as follows:

- Red = Very Serious
- Orange = Serious
- Yellow = Technical
- Green = In Compliance

BACKGROUND

The California Commission on Teacher Credentialing is an agency in the Executive Branch of California State Government. It was created in 1970 by the Ryan Act and is the oldest of the autonomous state standards boards in the nation. The major purpose of the agency is to serve as a state standards board for educator preparation for the public schools of California, the licensing and credentialing of professional educators in the State, the enforcement of professional practices of educators, and the discipline of credential holders in the State of California.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the CTC's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes¹. The primary objective of the review was to determine if the CTC's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines,

¹ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

A cross-section of the CTC's examinations were selected for review to ensure that samples of various examination types, classifications, and levels were reviewed. The CRU examined the documentation that the CTC provided, which included examination plans, examination bulletins, job analyses, and scoring results. The CTC did not conduct any permanent withhold actions during the compliance review period.

A cross-section of the CTC's appointments were selected for review to ensure that samples of various appointment types, classifications, and levels were reviewed. The CRU examined the documentation that the CTC provided, which included Notice of Personnel Action (NOPA) forms, Request for Personnel Actions (RPA's), vacancy postings, certification lists, transfer movement worksheets, employment history records, correspondence, and probation reports. The CTC did not conduct any unlawful appointment investigations during the compliance review period. Additionally, the CTC did not make any additional appointments during the compliance review period.

The CTC's appointments were also selected for review to ensure the CTC applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the CTC 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: bilingual pay, alternate range movements, and out-of-class assignments. During the compliance review period, the CTC did not issue or authorize hiring above minimum (HAM) requests, red circle rate requests, or arduous pay.

The review of the CTC'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 (DAC).

The CTC's PSC's were also reviewed.² It was beyond the scope of the compliance review to make conclusions as to whether the CTC's justifications for the contracts were legally

²If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

sufficient. The review was limited to whether the CTC's practices, policies, and procedures relative to PSC's complied with procedural requirements.

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

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

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

The CRU reviewed the CTC's Leave Activity and Correction Certification forms to verify that the CTC created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU selected a small cross-section of the CTC's units in order to ensure they maintained accurate and timely leave accounting records. Part of this review also examined a cross-section of the CTC's employees' employment and pay history, state service records, and leave accrual histories to ensure employees with non-qualifying pay periods did not receive vacation/sick leave and/or annual leave accruals or state service credit. Additionally, the CRU reviewed a selection of the CTC employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. During the compliance review period, the CTC did not track any temporary intermittent employees by actual time worked during the compliance review period.

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

The CTC declined an exit conference to explain and discuss the CRU’s initial findings and recommendations. The CRU received and carefully reviewed the CTC’s written response on December 17, 2020, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

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

During the period under review, July 31, 2019, through April 30, 2020, the CTC conducted four examinations. The CRU reviewed those four examinations, which are listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Assistant Consultant in Teacher Preparation	Open	Education and Experience (E&E) ³	Continuous	9

³ In an Education and Experience examination, one or more raters reviews the applicants’ Standard 678 application forms, and scores and ranks them according to a predetermined rating scale that may include years of relevant higher education, professional licenses or certifications, and/or years of relevant work experience.

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Career Executive Assignment (CEA) A, Division Director Certification	CEA	Statement of Qualifications (SOQ) ⁴	7/10/2019	3
Consultant in Teacher Preparation (Program Evaluation and Research)	Open	E&E	Continuous	4
Consultant in Teacher Preparation (Program Evaluation and Research)	Open	E&E	Continuous	7

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

The CRU reviewed four examinations which the CTC administered in order to create eligible lists from which to make appointments. The CTC published and distributed examination bulletins containing the required information for all examinations. Applications received by the CTC were accepted prior to the final filing date. Applicants were notified about the next phase of the examination process. After all phases of the examination process were completed, the score of each competitor was computed, and a list of eligible candidates was established. The examination results listed the names of all successful competitors arranged in order of the score received by rank. The CRU found no deficiencies in the examinations that the CTC conducted during the compliance review period.

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews

⁴ In a Statement of Qualifications examination, applicants submit a written summary of their qualifications and experience related to a published list of desired qualifications. Raters, typically subject matter experts, evaluate the responses according to a predetermined rating scale designed to assess their ability to perform in a job classification, assign scores and rank the competitors in a list.

