



COMPLIANCE REVIEW REPORT

STATE WATER RESOURCES CONTROL BOARD

Compliance Review Unit
State Personnel Board
July 8, 2024

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INTRODUCTION

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

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

Pursuant to Government Code section 18502, subdivision (c), the SPB and the California Department of Human Resources (CalHR) may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." 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 State Water Resources Control Board (SWRCB) personnel practices in the areas of examinations, appointments, EEO, PSC's, mandated training, compensation and pay, leave, and policy and processes. The following table summarizes the compliance review findings.

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

¹ Repeat finding. The July 10, 2020, SWRCB compliance review report identified 9 probationary reports of performance not provided for 8 of the 36 appointments reviewed by the CRU. In addition, the SWRCB did not provide eight probationary reports of performance in a timely manner. The July 12, 2016, SWRCB compliance review report found that 20 probationary reports of performance were not completed and/or retained.

² Repeat finding. The July 10, 2020, SWRCB compliance review report identified the SWRCB did not retain two NOPAs and one entire recruitment file, including the hired applicant's application. The July 12, 2016, SWRCB compliance review report identified the SWRCB failed to retain 10 job bulletins, 20 Notices of Personnel Actions (NOPAs), and 2 appointment files with missing applications.

Area	Severity	Finding
Mandated Training	Very Serious	Ethics Training Was Not Provided for All Filers ³
Mandated Training	Very Serious	Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs ⁴
Mandated Training	Very Serious	Sexual Harassment Prevention Training Was Not Provided for All Employees ⁵
Compensation and Pay	Very Serious	Incorrect Application of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment
Compensation and Pay	Very Serious	Alternate Range Movements Did Not Comply with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	In Compliance	Hire Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Bilingual Pay ⁶
Compensation and Pay	In Compliance	Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Very Serious	Incorrect Authorization of Out-of-Class Pay

³ Repeat finding. The July 10, 2020, SWRCB compliance review report identified the SWRCB did not provide ethics training to 35 of 558 existing filers. In addition, the SWRCB did not provide ethics training to 8 of 74 new filers within 6 months of appointment.

⁴ Repeat finding. The July 10, 2020, SWRCB compliance review report identified the SWRCB did not provide basic supervisory training to 12 of 51 new supervisors within 12 months of appointment; did not provide manager training to 3 of 4 new managers within 12 months of appointment; and did not provide Career Executive Assignment (CEA) training to 5 of 6 new CEAs within 12 months of appointment. The July 12, 2016, SWRCB compliance review report identified the SWRCB did not provide basic supervisory training to 13 of 28 new supervisors within 12 months of appointment.

⁵ Repeat finding. The July 10, 2020, SWRCB compliance review report identified the SWRCB did not provide sexual harassment prevention training to 27 of 88 new supervisors within 6 months of their appointment; and to 36 of 353 existing supervisors every 2 years. The July 12, 2016, SWRCB compliance review report identified the SWRCB did not provide sexual harassment prevention training to 5 of 94 new supervisors within 6 months of appointment. In addition, the SWRCB did not provide sexual harassment prevention training to 25 of 360 existing supervisors every 2 years.

⁶ Repeat finding. The July 10, 2020, SWRCB compliance review report identified 19 errors which included several files missing multiple documents in the SWRCB 's authorization of bilingual pay.

Area	Severity	Finding
Leave	Serious	Positive Paid Temporary Employees' Work Exceeded Time Limitations ⁷
Leave	In Compliance	Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Very Serious	Incorrectly Posted Leave Usage and/or Leave Credit
Leave	In Compliance	Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	In Compliance	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Serious	Performance Appraisals Were Not Provided to All Employees ⁸

BACKGROUND

The SWRCB was created by the Legislature in 1967. Its overall mission is to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and to ensure proper water resource allocation and efficient use for the benefit of present and future generations. The joint authority of water allocation and water quality protection enables the SWRCB to provide comprehensive protection for California's waters.

The SWRCB consists of five full-time board members, with each filling a different specialty position. Each board member is appointed to a four-year term by the Governor of

⁷ Repeat finding. The July 10, 2020, SWRCB compliance review report identified the SWRCB did not consistently monitor the actual number of days and/or hours worked to ensure that 18 positive paid employees did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period.

⁸ Repeat finding. The July 10, 2020, SWRCB compliance review report identified the SWRCB did not provide annual performance appraisals to 4 of 56 employees reviewed after the completion of the employees' probationary periods.

California and is then confirmed by the Senate. The five-member State Water Board allocates water rights, adjudicates water rights disputes, develops statewide water protection plans, establishes water quality standards, and guides the nine Regional Water Quality Control Boards located in the major watersheds within California.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the SWRCB's examinations, appointments, EEO program, PSC's, mandated training, compensation and pay, leave, and policy and processes⁹. The primary objective of the review was to determine if the SWRCB's personnel practices, policies, and procedures complied with state civil service laws and Board regulations, Bargaining Unit Agreements, CalHR policies and guidelines, CalHR Delegation Agreements, and to recommend corrective action where deficiencies were identified.

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

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

The SWRCB's appointments were also selected for review to ensure the SWRCB applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the SWRCB 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

⁹ Timeframes of the compliance review varied depending on the area of review. Please refer to each section for specific compliance review timeframes.

specific documentation for the following personnel functions related to compensation and pay hire above minimum (HAM) requests, bilingual pay, monthly pay differentials, alternate range movements, and out-of-class assignments. During the compliance review period, the SWRCB did not issue red circle rate requests or arduous pay.

The review of the SWRCB'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 SWRCB's PSC's were also reviewed.¹⁰ It was beyond the scope of the compliance review to make conclusions as to whether the SWRCB's justifications for the contracts were legally sufficient. The review was limited to whether the SWRCB's practices, policies, and procedures relative to PSC's complied with procedural requirements.

The SWRCB'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 CEAs were provided leadership and development training, and that all employees were provided sexual harassment prevention training within statutory timelines.

The CRU reviewed the SWRCB'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 SWRCB'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 SWRCB'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 SWRCB employees who used Administrative Time Off (ATO) in order to ensure that ATO was appropriately administered. Further, the CRU reviewed a selection of SWRCB positive paid employees whose hours are tracked during the compliance review period in order to ensure that they adhered to procedural requirements.

¹⁰If an employee organization requests the SPB to review any personal services contract during the SPB compliance review period or prior to the completion of the final compliance review report, the SPB will not audit the contract. Instead, the SPB will review the contract pursuant to its statutory and regulatory process. In this instance, none of the reviewed PSC's were challenged.