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, July 1, 2019, through March 31, 2020, the CTC made 27 appointments. The CRU reviewed eight of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Assistant Consultant in Teacher Preparation	Certification List	Permanent	Full Time	1
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	1
Attorney	Certification List	Permanent	Full Time	1
Special Investigator	Certification List	Permanent	Full Time	1
Staff Services Analyst (General)	Reinstatement	Permanent	Full Time	1
Staff Services Manager II (Supervisory)	Reinstatement	Permanent	Full Time	1
Supervising Special Investigator I (Non-Peace Officer)	Reinstatement	Permanent	Full Time	1
Information Technology Specialist I	Transfer	Permanent	Full Time	1

FINDING NO. 2 – Probationary Evaluations Were Not Timely

Summary: The CTC did not provide in a timely manner one probationary report of performance for one of the eight appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Attorney	Certification List	1	1

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: This probation report was missed because there was a change in management at the program level; the Attorney probation report deadline was not added to the new manager's calendar.

Corrective Action: Within 90 days of the date of this report, the CTC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.795. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

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

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

FINDING NO. 3 – Equal Employment Opportunity Program Complied with All Civil Service Laws and Board Rules

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 CTC'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 CTC. The CTC also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an

employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

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

During the period under review, July 31, 2019, through April 30, 2020, the CTC had 11 PSC’s that were in effect. The CRU reviewed eight of those PSC’s, which are listed below:

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
AllWorld Language Consultants Inc.	Non-Legal American Sign Language	9/24/19 – 9/24/19	\$2,500	Yes	No
CPS HR Consulting	Training	7/31/19 – 7/30/22	\$20,000	Yes	No
Evaluation System Group of Pearson, a business of NCS Pearson, Inc.	Development of the Special Education (SpED) California Teaching Performance Assessment (CaTPA)	12/4/19 – 10/30/25	\$2,000,000	Yes	No
IS Inc	Commercial Training	2/1/20 – 1/31/21	\$20,000	Yes	No
Lifesigns Now	Non-Legal American Sign Language	9/26/19 – 9/26/19	\$1,638	Yes	No

Vendor	Services	Contract Date(s)	Contract Amount	Justification Identified?	Union Notification?
Mother Lode Van & Storage, Inc	Office Moving Services	9/3/19 – 6/30/22	\$16,500	Yes	No
Professional Training Institute, Inc	First Aid, BBP, AED, CPR Training	10/1/19 – 9/30/22	\$2,400	Yes	No
Southside Unlimited	Recycling Collection Services	3/12/20 – 3/31/21	\$4,752	Yes	No

FINDING NO. 4 – Unions Were Not Notified of Personal Services Contract

Summary: The CTC did not notify unions prior to entering into all of the eight PSC’s reviewed.

Criteria: 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 in order to ensure they are aware contracts are being proposed for work that their members could perform.

Cause: CTC’s Contracts Team is currently under new management and has since received additional training regarding union notification requirements.

Corrective Action: It is the contracting department’s responsibility to identify and notify any unions whose members could potentially perform the type of work to be contracted prior to executing the PSC. The PSC’s reviewed during this compliance review involved sign language, training consultation, moving, first aid and recycle collection services, functions which various rank-and-file civil service classifications perform. In response to this finding, the CTC revised its contract checklist to include the union notification requirement. A copy of this revised contract checklist was provided to CRU. No further follow-up needed by CTC.

Mandated Training

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

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

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

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

FINDING NO. 5 – Ethics Training Was Not Provided for All Filers

Summary: The CTC did not provide ethics training to 2 of 17 existing filers. However, the CTC did provide ethics training to all nine new filers within six months of their appointment.

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

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

Cause: The employees were notified and reminded to take the training however, no certificates of completion were provided to CTC's Office of Human Resources.

Corrective Action: Within 90 days of this report, the CTC must submit to the SPB a written correction action response which addresses the corrections the department will implement to demonstrate conformity with Government Code section 11146.3. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

FINDING NO. 6 – Sexual Harassment Prevention Training Was Not Provided for All Supervisors

Summary: The CTC did not provide sexual harassment prevention training to one of two new supervisors within six months of their appointment. In addition, the CTC did not provide sexual harassment prevention training to 18 of 29 existing supervisors every 2 years.

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

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

Cause: This incumbent did not take sexual harassment prevention training in accordance with Gov. Code, § 12950.1, subd. (a) because the

incumbent was not appointed to be a supervisory position. The incumbent was hired to the Staff Services Manager II classification as an Exceptional Allocation to perform governmental relations duties. The incumbent does not supervise; nonetheless they completed the training June 30, 2020, and a copy of their training certificate was provided.

SPB Reply:

While the Staff Services Manager II in question may not directly supervise staff pursuant to CTC's Exceptional Allocation, the position of SSM II has been designated a supervisor classification by CalHR. Such positions carry a level of responsibility above and beyond non-supervisory positions pursuant to the Fair Employment and Housing Act. Therefore, the employee should have taken the training in accordance with Government Code section 12950.1.

Corrective Action: Within 90 days of the date of this report, the CTC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that supervisors are provided sexual harassment prevention training in accordance with Government Code section 12950.1. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate⁵ 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.

⁵ "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).

During the period under review, July 1, 2019, through March 31, 2020, the CTC made 27 appointments. The CRU reviewed eight of those appointments to determine if the CTC applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Assistant Consultant in Teacher Preparation	Certification List	Permanent	Full Time	\$4,720
Associate Governmental Program Analyst	Certification List	Limited Term	Full Time	\$5,174
Attorney	Certification List	Permanent	Full Time	\$5,763
Special Investigator	Certification List	Permanent	Full Time	\$6,239
Staff Services Analyst (General)	Reinstatement	Permanent	Full Time	\$4,418
Staff Services Manager II (Supervisory)	Reinstatement	Permanent	Full Time	\$8,352
Supervising Special Investigator I (Non-Peace Officer)	Reinstatement	Permanent	Full Time	\$8,333
Information Technology Specialist I	Transfer	Permanent	Full Time	\$6,715

FINDING NO. 7 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

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

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria.

(CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, July 1, 2019, through March 31, 2020, the CTC employees made three alternate range movements within a classification. The CRU reviewed those three alternate range movements to determine if the CTC applied salary regulations accurately and correctly processed each employee’s compensation, which are listed below:

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Attorney	B	C	Full Time	\$6,946
Staff Services Analyst (General)	B	C	Full Time	\$4,418
Staff Services Analyst (General)	B	C	Full Time	\$4,692

FINDING NO. 8 – Alternate Range Movements Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU determined that the alternate range movements the CTC made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

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

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

During the period under review, July 1, 2019, through March 31, 2020, the CTC issued bilingual pay to one employee. The CRU reviewed that one bilingual pay authorization to ensure compliance with applicable CalHR policies and guidelines. It is listed below:

Classification	Bargaining Unit	Time Base	No. of Appts.
Special Investigator	R07	Full Time	1

FINDING NO. 9 – Bilingual Pay Authorization Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found that the bilingual pay authorized to the employee during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Out-of-Class Assignments and Pay

For excluded⁶ 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 salary regulations. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires. (Classification and Pay Guide Section 375.)

During the period under review, July 1, 2019, through March 31, 2020, the CTC issued OOC pay to two employees. The CRU reviewed those two OOC assignments to ensure

⁶ “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.

compliance with applicable MOU provisions, salary regulations, and CalHR policies and guidelines. These are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Staff Services Manager I	S01	Staff Services Manager II (Managerial)	8/30/19 – 10/1/19
Staff Services Manager II (Supervisory)	S01	Career Executive Assignment	6/2/19 – 8/8/19

FINDING NO. 10 – Out of Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the OOC pay assignments that the CTC 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 in order to continue the employment status for an employee until the completion of an examination, for seasonal type work, while attending school, or for consulting services.

An employee is appointed TAU-ATW when he/she is not expected to work all of the working days of a month. When counting 189 days, every day worked, including partial days⁷ worked and paid absences⁸, 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

⁷ For example, two hours or ten hours count as one day.

⁸ For example, vacation, sick leave, compensating time off, etc.

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 CTC had four positive paid employees whose hours were tracked. The CRU reviewed those four 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	Intermittent	1/1/19 – 12/31/19	1,389.5 hours
Research Data Specialist I	Intermittent	1/1/19 – 12/31/19	1,654.5 hours
Special Consultant	Intermittent	7/1/18 – 6/30/19	36.5 hours
Student Assistant	Intermittent	8/26/19 – 4/30/20	764.5 hours

FINDING NO. 11 – Department Did Not Properly Monitor Time Worked for All Positive Paid Employees

Summary: The CTC did not consistently monitor the actual number of hours worked in order to ensure that all positive paid employees did not exceed the 1,500-hour limitation in any calendar year.

Specifically, the following employee exceeded the established limitations:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Research Data Specialist I	Permanent	1/1/19 – 12/31/19	1,654.5 hours	154.5 hours

Criteria: 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.