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

On April 24, 2024, an exit conference was held with the SWRCB to explain and discuss the CRU's initial findings and recommendations. The CRU received and carefully reviewed the SWRCB's written response on May 24, 2024, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Examinations

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

During the period under review, July 1, 2022, through December 31, 2022, the SWRCB conducted one examination. The CRU reviewed the examination, which is listed below:

Classification	Exam Type	Exam Components	Final File Date	No. of Apps
Water Resource Control Engineer	Departmental Open	Written ¹¹	Continuous	4

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

Permanent Withhold Actions

Departments are granted statutory authority to permit withhold of eligibles from lists based on specified criteria. (Gov. Code, § 18935.) Permanent appointments and promotions within the state civil service system shall be merit-based, ascertained by a competitive examination process. (Cal. Const., art. VII, § 1, subd. (b).) If a candidate for appointment is found not to satisfy the minimum qualifications, the appointing power shall provide written notice to the candidate, specifying which qualification(s) are not satisfied and the reason(s) why. The candidate shall have an opportunity to establish that s/he meets the qualifications. (Cal. Code Regs., tit. 2, § 249.4, subd. (b).) If the candidate fails to respond or fails to establish that s/he meets the minimum qualification(s), the candidate's name shall be removed from the eligibility list. (Cal. Code Regs., tit. 2, § 249.4, subd. (b)(1), (2)), (HR Manual, section 1105.) The appointing authority shall promptly notify the candidate in writing and shall notify the candidate of his or her appeal rights. (*Ibid.*) A permanent withhold does not necessarily permanently restrict a candidate from retaking the examination for the same classification in the future; however, the appointing authority may place a withhold on the candidate's subsequent eligibility record if the candidate still

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

does not meet the minimum qualifications or continues to be unsuitable. (HR Manual, Section 1105). State agency human resources offices are required to maintain specific withhold documentation for a period of five years. (*Ibid.*)

During the period under review, July 1, 2022, through December 31, 2022, the SWRCB conducted 31 permanent withhold actions. The CRU reviewed 19 of these permanent withhold actions, which are listed below:

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Accountant Trainee	9PB31	4/13/2022	7/11/2022	Failed to Meet Minimum Qualifications
Accountant Trainee	9PB31	12/16/2021	7/11/2022	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	11/1/2022	12/13/2022	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	8/24/2022	11/1/2022	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	6/1/2022	8/15/2022	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	6/29/2022	8/15/2022	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	2/28/2022	11/7/2022	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	10/19/2022	12/7/2022	Failed to Meet Minimum Qualifications
Associate Governmental Program Analyst	9PB04	5/23/2022	8/9/2022	Failed to Meet Minimum Qualifications
Engineering Geologist	8PB70	12/18/2021	11/29/2022	Failed to Meet Minimum Qualifications

Exam Title	Exam ID	Date List Eligibility Began	Date List Eligibility Ended	Reason Candidate Placed on Withhold
Engineering Geologist	8PB70	8/5/2022	9/14/2022	Failed to Meet Minimum Qualifications
Engineering Geologist	8PB70	8/2/2022	9/14/2022	Failed to Meet Minimum Qualifications
Environmental Program Manager I (Supervisory)	0PBFT	9/4/2022	10/26/2022	Failed to Meet Minimum Qualifications
Research Data Specialist III	8PB41	11/7/2022	12/16/2022	Failed to Meet Minimum Qualifications
Senior Environmental Scientist (Spec)	0PB DJ	7/14/2022	12/14/2022	Failed to Meet Minimum Qualifications
Staff Services Analyst	7PB34	7/25/2022	9/9/2022	Failed to Meet Minimum Qualifications
Staff Services Analyst	7PB34	5/20/2022	12/1/2022	Failed to Meet Minimum Qualifications
Staff Services Manager I	0PBGS	7/9/2022	11/23/2022	Failed to Meet Minimum Qualifications
Water Resource Control Engineer	1PB09	10/21/2022	12/15/2022	Failed to Meet Minimum Qualifications

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

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) The hiring process for eligible candidates chosen

for job interviews shall be competitive and be designed and administered to hire candidates who will be successful. (Cal. Code Regs., tit. 2, § 250, subd. (b).) Interviews shall be conducted using job-related criteria. (*Ibid.*) Persons selected for appointment shall satisfy the minimum qualifications of the classification to which he or she is appointed or have previously passed probation and achieved permanent status in that same classification. (Cal. Code Regs., tit. 2, § 250, subd. (d).) While persons selected for appointment may meet some or most of the preferred or desirable qualifications, they are not required to meet all the preferred or desirable qualifications. (*Ibid.*) This section does not apply to intra-agency job reassignments. (Cal. Code Regs., tit. 2, § 250, subd. (e).)

During the period under review, January 1, 2022, through June 30, 2022, the SWRCB made 333 appointments. The CRU reviewed 52 of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Accounting Officer (Specialist)	Certification List	Permanent	Full Time	2
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	9
Associate Personnel Analyst	Certification List	Permanent	Full Time	1
Attorney	Certification List	Permanent	Full Time	2
Engineering Geologist	Certification List	Permanent	Full Time	6
Environmental Scientist	Certification List	Permanent	Full Time	7
Information Technology Specialist II	Certification List	Permanent	Full Time	1
Research Data Specialist II	Certification List	Permanent	Full Time	1
Senior Environmental Scientist (Specialist)	Certification List	Permanent	Full Time	2
Senior Water Resource Control Engineer	Certification List	Permanent	Full Time	2
Staff Services Analyst	Certification List	Permanent	Full Time	1
Staff Services Manager I	Certification List	Permanent	Full Time	1
Supervising Engineering Geologist	Certification List	Permanent	Full Time	2

Classification	Appointment Type	Tenure	Time Base	No. of Appts.
Supervising Water Resource Control Engineer	Certification List	Permanent	Full Time	2
Water Resource Control Engineer	Certification List	Permanent	Full Time	3
Environmental Scientist	Permissive Reinstatement	Permanent	Full Time	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	2
Engineering Geologist	Transfer	Permanent	Full Time	1
Environmental Scientist	Transfer	Permanent	Full Time	2
Senior Engineering Geologist	Transfer	Permanent	Full Time	1
Senior Water Resource Control Engineer	Transfer	Permanent	Full Time	1
Water Resource Control Engineer	Transfer	Permanent	Full Time	2

SEVERITY: SERIOUS	FINDING NO. 3 PROBATIONARY EVALUATIONS WERE NOT PROVIDED FOR ALL APPOINTMENTS REVIEWED AND SOME THAT WERE PROVIDED WERE UNTIMELY
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Summary: The SWRCB did not provide 19 probationary reports of performance for 11 of the 52 appointments reviewed by the CRU. In addition, the SWRCB did not provide 13 probationary reports of performance in a timely manner, as reflected in the tables below. This is the third consecutive time this has been a finding for the SWRCB.

Classification	Appointment Type	No. of Appts.	Total No. of Missing Probation Reports
Associate Governmental Program Analyst	Certification List	1	1
Attorney	Certification List	1	3
Engineering Geologist	Certification List	1	1
Environmental Scientist	Certification List	1	1
Information Technology Specialist II	Certification List	1	1
Senior Environmental Scientist (Specialist)	Certification List	1	2
Senior Water Resource Control Engineer	Certification List	1	3

Classification	Appointment Type	No. of Appts.	Total No. of Missing Probation Reports
Supervising Water Resource Control Engineer	Certification List	1	1
Water Resource Control Engineer	Certification List	3	6

Classification	Appointment Type	No. of Appts.	Total No. of Late Probation Reports
Accounting Officer (Specialist)	Certification List	1	2
Associate Governmental Program Analyst	Certification List	1	2
Engineering Geologist	Certification List	2	2
Environmental Scientist	Certification List	2	3
Information Technology Specialist II	Certification List	1	1
Supervising Water Resource Control Engineer	Certification List	1	1
Water Resource Control Engineer	Certification List	1	2

Criteria: The service of a probationary period is required when an employee enters or is promoted in the state civil service by permanent appointment from an employment list; upon reinstatement after a break in continuity of service resulting from a permanent separation; or after any other type of appointment situation not specifically excepted from the probationary period. (Gov. Code, § 19171.) During the probationary period, the appointing power shall evaluate the work and efficiency of a probationer in the manner and at such periods as the department rules may require. (Gov. Code, § 19172.) A report of the probationer's performance shall be made to the employee at sufficiently frequent intervals to keep the employee adequately informed of progress on the job. (Cal. Code Regs., tit. 2, § 599.795.) A written appraisal of performance shall be made to the Department within 10 days after the end of each one-third portion of the probationary period. (*Ibid.*) The Board's record retention rules require that appointing powers retain all probationary reports for five years from the date the record is created. (Cal. Code Regs., tit. 2, § 26, subd. (a)(3).)