Cause: The CTC accepts this finding. There have been changes in human resources staff recently, which caused this finding. New staff are being recruited, and a new process will be implemented to ensure positive paid employees’ hours are tracked.

Corrective Action: Within 90 days of the date of this report, the CTC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Government Code section 21224, and California Code of Regulations, title 2, section 599.665, and Bargaining Unit 10 agreement. Copies of relevant documentation demonstrating that the

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

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, January 31, 2019, through January 30, 2020, the CTC placed nine employees on ATO. The CRU reviewed three of those ATO appointments to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Senior Legal Analyst	2/12/19 – 2/15/19	4 days
Staff Services Manager II (Managerial)	1/31/19 – 6/21/19	142 days
Associate Governmental Program Analyst	1/31/19 – 4/30/19	90 days

FINDING NO. 12 – Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The CTC 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, October 31, 2019, through January 30, 2020, the CTC reported 5 units comprised of 160 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
November 2019	201	28	28	0
December 2019	403	36	36	0
January 2020	402	5	5	0

FINDING NO. 13 – Leave Activity and Correction Certification Forms Were Not Completed for All Leave Records Reviewed

Summary: The CTC failed to complete Leave Activity and Correction Certification forms for two out of three units reviewed during the November and December 2019 pay periods.

Criteria: Departments are responsible for maintaining accurate and timely leave accounting records for their employees. (Cal. Code Regs., tit. 2, § 599.665.) Departments shall identify and record all errors found using a Leave Activity and Correction form. (Human Resources Manual Section 2101.) Furthermore, departments shall certify that all leave records for the unit/pay period identified on the certification form have been reviewed and all leave errors identified have been corrected. (*Ibid.*)

Severity: Technical. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. For post-audit purposes, the completion of Leave Activity and Correction Certification forms demonstrates compliance with CalHR policies and guidelines.

Cause: The CTC accepts this finding. There have been changes in human resources staff recently, which caused this finding. New staff are being recruited, and will be appropriately trained on maintaining accurate and timely leave accounting records. Further, a new process will be implemented to ensure all timesheets with errors are identified and documented using the Leave Activity and Correction form.

Corrective Action: Within 90 days of the date of this report, the CTC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that their monthly internal audit process is documented and that all leave input is keyed accurately and timely. The CTC must incorporate completion of Leave Activity and Correction Certification forms for all leave records even when errors are not identified or corrected. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

State Service

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

Generally, an employee who has 11 or more working days of service in a monthly pay period shall be considered to have a complete month, a month of service, or continuous service.⁹ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work

⁹ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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

For each qualifying monthly pay period, the employee shall be allowed credit for vacation with pay on the first day of the following monthly pay period. (Cal. Code Regs., tit. 2, § 599.608.) When computing months of total state service to determine a change in the monthly credit for vacation with pay, only qualifying monthly pay periods of service before and after breaks in service shall be counted. (Cal. Code Regs., tit. 2, § 599.739.) Portions of non-qualifying monthly pay periods of service shall not be counted nor accumulated. (*Ibid.*) On the first day following a qualifying monthly pay period, excluded employees¹⁰ shall be allowed credit for annual leave with pay. (Cal. Code Regs., tit. 2, § 599.752.)

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

During the period under review, July 1, 2019, through March 31, 2020, the CTC had two employees with non-qualifying pay period transactions. The CRU reviewed 34 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time base	Number Reviewed
Non-Qualifying Pay Period	Full Time	34

¹⁰ As identified in Government Code section 19858.3, subdivisions (a), (b), or (c) or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

FINDING NO. 14 – Incorrect Application of State Service and Leave Transaction

Summary: The CRU found that the CTC had one error, as identified below. The employee had a non-qualifying pay period, but was credited with a month of state service.

Type of Transaction	Time base	State Service Incorrectly Posted	Leave Accruals Incorrectly Posted
Non-Qualifying Pay Period	Full Time	1	0

Criteria: 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.

Cause: The CTC accepts this finding. There have been changes in human resources staff recently, which caused this finding. New staff are being recruited, and will be appropriately trained on monitoring non-qualifying pay periods monthly.

Corrective Action: Within 90 days of the date of this report, the CTC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure state service transactions are keyed accurately. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

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.*)

FINDING NO. 15 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

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

FINDING NO. 16 – Workers' Compensation Policy Was Not Provided to New Employees by the End of First Pay Period

Summary: The CTC did not provide specific notices to their new employees to inform them of their rights and responsibilities under California's Workers' Compensation Law by the end of the first pay period.