Severity: Serious. The probationary period is the final step in the selection process to ensure that the individual selected can successfully

perform the full scope of their job duties. Failing to use the probationary period to assist an employee in improving his or her performance or terminating the appointment upon determination that the appointment is not a good job/person match is unfair to the employee and serves to erode the quality of state government.

Cause: The SWRCB states that despite implementing notification procedures and training, the managers and supervisors were still not able to complete probationary reports or complete them within the prescribed regulatory timeframe.

Corrective Action: Within 90 days of the date of this report, the SWRCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to demonstrate conformity with the probationary requirements of Government Code section 19172 and 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.

SEVERITY: TECHNICAL	FINDING NO. 4 APPOINTMENT DOCUMENTATION WAS NOT KEPT FOR THE APPROPRIATE AMOUNT OF TIME
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Summary: Of the 52 appointments reviewed, the SWRCB failed to retain 16 NOPAs. This is the third consecutive time this has been a finding for the SWRCB.

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

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

Cause: The SWRCB states that the lack of a tracking system or follow-up contributed to NOPAs not being returned or retained.

Corrective Action: Within 90 days of the date of this report, the SWRCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with the record retention requirements of California Code of Regulations, title 2, section 26. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Equal Employment Opportunity

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

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

IN COMPLIANCE	FINDING NO. 5 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM COMPLIED WITH ALL CIVIL SERVICE LAWS AND BOARD RULES
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After reviewing the policies, procedures, and programs necessary for compliance with the EEO program’s role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the SWRCB’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 SWRCB. The SWRCB also provided evidence of its efforts to promote EEO in its hiring and employment practices and to increase its hiring of persons with a disability.

Personal Services Contracts

A PSC includes any contract, requisition, or purchase order under which labor or personal services is a significant, separately identifiable element, and the business or person performing the services is an independent contractor that does not have status as an employee of the state. (Cal. Code Regs., tit. 2, § 547.59.) The California Constitution has an implied civil service mandate limiting the state’s authority to contract with private entities to perform services the state has historically or customarily performed. Government Code section 19130, subdivision (a), however, codifies exceptions to the civil service mandate where PSC’s achieve cost savings for the state. PSC’s that are of a type enumerated in subdivision (b) of Government Code section 19130 are also permissible. Subdivision (b) contracts include, but are not limited to, private contracts for a new state function, services that are not available within state service, services that are incidental to a contract for the purchase or lease of real or personal property, and services that are of an urgent, temporary, or occasional nature.

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

During the period under review, July 1, 2022, through December 31, 2022, the SWRCB had 22 PSC’s that were in effect. The CRU reviewed 13 of those, which are listed below:

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
Bend Genetics, LLC	Analysis of Cyanotoxins	\$1,984,000	Yes	Yes
Cal Interpreting & Translations, Inc	Interpretation	\$750,000	Yes	Yes
California Reporting, LLC	Court Reporting and Transcription	\$395,000	Yes	Yes
California Reporting, LLC	Court Reporting and Transcription	\$9,999	Yes	Yes
Civic Well	Civic Spark	\$437,476	Yes	Yes

Vendor	Services	Contract Amount	Justification Identified?	Union Notification?
	Fellows			
Clear Impact, LLC	Training	\$48,500	Yes	Yes
Desert Research Institute	Scientific Peer Review	\$130,168	Yes	Yes
Geosyntec Consultants	Research and Technical Assistance	\$2,083,561	Yes	Yes
Major Alarm, Inc.	Alarm Monitoring Services	\$1,512	Yes	Yes
Race Forward	Racial Equity Employee Survey Tool	\$7,876	Yes	Yes
United States Geological Survey	Ground Water Analysis	\$15,200,000	Yes	Yes
YSI, Inc.	Maintenance	\$44,000	Yes	Yes
YSI, Inc.	Maintenance	\$4,500	Yes	Yes

IN COMPLIANCE	FINDING NO. 6 PERSONAL SERVICES CONTRACTS COMPLIED WITH PROCEDURAL REQUIREMENTS
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The total dollar amount of all the PSC’s reviewed was \$21,096,592. It was beyond the scope of the review to make conclusions as to whether the SWRCB justifications for the contract were legally sufficient. For all PSC’s reviewed, the SWRCB 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, SWRCB complied with proper notification to all organizations that represent state employees who perform or could perform the type or work contracted as required by California Code of Regulations section 547.60.2. Accordingly, the SWRCB PSC’s complied with civil service laws and board rules.

Mandated Training

Each member, officer, or designated employee of a state agency who is required to file a statement of economic interest (referred to as “filers”) because of the position he or she holds with the agency is required to take an orientation course on the relevant ethics statutes and regulations that govern the official conduct of state officials. (Gov. Code, §§ 11146 & 11146.1.) State agencies are required to offer filers the orientation course on a semi-annual basis. (Gov. Code, § 11146.1.) New filers must be trained within six months

of appointment and at least once during each consecutive period of two calendar years, commencing on the first odd-numbered year thereafter. (Gov. Code, § 11146.3.)

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

Within 12 months of the initial appointment of an employee to a management or CEA position, the employee shall be provided leadership training and development, as prescribed by CalHR. (Gov. Code, § 19995.4, subds. (d) & (e).) For management employees the training must be a minimum of 40 hours and for CEAs the training must be a minimum of 20 hours. (*Ibid.*)

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

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

CRU reviewed the SWRCB’s mandated training program that was in effect during the compliance review period, January 1, 2021, through December 30, 2022.

SEVERITY: VERY SERIOUS	FINDING NO. 7 ETHICS TRAINING WAS NOT PROVIDED FOR ALL FILERS
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Summary: The SWRCB did not provide ethics training to 18 of the 92 existing filers reviewed. In addition, the SWRCB did not provide ethics training to 3 of the 56 new filers reviewed within 6 months of their appointment. This is the second consecutive time this has been a finding for the SWRCB.

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 SWRCB states that despite notifying filers of the ethics training requirement, not all filers completed the training as required or within the required timeframe.

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

SEVERITY: VERY SERIOUS	FINDING NO. 8 SUPERVISORY TRAINING WAS NOT PROVIDED FOR ALL SUPERVISORS, MANAGERS, AND CEAS
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Summary: The SWRCB did not provide basic supervisory training to 1 of 46 new supervisors within 12 months of appointment, and did not provide CEA training to 2 of 5 new CEAs within 12 months of appointment. This is the third consecutive time this has been a finding for the SWRCB.

Criteria: Each department must provide its new supervisors a minimum of 80 hours of supervisory training within the probationary period. (Gov. Code, § 19995.4, subd. (b).)

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

Severity: Very Serious. The department does not ensure its leaders are properly trained. Without proper training, leaders may not properly carry out their leadership roles, including managing employees.

Cause: The SWRCB states that despite releasing a Learning Management System (LMS) and having monthly training liaison meetings to review leadership compliance dashboards, supervisors and managers are still failing to complete the required training.