Criteria: Employers shall provide to every new employee 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 of Regs., tit. 8, § 9880.)

Severity: Very Serious. The department does not ensure that its employees' are aware of policies and procedures concerning worker's compensation.

Cause: Employees were provided Workers’ Compensation documents at their New Employee Orientation; however, the paper checklist verifying this was not retained.

Corrective Action: Within 90 days of the date of this report, the CTC must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 8, section 9880. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Performance Appraisals

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

The CRU selected 15 permanent CTC employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines. These are listed below:

Classification	Date Performance Appraisals Due
Associate Governmental Program Analyst	12/31/19
Associate Personnel Analyst	6/21/19
Attorney	5/31/19
Attorney III	12/31/19
Business Service Assistant (Specialist)	3/1/19
Consultant in Teacher Prep (Exams & Research)	8/25/19
Information Technology Associate	9/1/19
Information Technology Specialist I	3/31/19
Information Technology Supervisor II	1/11/19
Management Services Technician	9/5/19

Classification	Date Performance Appraisals Due
Office Assistant (General)	1/31/19
Personnel Specialist	11/12/19
Research Data Specialist I	6/30/19
Staff Services Manager I	4/30/19
Teacher Preparation Admin (Prog Evaluation & Research)	3/15/19

FINDING NO. 17 – Performance Appraisal Policy and Processes Complied with Civil Service Laws and Regulations and CalHR Policies and Guidelines

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

DEPARTMENTAL RESPONSE

The CTC’s response is attached as Attachment 1.

SPB REPLY

Based upon the CTC’s written response, the CTC will comply with the corrective actions specified in these report findings. Within 90 days of the date of this report, a written corrective action response including documentation demonstrating implementation of the corrective actions specified, must be submitted to the CRU.



Commission on Teacher Credentialing

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Office of Human Resources

DATE: December 17, 2020

TO: Luisa Doi
Compliance Review Manager
State Personnel Board

FROM: Christopher M. Rose *Christopher M. Rose*
Director, Office of Human Resources
Commission on Teacher Credentialing

SUBJECT: Response to Audit Findings

This constitutes the Commission on Teacher Credentialing's (CTC) response to the State Personnel Board's (SPB) Compliance Review 2020 draft report. The SPB identified eight (8) possible areas that require correction. The following are the CTC's responses.

FINDING NO. 2 – Probationary Evaluations Were Not Timely

Summary: The CTC did not provide in a timely manner one probationary report of performance for one of the eight appointments reviewed by the CRU, as reflected in the table below.

Classification	Appointment Type	Number of Appointments	Total Number of Late Probation Reports
Attorney	Certification List	1	1

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list. (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 9 SPB Compliance Review Commission on Teacher Credentialing

from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: The CTC's Office of Human Resources (OHR) notifies supervisors when to complete probation reports using Outlook calendar reminders. The OHR sends the supervisor calendar reminders that includes a one-week reminder the report is due. This report was missed because there was a change in management at the program level and the Attorney probation report deadline was not transitioned to the new manager's calendar. In the future, the OHR will calendar all probation reports on Outlook and include both the first-line manager and their second-line manager.

**FINDING NO. 4 – Unions Were Not Notified of Personal Services Contract
The CTC did not notify unions prior to entering into all of the eight PSC's reviewed.**

Summary: The CTC did not notify unions prior to entering into all of the eight PSC's reviewed.

Criteria: 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 in order to ensure they are aware contracts are being proposed for work that their members could perform.

Cause: The CTC accepts this finding. The Contracts Team did not consistently send union notices for all contracts. The team is currently under new management and has since received additional training regarding union notification requirements. The team has implemented new processes to ensure that notifications are sent to the unions with ample time to review prior to the execution of the contract. Union notifications were added to the peer reviewer's checklist to ensure that Gov. Code, § 19132 provisions are met for all applicable contracts.

FINDING NO. 5 – Ethics Training Was Not Provided for All Filers

Summary: The CTC did not provide ethics training to 2 of 17 existing filers. However, the CTC did provide ethics training to all nine new filers within six months of their appointment.

Criteria: 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 OHR notifies filers of their responsibility to complete Ethics Training within six months of appointment, or every two years thereafter. The OHR keeps an Ethics Training log, which it uses to manually track notifications, reminders, and completion status. The employees were informed to take the training however, no Ethics Training certifications were turned into OHR. Moving forward the OHR will calendar the Ethics Training deadline for filers and include their supervisor. The CTC is also developing a Personnel Information Management System (PIMS) that will provide automated reminders to staff that have mandatory training, including Ethics Training, to ensure employee participation.