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

SEVERITY: VERY SERIOUS	FINDING NO. 9 SEXUAL HARASSMENT PREVENTION TRAINING WAS NOT PROVIDED FOR ALL EMPLOYEES
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Summary: The SWRCB did not provide sexual harassment prevention training to 20 of 86 new supervisors within 6 months of their appointment. In addition, the SWRCB did not provide sexual harassment prevention training to 92 of 518 existing supervisors every 2 years. This is the third consecutive time this has been a finding for the SWRCB.

Additionally, the SWRCB did not provide sexual harassment prevention training to 8 of 196 sampled non-supervisors reviewed.

Criteria: Each department must provide its supervisors two hours of sexual harassment prevention training every two years and non-supervisory employees one hour of sexual harassment prevention training every two years. New employees must be provided sexual harassment

prevention training within six months of appointment. (Gov. Code, § 12950.1, subs. (a) and (b); Gov. Code, § 19995.4.)

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

Cause: The SWRCB states that the transition from a legacy tracking system to the LMS may have led to records in being in transition or not accounted for in the reporting data pulled from the LMS during the review.

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

Compensation and Pay

Salary Determination

The pay plan for state civil service consists of salary ranges and steps established by CalHR. (Cal. Code Regs., tit. 2, § 599.666.) Several salary rules dictate how departments calculate and determine an employee's salary rate¹² 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

¹² "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).

recruitment needs and to accommodate employees who transfer into a class from another civil service class and are already receiving salaries above the minimum.

During the period under review, January 1, 2022, through June 30, 2022, the SWRCB made 333 appointments. The CRU reviewed 23 of those appointments to determine if the SWRCB applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)	No. of Apts.
Associate Governmental Program Analyst	Certification List	Permanent	Full Time	\$5,383	4
Associate Personnel Analyst	Certification List	Permanent	Full Time	\$5,383	1
Attorney	Certification List	Permanent	Full Time	\$6,979	1
Engineering Geologist	Certification List	Permanent	Full Time	\$8,243	1
Engineering Geologist	Certification List	Permanent	Full Time	\$8,332	1
Engineering Geologist	Certification List	Permanent	Full Time	\$8,794	1
Environmental Scientist	Certification List	Permanent	Full Time	\$4,145	1
Environmental Scientist	Certification List	Permanent	Full Time	\$7,926	1
Information Technology Specialist II	Certification List	Permanent	Full Time	\$9,878	1
Research Data Specialist II	Certification List	Permanent	Full Time	\$7,186	1
Senior Water Resource Control Engineer	Certification List	Permanent	Full Time	\$11,368	1
Senior Water Resource Control Engineer	Certification List	Permanent	Full Time	\$10,383	1
Staff Services Manager I	Certification List	Permanent	Full Time	\$6,403	1

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)	No. of Apts.
Supervising Water Resource Control Engineer (Supervisory)	Certification List	Permanent	Full Time	\$13,550	1
Water Resource Control Engineer	Certification List	Permanent	Full Time	\$6,698	1
Water Resource Control Engineer	Certification List	Permanent	Full Time	\$7,732	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,715	1
Associate Governmental Program Analyst	Transfer	Permanent	Full Time	\$5,383	1
Senior Water Resource Control Engineer	Transfer	Permanent	Full Time	\$12,079	1
Water Resource Control Engineer	Transfer	Limited Term	Full Time	\$10,311	1

SEVERITY: VERY SERIOUS	FINDING NO. 10 INCORRECT APPLICATIONS OF SALARY DETERMINATION LAWS, RULES, AND CALHR POLICIES AND GUIDELINES FOR APPOINTMENT
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Summary: The CRU found 3 errors in the 11 salary determinations reviewed:

Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	Incorrect salary determination resulting in the employee being over/undercompensated.	Cal. Code Regs., tit. 2, § 599.675
Engineering Geologist	Incorrect salary determination resulting in the employee being over/undercompensated.	Cal. Code Regs., tit. 2, § 599.675
Research Data Specialist II	Incorrect salary determination resulting in the employee being over/undercompensated.	Cal. Code Regs., tit. 2, § 599.675

Criteria: Departments are required to calculate and apply salary rules for each appointed employee accurately based on the pay plan for the state

civil service. All civil service classes have salary ranges with minimum and maximum rates. (Cal. Code Regs., tit. 2, § 599.666.)

Severity: Very Serious. In three circumstances, the SWRCB failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules in accordance with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The SWRCB states that high Personnel Specialist turnover makes it difficult to train, retain, and develop staff with comprehensive knowledge in salary determination. Additionally, the State Controller's Office (SCO) training does not provide the in-depth training it once provided.

SPB Reply: The SCO provides self-paced training on salary determinations, including training on the fundamentals of salary determinations, introductory and advanced determinations, and CalHR and SPB rules that could impact salary determinations.

Furthermore, the SCO offers virtual, interactive courses on salary determinations.

Lastly, CalHR is always available to assist with questions regarding salary determinations.

Corrective Action: Within 90 days of the date of this report, the SWRCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The SWRCB must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Alternate Range Movement Salary Determination (within same classification)

If an employee qualifies under established criteria and moves from one alternate range to another alternate range of a class, the employee shall receive an increase or a decrease equivalent to the total of the range differential between the maximum salary

rates of the alternate ranges. (Cal. Code Regs., tit. 2, § 599.681.) However, in many instances, the CalHR provides salary rules departments must use when employees move between alternate ranges. These rules are described in the alternate range criteria. (CalHR Pay Scales). When no salary rule or method is cited in the alternate range criteria, departments must default to Rule 599.681.

During the period under review, January 1, 2022, through June 30, 2022, the SWRCB employees made 90 alternate range movements within a classification. The CRU reviewed 36 of those alternate range movements to determine if the SWRCB 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	\$8,375
Engineering Geologist	B	C	Full Time	\$8,300
Engineering Geologist	A	B	Full Time	\$6,698
Engineering Geologist	B	C	Full Time	\$8,243
Engineering Geologist	B	C	Full Time	\$8,243
Engineering Geologist	B	C	Full Time	\$8,243
Engineering Geologist	B	C	Full Time	\$8,243
Engineering Geologist	C	D	Full Time	\$9,088
Environmental Scientist	A	B	Full Time	\$5,334
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	B	c	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	B	C	Full Time	\$6,375
Environmental Scientist	A	B	Full Time	\$5,037
Environmental Scientist	A	B	Full Time	\$5,080
Environmental Scientist	B	C	Full Time	\$6,735
Graduate Student Assistant	A	B	Intermittent	\$3,452
Information Technology Specialist I	A	B	Full Time	\$8,123
Student Assistant (Engineering and Architectural Sciences)	D	E	Intermittent	\$3,393
Water Resource Control Engineer	A	B	Full Time	\$6,698
Water Resource Control Engineer	C	D	Full Time	\$10,827
Water Resource Control Engineer	C	D	Full Time	\$10,827

Classification	Prior Range	Current Range	Time Base	Salary (Monthly Rate)
Water Resource Control Engineer	A	B	Full Time	\$6,698
Water Resource Control Engineer	B	C	Full Time	\$8,799
Water Resource Control Engineer	B	C	Full Time	\$8,799
Water Resource Control Engineer	A	B	Full Time	\$6,698
Water Resource Control Engineer	A	B	Full Time	\$6,698
Water Resource Control Engineer	C	D	Full Time	\$9,701
Water Resource Control Engineer	A	A	Full Time	\$6,698
Water Resource Control Engineer	B	C	Full Time	\$8,799
Water Resource Control Engineer	B	C	Full Time	\$8,799
Water Resource Control Engineer	B	C	Full Time	\$8,799

SEVERITY: VERY SERIOUS	FINDING NO. 11 ALTERNATE RANGE MOVEMENTS DID NOT COMPLY WITH CIVIL SERVICE LAWS, RULES, AND CALHR POLICIES AND GUIDELINES
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Summary: The CRU found 1 error in the 36 alternate range movements reviewed:

Classification	Description of Findings	Criteria
Environmental Scientist	Incorrect salary determination resulting in the employee being overcompensated.	Cal. Code Regs., tit. 2, § 599.673

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

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

Severity: Very Serious. In three circumstances, the SWRCB failed to comply with the requirements outlined in the state civil service pay plan. Incorrectly applying compensation laws and rules not in accordance

with CalHR's policies and guidelines results in civil service employees receiving incorrect and/or inappropriate pay amounts.

Cause: The SWRCB states that high Personnel Specialist turnover makes it difficult to train, retain, and develop staff with comprehensive knowledge in salary determination and alternate range movements. Additionally, the State Controller's Office training does not provide the in-depth training it once provided.

SPB Reply: The SCO provides self-paced training on salary determinations (of which alternate ranges are a component) including training on the fundamentals of salary determinations, introductory and advanced determinations, and CalHR and SPB rules that could impact salary determinations.

Furthermore, the SCO offers virtual, interactive courses on salary determinations.

Lastly, CalHR is always available to assist with questions regarding salary determinations.

Corrective Action: Within 90 days of the date of this report, the SWRCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure that employees are compensated correctly. The SWRCB must establish an audit system to correct current compensation transactions as well as future transactions. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Hiring Above Minimum Requests

The CalHR may authorize payment at any step above the minimum limit to classes or positions to meet recruiting problems, or to obtain a person who has extraordinary qualifications. (Gov. Code, § 19836.) For all employees new to state service, departments are delegated to approve HAMs for extraordinary qualifications. (Human Resources Manual Section 1707.) Appointing authorities may request HAMs for current state employees with extraordinary qualifications. (*Ibid.*) Delegated HAM authority does not apply to current state employees. (*Ibid.*)

Extraordinary qualifications may provide expertise in a particular area of a department's program. (*Ibid.*) This expertise should be well beyond the minimum qualifications of the class. (*Ibid.*) Unique talent, ability or skill as demonstrated by previous job experience may also constitute extraordinary qualifications. (*Ibid.*) The scope and depth of such experience should be more significant than its length. (*Ibid.*) The degree to which a candidate exceeds minimum qualifications should be a guiding factor, rather than a determining one. (*Ibid.*) The qualifications and hiring rates of state employees already in the same class should be carefully considered, since questions of salary equity may arise if new higher entry rates differ from previous ones. (*Ibid.*) Recruitment difficulty is a factor to the extent that a specific extraordinary skill should be difficult to recruit, even though some applicants are qualified in the general skills of the class. (*Ibid.*)

If the provisions of this section conflict with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall be controlling without further legislative action.¹³ (Gov. Code, § 19836, subd. (b).)

Appointing authorities may request and approve HAMs for former legislative employees who are appointed to a civil service class and received eligibility for appointment pursuant to Government Code section 18990. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be in accordance with the salary rules specified in the California Code of Regulations. (*Ibid.*) A salary determination is completed comparing the maximum salary rate of the former legislative class and the maximum salary rate of the civil service class to determine applicable salary and anniversary regulation. (*Ibid.*) Typically, the legislative employees are compensated at a higher rate of pay; therefore, they will be allowed to retain the rate they last received, not to exceed the maximum of the civil service class. (*Ibid.*)

Appointing authorities may request/approve HAMs for former exempt employees appointed to a civil service class. (Human Resources Manual Section 1707.) The salary received upon appointment to civil service shall be competitive with the employee's salary in the exempt appointment. (*Ibid.*) For example, an employee appointed to a civil service class which is preceded by an exempt appointment may be appointed at a salary rate comparable to the exempt appointment up to the maximum of the salary range for the civil service class. (*Ibid.*)

¹³ Except that if the provisions of the memorandum of understanding requires the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

During the period under review, January 1, 2022, through June 30, 2022, the SWRCB authorized 28 HAM requests. The CRU reviewed 15 of those authorized HAM requests to determine if the SWRCB correctly applied Government Code section 19836 and appropriately verified, approved, and documented candidates' extraordinary qualifications, which are listed below:

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Associate Governmental Program Analyst	Certification List	New to State Service	\$5,383 - \$6,739	\$6,718
Environmental Scientist	Certification List	New to State	\$6,375 - \$7,926	\$6,694
Research Scientist III	Certification List	New to State	\$7,811 - \$9,777	\$8,202
Water Resource Control Engineer	Certification List	Current State Employee	\$5,849 - \$10,311	\$6,773
Water Resource Control Engineer	Certification List	Current State Employee	\$5,849 - \$10,311	\$6,415
Water Resource Control Engineer	Transfer	Current State Employee	\$5,849 - \$10,311	\$8,380
Water Resource Control Engineer	Certification List	New to State	\$5,849 - \$10,311	\$6,415
Water Resource Control Engineer	Certification List	New to State	\$5,849 - \$10,311	\$8,135
Water Resource Control Engineer	Certification List	Current State Employee	\$5,849 - \$10,311	\$8,135
Water Resource Control Engineer	Certification List	New to State	\$5,849 - \$10,311	\$6,413
Water Resource Control Engineer	Certification List	Current State Employee	\$5,849 - \$10,311	\$6,773
Water Resource Control Engineer	Certification List	New to State	\$5,849 - \$10,311	\$8,135
Water Resource Control Engineer	Certification List	New to State	\$5,849 - \$10,311	\$8,135

Classification	Appointment Type	Status	Salary Range	Salary (Monthly Rate)
Water Resource Control Engineer	Certification List	New to State	\$5,849 - \$10,311	\$6,773
Water Resource Control Engineer	Certification List	New to State	\$5,849 - \$10,311	\$8,135

IN COMPLIANCE	FINDING NO. 12 HIRE ABOVE MINIMUM REQUESTS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found that the HAM requests the SWRCB made during the compliance review period, satisfied civil service laws, Board rules and CalHR policies and guidelines.

Bilingual Pay

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

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

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

Classification	Bargaining Unit	Time Base	No. of Appts.
Associate Governmental Program Analyst	R01	Full Time	2
Staff Services Manager I	S01	Full Time	1
Water Resource Control Engineer	R09	Full Time	2

SEVERITY: VERY SERIOUS	FINDING NO. 13 INCORRECT AUTHORIZATION OF BILINGUAL PAY
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Summary: The CRU found five errors in the five bilingual pay authorizations reviewed. This is the second consecutive time this has been a finding for the SWRCB.

Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	Department failed to supply supporting documentation demonstrating the need for bilingual services.	Pay Differential 14
Associate Governmental Program Analyst		
Staff Services Manager I		
Water Resource Control Engineer		
Water Resource Control Engineer		

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

An individual must be in a position that has been certified by the department as a position which requires the use of bilingual skills on a continuing basis averaging 10 percent of the time spent either conversing, interpreting, or transcribing in a second language and time spent on closely related activities performed directly in conjunction with specific bilingual transactions (Pay Differential 14). To designate a position as bilingual, an agency must complete a Bilingual Pay Authorization Form (STD 897).

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

Cause: The SWRCB stated that a former staff member was not following established retention procedures.