FINDING NO. 6 – Sexual Harassment Prevention Training (SHPT) Was Not Provided for All Supervisors

Summary: The CTC did not provide sexual harassment prevention training to one of two new supervisors within six months of their appointment. In addition, the CTC did not provide sexual harassment prevention training to 18 of 29 existing supervisors every 2 years.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years. New supervisors must be provided sexual harassment prevention training within six months of appointment. (Gov. Code, § 12950.1, subd. (a).)

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

Cause: This incumbent did not take SHPT in accordance with Gov. Code, § 12950.1, subd. (a) because the incumbent was not appointed to be a supervisory position. The incumbent was hired to the Staff Services Manager II classification as an Exceptional Allocation to perform governmental relations duties. The incumbent does not supervise, nonetheless they completed the training June 30, 2020.

FINDING NO. 11 – Department Did Not Properly Monitor Time Worked for All Positive Paid Employees.

Summary: The CTC did not consistently monitor the actual number of hours worked in order to ensure that all positive paid employees did not exceed the 1,500-hour limitation in any calendar year.

Specifically, the following employee exceeded the established limitations:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Research Data Specialist I	Permanent	1/1/19 – 12/31/19	1,654.5 hours	154.5 hours

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.

Cause: The CTC accepts this finding. There has been a transition in Transactions staff in 2020. The OHR has recently hired a Transactions manager and is in the process of hiring a Personnel Specialist (position currently vacant). Transactions staff will run an Hours Worked report through the Management Retrieval Report System (MIRS) on a quarterly basis to ensure that all positive paid employees do not exceed the 1,500-hour limitation in any calendar year. The Transactions manager and one OHR analyst are being trained in running MIRS.

FINDING NO. 13 – Leave Activity and Correction Certification Forms Were Not Completed For All Leave Records Reviewed

Summary: The CTC failed to complete Leave Activity and Correction Certification forms for two out of three units reviewed during the November and December 2019 pay periods.

Criteria: Departments are responsible for maintaining accurate and timely leave accounting records for their employees. (Cal. Code Regs., tit. 2, § 599.665.) Departments shall identify and record all errors found using a Leave Activity and Correction form. (Human Resources Manual Section 2101.) Furthermore, departments shall certify that all leave records for the unit/pay period identified on the certification form have been reviewed and all leave errors identified have been corrected. (*Ibid.*)

Severity: Technical. Departments must document that they reviewed all leave inputted into their leave accounting system to ensure accuracy and timeliness. For post-audit purposes, the completion of Leave Activity and Correction Certification forms demonstrates compliance with CalHR policies and guidelines.

Cause: The CTC accepts this finding. There has been a transition in Transactions staff in 2020. The OHR has recently hiring a Transactions manager and is in the process of hiring a Personnel Specialist (position currently vacant). Transactions staff will be trained on maintaining accurate and timely leave accounting records. Transactions staff will ensure all timesheets with errors are identified and documented using the Leave Activity and Correction form.

FINDING NO. 14 – Incorrect Application of State Service and Leave Transaction(s)

Summary: The CRU found that the CTC had one error, as identified below. The employee had a non-qualifying pay period; however, was credited with a month of state service.

Type of Transaction	Time base	State Service Incorrectly Posted	Leave Accruals Incorrectly Posted
Non-Qualifying Pay Period	Full Time	1	0

Criteria: 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.

Cause: The CTC accepts this finding. There has been a transition in Transactions staff in 2020. The OHR has recently hiring a Transactions manager and is in the process of hiring a Personnel Specialist (position currently vacant). The staff will be training to monitor non-qualifying pay periods monthly. Transactions staff will be trained to key all non-qualifying pay periods.

FINDING NO. 16 – Workers’ Compensation Policy Was Not Provided to New Employees by the End of First Pay Period.

Summary: The CTC did not provide specific notices to their new employees to inform them of their rights and responsibilities under California’s Workers’ Compensation Law by the end of the first pay period.

Criteria: Employers shall provide to every new employee 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 of Regs., tit. 8, § 9880.)

Severity: Very Serious. The department does not ensure that its employees' are aware of policies and procedures concerning worker's compensation.

Cause: Employees were provided Workers' Compensation documents at their New Employee Orientation (NEO) however the paper checklist verifying this was not retained. The CTC is developing an automated PIMS that will automate the NEO process. The PIMS will keep a centralized record of all NEO documents given to new employees and include an electronic signature feature.