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

Pay Differentials

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

California State Civil Service Pay Scales Section 14 describes the qualifying pay criteria for the majority of pay differentials. However, some of the alternate range criteria in the pay scales function as pay differentials. Generally, departments issuing pay differentials should, in order to justify the additional pay, document the following: the effective date of the pay differential, the collective bargaining unit identifier, the classification applicable to the salary rate and conditions along with the specific criteria, and any relevant documentation to verify the employee meets the criteria.

During the period under review, January 1, 2022, through June 30, 2022, the SWRCB authorized 291 pay differentials.¹⁴ The CRU reviewed 50 of these pay differentials to ensure compliance with applicable CalHR policies and guidelines. These are listed below:

Classification	Pay Differential	Monthly Amount
Associate Sanitary Engineer	261	\$300
Associate Sanitary Engineer	261	\$300
Engineering Geologist	73	5.5%
Engineering Geologist	73	5.5%
Engineering Geologist	73	5.5%

¹⁴ For the purposes of CRU’s review, only monthly pay differentials were selected for review at this time.

Classification	Pay Differential	Monthly Amount
Engineering Geologist	142	\$250
Engineering Geologist	142	\$250
Engineering Geologist	142	\$250
Engineering Geologist	142	\$250
Engineering Geologist	142	\$250
Engineering Geologist	142	\$250
Office Technician	441	\$250
Senior Engineer Water Resources	73	5.5%
Senior Engineering Geologist	73	5.5%
Senior Engineering Geologist	73	5.5%
Senior Engineering Geologist	73	5.5%
Senior Engineering Geologist	73	5.5%
Senior Engineering Geologist	142	\$250
Senior Engineering Geologist	142	\$250
Senior Engineering Geologist	142	\$250
Senior Sanitary Engineer	261	\$300
Senior Sanitary Engineer	261	\$300
Senior Water Resource Control Engineer	73	5.5%
Senior Water Resource Control Engineer	73	5.5%
Senior Water Resource Control Engineer	73	5.5%
Senior Water Resource Control Engineer	73	5.5%
Senior Water Resource Control Engineer	73	5.5%
Senior Water Resource Control Engineer	73	5.5%
Senior Water Resource Control Engineer	73	5.5%
Senior Water Resource Control Engineer	73	5.5%
Senior Water Resource Control Engineer	73	5.5%
Supervising Engineering Geologist	73	5.5%
Supervising Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	73	5.5%
Water Resource Control Engineer	142	\$250
Water Resource Control Engineer	142	\$250

Classification	Pay Differential	Monthly Amount
Water Resource Control Engineer	142	\$250
Water Resource Control Engineer	142	\$250
Water Resource Control Engineer	142	\$250

IN COMPLIANCE	FINDING NO. 14 PAY DIFFERENTIAL AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the pay differentials that the SWRCB authorized during the compliance review period. Pay differentials were issued correctly in recognition of unusual competencies, circumstances, or working conditions in accordance with applicable rules and guidelines.

Out-of-Class Assignments and Pay

For excluded¹⁵ 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 time period outlined in applicable law, policy or MOU expires. (Classification and Pay Guide Section 375.)

During the period under review, January 1, 2022, through June 30, 2022, the SWRCB issued OOC pay to 53 employees. The CRU reviewed 14 of these OOC assignments to

¹⁵ “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.

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

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	R01	Staff Services Manager I	6/15/22 – 10/26/22
Associate Governmental Program Analyst	R01	Staff Services Manager I	6/1/22 – 9/30/22
Associate Sanitary Engineer	R09	Senior Water Resource Control Engineer	6/7/22 – 12/1/22
Engineering Geologist	R09	Senior Engineering Geologist (Supervisory)	6/28/22 – 10/26/22
Environmental Scientist	R10	Senior Environmental Scientist (Supervisory)	3/7/22 – 9/30/22
Environmental Scientist	R10	Senior Environmental Scientist (Supervisory)	1/1/22 – 6/30/22
Environmental Scientist	R10	Senior Environmental Scientist (Supervisory)	12/2/22 – 2/18/22
Environmental Scientist	R10	Senior Environmental Scientist (Supervisory)	10/15/22 – 2/14/22
Staff Services Analyst	R01	Associate Governmental Program Analyst	11/29/21 – 3/28/22
Staff Services Manager I	S01	Staff Services Manager II	8/4/21 – 2/16/22
Staff Services Manager I	S01	Staff Services Manager II	10/18/21 – 2/14/22
Water Resource Control Engineer	R09	Senior Water Resource Control Engineer	12/1/22 – 3/31/22
Water Resource Control Engineer	R09	Senior Water Resource Control Engineer	11/3/21 – 3/31/22
Water Resource Control Engineer	R09	Senior Water Resource Control Engineer	1/1/22 – 4/30/22

SEVERITY: VERY SERIOUS	FINDING NO. 15 INCORRECT AUTHORIZATION OF OUT-OF-CLASS PAY
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Summary: The CRU found 8 errors in the 14 OOC Pay assignments reviewed:

Classification	Out-of-Class Classification	Description of Findings	Criteria
Associate Governmental Program Analyst	Staff Services Manager I	Employee was under-compensated for OOC pay while performing the duties at the higher-level classification.	Pay Differential 91
Associate Sanitary Engineer	Senior Water Resource Control Engineer	Employee was under-compensated for OOC pay while performing the duties at the higher-level classification.	Pay Differential 92
Engineering Geologist	Senior Engineering Geologist (Supervisory)	Employee was under-compensated and overcompensated for OOC pay while performing the duties at the higher-level classification.	Pay Differential 92
Environmental Scientist	Senior Environmental Scientist (Supervisory)	Employee was under-compensated for OOC pay while performing the duties at the higher-level classification.	Pay Differential 94
Environmental Scientist	Senior Environmental Scientist (Supervisory)	Employee was under-compensated for OOC pay while performing the duties at the higher-level classification.	Pay Differential 94
Environmental Scientist	Senior Environmental Scientist (Supervisory)	Employee was under-compensated for OOC pay while performing the duties at the higher-level classification.	Pay Differential 94
Staff Services Analyst	Associate Governmental Program Analyst	Employee was under-compensated for OOC pay while performing the duties at the higher-level classification.	Pay Differential 91
Water Resource Control Engineer	Senior Water Resource Control Engineer	Employee was overcompensated for OOC pay while performing the duties at the higher-level classification.	Pay Differential 92

Criteria: An employee may be temporarily required to perform out-of-class work by his/her department for up to one hundred twenty (120) calendar days in any twelve (12) consecutive calendar months when it determines that such an assignment is of unusual urgency, nature, volume, location, duration, or other special characteristics; and,

cannot feasibly be met through use of other civil service or administrative alternatives. Departments may not use out-of-class assignments to avoid giving civil service examinations or to avoid using existing eligibility lists created as the result of a civil service examination.

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

Cause: The SWRCB states that high Personnel Specialist turnover makes it difficult to train, retain, and develop staff with comprehensive knowledge in salary determinations for OOC assignments. Additionally, the State Controller's Office training does not provide the in-depth training it once provided.

SPB Reply: The SCO provides self-paced training on salary determinations, including training on the fundamentals of salary determinations, introductory and advanced determinations, and CalHR and SPB rules that could impact salary determinations.

Furthermore, the SCO offers virtual, interactive courses on salary determinations.

Lastly, CalHR is always available to assist with questions regarding salary determinations.

Corrective Action: Within 90 days of the date of this report, the SWRCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with California Code of Regulations, title 2, section 599.810 and Pay Differentials listed above. Copies of relevant documentation demonstrating that the corrective action has been implemented must be included with the corrective action response.

Leave

Positive Paid Employees

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

An employee is appointed TAU-ATW when he/she is not expected to work all the working days of a month. When counting 189 days, every day worked, including partial days¹⁶ worked and paid absences¹⁷, are counted. (Cal. Code Regs., tit. 2, § 265.1, subd. (b).) The hours worked in one day are not limited by this rule. (*Ibid.*) The 12-consecutive month timeframe begins by counting the first pay period worked as the first month of the 12-consecutive month timeframe. (*Ibid.*) The employee shall serve no longer than 189 days in a 12 consecutive month period. (*Ibid.*) A new 189-days working limit in a 12-consecutive month timeframe may begin in the month immediately following the month that marks the end of the previous 12-consecutive month timeframe. (*Ibid.*)

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

For student assistants, graduate student assistants, youth aides, and seasonal classifications a maximum work-time limit of 1,500 hours within 12 consecutive months may be used rather than the 189-day calculation. (Cal. Code Regs., tit. 2, § 265.1, subd. (d).)

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

¹⁶ For example, two hours or ten hours count as one day.

¹⁷ For example, vacation, sick leave, compensating time off, etc.

At the time of the review, the SWRCB had 132 positive paid employees whose hours were tracked. The CRU reviewed 21 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
Scientific Aid	Temporary	1/1/21 – 1/1/22	1,092.5 Hours / 155 Days
Scientific Aid	Temporary	11/1/21 – 11/30/22	1,500 Hours / 231 Days
Scientific Aid	Temporary	11/1/21 – 11/30/22	1,507 Hours / 198 Days
Scientific Aid	Temporary	4/1/21 – 4/30/22	766.5 Hours / 215 Days
Scientific Aid	Temporary	8/1/21 – 8/23/22	1,494 Hours / 197 Days
Scientific Aid	Temporary	8/1/21 – 8/30/22	1,481 Hours / 214 Days
Scientific Aid	Temporary	2/1/21 – 3/1/22	1,463 Hours / 200 Days
Scientific Aid	Temporary	7/1/21 – 7/30/22	1,360 Hours / 218 Days
Scientific Aid	Temporary	6/1/21 – 6/30/22	1,156 Hours / 155 Days
Scientific Aid	Temporary	7/1/21 – 7/30/22	1,203 Hours / 176 Days
Scientific Aid	Temporary	6/1/21 – 6/30/22	1,484 Hours / 202 Days
Scientific Aid	Temporary	11/1/21 – 11/30/22	520 Hours / 85 Days
Scientific Aid	Temporary	5/1/21 – 5/30/22	1,545 Hours / 250 Days
Scientific Aid	Temporary	6/1/21 – 6/30/22	1,507 Hours / 207 Days
Scientific Aid	Temporary	5/1/21 – 5/30/22	1,350 Hours / 175 Days
Scientific Aid	Temporary	1/1/22 – 1/1/23	1,491 Hours / 243 Days
Scientific Aid	Temporary	9/1/21 – 9/30/22	1,500 Hours / 236 Days
Scientific Aid	Temporary	1/1/22 – 1/30/23	1,500 Hours / 206 Days
Scientific Aid	Temporary	4/1/21 – 4/30/22	1,338 Hours / 223 Days
Scientific Aid	Temporary	7/1/21 – 7/30/22	1,493 Hours / 200 Days
Scientific Aid	Temporary	12/1/21 – 12/30/22	1,435 Hours / 219 Days

SEVERITY: SERIOUS	FINDING NO. 16 POSITIVE PAID TEMPORARY EMPLOYEES' WORK EXCEEDED TIME LIMITATIONS
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Summary: The SWRCB did not consistently monitor the actual number of days and/or hours worked to ensure that positive paid employees did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period. This is the second consecutive time this has been a finding for the SWRCB.

Specifically, the following employees exceeded the specified limitations:

Classification	Tenure	Time Frame	Time Worked	Time Worked Over Limit
Scientific Aid	Temporary	5/1/21 – 5/30/22	1,545 Hours 250 Days	45 Hours / 61 Days
Scientific Aid	Temporary	11/1/21 – 11/30/22	1,507 Hours 198 Days	7 Hours / 9 Days
Scientific Aid	Temporary	6/1/21 – 6/30/22	1,507 Hours 207 Days	7 Hours / 18 Hours

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

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

Cause: The SWRCB stated that a lack of training, knowledge, and a high staff turnover rate contributed to the inconsistent application of laws and rules related to positive paid employees' work exceeding time limitations.

Corrective Action: Within 90 days of the date of this report, the SWRCB 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 265.1. 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, October 1, 2021, through September 30, 2022, the SWRCB authorized 857 ATO transactions. The CRU reviewed 25 of these ATO transactions to ensure compliance with applicable laws, regulations, and CalHR policy and guidelines, which are listed below:

Classification	Time Frame	Amount of Time on ATO
Associate Governmental Program Analyst	9/2022	3 Hours
Career Executive Assignment	5/2022	40 Hours
Environmental Geologist	5/2022	16 Hours
Environmental Geologist	9/2022	2 Hours
Environmental Geologist	5/2022	54 Hours
Environmental Geologist	5/2022	16 Hours
Environmental Geologist	11/2021	2 Hours
Environmental Geologist	6/2022	2 Hours
Environmental Scientist	1/2022	34 Hours
Environmental Scientist	8/2022	6 Hours
Environmental Scientist	1/2022	40 Hours
Environmental Scientist	2/2022	16 Hours
Environmental Scientist	8/2022	60 Hours
Environmental Scientist	6/2022	24 Hours
Environmental Scientist	2/2022	14 Hours
Environmental Scientist	3/2022	8 Hours
Environmental Scientist	1/2022	28 Hours
Office Technician	5/2022	4 Hours
Office Technician	9/2022	4 Hours
Senior Engineering Geologist	6/2022	8 Hours
Senior Water Resource Control Engineer	1/2022	40 Hours
Water Resource Control Engineer	8/2022	64 Hours
Water Resource Control Engineer	9/2022	16 Hours
Water Resource Control Engineer	6/2022	20 Hours
Water Resource Control Engineer	12/2021	2 Hours

IN COMPLIANCE	FINDING NO. 17	ADMINISTRATIVE TIME OFF AUTHORIZATIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU found no deficiencies in the ATO transactions reviewed during the compliance review period. The SWRCB provided the proper documentation justifying the use of ATO and adhered to applicable laws, regulations and CalHR policy and guidelines.

Leave Auditing and Timekeeping

Departments must keep complete and accurate time and attendance records for each employee and officer employed within the agency over which it has jurisdiction. (Cal. Code Regs., tit. 2, § 599.665.)

Departments are directed to create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. (Human Resources Manual Section 2101.) Departments shall create an audit process to review and correct leave input errors on a monthly basis. The review of leave accounting records shall be completed by the pay period following the pay period in which the leave was keyed into the leave accounting system. (*Ibid.*) If an employee’s attendance record is determined to have errors or it is determined that the employee has insufficient balances for a leave type used, the attendance record must be amended. (*Ibid.*) Attendance records shall be corrected by the pay period following the pay period in which the error occurred. (*Ibid.*) Accurate and timely attendance reporting is required of all departments and is subject to audit. (*Ibid.*)

During the period under review, July 1, 2022, through September 30, 2022, the SWRCB reported 26 units comprised of 2,462 active employees. The pay periods and timesheets reviewed by the CRU are summarized below:

Timesheet Leave Period	Unit Reviewed	No. of Employees	No. of Timesheets Reviewed	No. of Missing Timesheets
July 2022	157	52	52	0
August 2022	280	52	52	0

SEVERITY: VERY SERIOUS	FINDING NO. 18	INCORRECTLY POSTED LEAVE USAGE AND/OR LEAVE CREDIT
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Summary: The SWRCB did not correctly enter 2 of 104 timesheets into the Leave Accounting System during the July 2022, and August 2022, pay periods. As a result, two employees retained their prior leave balance despite having used leave credits.

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

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

Cause: The SWRCB states that the payroll unit was backlogged due to staffing shortages which caused them to fall behind in auditing leave records.

Corrective Action: Within 90 days of the date of this report, the SWRCB must submit to the SPB a written corrective action response which addresses the corrections the department will implement to ensure conformity with Human Resources Manual Section 2101. 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 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.¹⁸ (Cal. Code Regs., tit. 2, § 599.608.) Full time and fractional employees who work less than 11 working days in a pay period will have a non-qualifying month and will not receive state service or leave accruals for that month.

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 employees¹⁹ 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, 2022, through December 31, 2022, the SWRCB had 21 employees with qualifying and non-qualifying pay period transactions. The CRU reviewed 19 transactions to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

Type of Transaction	Time Base	No. Reviewed
Non-Qualifying Pay Period	Full Time	4

¹⁸ Government Code sections 19143, 19849.9, 19856.1, 19858.1, 19859, 19861, 19863.1, and 19997.4 and California Code of Regulations, title 2, sections 599.609, 599.682, 599.683, 599.685, 599.687, 599.737, 599.738, 599.739, 599.740, 599.746, 599.747, 599.776.1, 599.787, 599.791, 599.840 and 599.843 provide further clarification for calculating state time.

¹⁹ As identified in Government Code sections 19858.3, subdivisions (a), (b), or (c), or as it applies to employees excluded from the definition of state employee under Government Code section 3513, subdivision (c), or California Code of Regulations, title 2, section 599.752, subdivision (a), and appointees of the Governor as designated by the Department and not subject to section 599.752.1.

Type of Transaction	Time Base	No. Reviewed
Qualifying Pay Period	Full Time	15

IN COMPLIANCE	FINDING NO. 19	SERVICE AND LEAVE TRANSACTIONS COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU determined that the SWRCB ensured employees with non-qualifying pay periods did not receive vacation/sick leave, annual leave, and/or state service accruals. The CRU found no deficiencies in this area.

Policy and Processes

Nepotism

It is the policy of the State of California to hire, transfer, and promote all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. (Cal. Code Regs., tit. 2, § 87.) (*Ibid.*) All appointing powers shall adopt an anti-nepotism policy that includes the following components: (1) a statement that the appointing power is committed to merit-based hiring and that nepotism is antithetical to a merit-based civil service system; (2) a definition of “nepotism” as an employee’s use of influence or power to hire, transfer, or promote an applicant or employee because of a personal relationship; (3) a definition of “personal relationship” as persons related by blood, adoption, current or former marriage, domestic partnership or cohabitation; (4) a statement that prohibits participation in the selection of an applicant for employment by anyone who has a personal relationship with the applicant, as defined in section 83.6; (5) a statement that prohibits the direct or first-line supervision of an employee with whom the supervisor has a personal relationship, as defined in section 83.6; (6) a process for addressing issues of direct supervision when personal relationships between employees exist. (*Ibid.*)

IN COMPLIANCE	FINDING NO. 20	NEPOTISM POLICY COMPLIED WITH CIVIL SERVICE LAWS, BOARD RULES, AND/OR CALHR POLICIES AND GUIDELINES
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The CRU verified that the policy was disseminated to all staff and emphasized the SWRCB’s commitment to the state policy of hiring, transferring, and promoting employees on the basis of merit. Additionally, the SWRCB’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 SWRCB did not employ volunteers during the compliance review period.

IN COMPLIANCE	FINDING NO. 21 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 SWRCB provides notice to their employees to inform them of their rights and responsibilities under California's Workers' Compensation Law. Furthermore, the CRU verified that when the SWRCB received workers' compensation claims, they properly provided claim forms within one working day of notice or knowledge of injury.

Performance Appraisals

According to Government Code section 19992.2, subdivision (a), appointing powers must "prepare performance reports." Furthermore, California Code of Regulations, title 2,

section 599.798, directs supervisors to conduct written performance appraisals and discuss overall work performance with permanent employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

The CRU selected 93 permanent SWRCB employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies and guidelines.

SEVERITY: SERIOUS	FINDING NO. 22 PERFORMANCE APPRAISALS WERE NOT PROVIDED TO ALL EMPLOYEES
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Summary: The SWRCB did not provide annual performance appraisals to 14 of 93 employees reviewed after the completion of the employee’s probationary period. This is the second consecutive time this has been a finding for the SWRCB.

Criteria: Appointing powers shall prepare performance reports and keep them on file as prescribed by department rule. (Gov. Code, § 19992.2, subd. (a).) Each supervisor, as designated by the appointing power, shall make an appraisal in writing and shall discuss with the employee overall work performance at least once in each twelve calendar months following the end of the employee’s probationary period. (Cal. Code Regs., tit. 2, § 599.798.)

Severity: Serious. The department does not ensure that all employees are apprised of work performance issues and/or goals in a systematic manner.

Cause: The SWRCB stated that despite providing training, notifying supervisors and managers of the requirement to complete the performance appraisals, and notifying executive management of outstanding performance appraisals, some supervisors and managers still did not complete their staff’s annual performance appraisals.

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

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

DEPARTMENTAL RESPONSE

The SWRCB response is attached as Attachment 1.

SPB REPLY

Based upon the SWRCB written response, the SWRCB 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.

2024
State Water Resources Control Board
State Personnel Board Compliance
Review Response

Prepared by
Lucia Neri
Division of Administrative Services
Human Resources Branch
May 22, 2024

This report describes the State Water Resources Control Board's (State Water Board, and, together with the Regional Water Quality Control Boards (Regional Water Boards), Water Boards) responses to the findings identified in the State Personnel Board (SPB or Board) Compliance Review Report (Review Report) prepared by the SPB's Compliance Review Unit (CRU), received on April 2, 2024.

The CRU conducted a compliance review of the Water Boards' personnel practices in the areas of examinations, appointments, Equal Employment Opportunity, Personal Services Contracts, mandated training, compensation and pay, leave, and policy and processes. In general, we found the Review Report to be a thorough analysis and accurate characterization of the processes that existed during the time period reviewed. It is the Water Boards' intention to develop and/or implement any corrective actions the SPB recommends to remedy the findings identified in the Review Report.

The following responses address the 22 findings identified by the CRU and describe the causes of 12 findings which were identified by the CRU as non-compliant.

EXAMINATIONS

1. **The CRU determined that Examinations Complied with Civil Service Laws and Board Rules.**
2. **The CRU determined that the Permanent Withhold Actions Complied with Civil Service Laws and Board Rules.**

APPOINTMENTS

During the period under review, January 1, 2022 through June 30, 2022, the Water Boards made 333 appointments and the CRU reviewed 52 of those appointments. The CRU made the following findings:

3. **Probationary Evaluations Were Not Provided for All Appointments Reviewed and Some that Were Provided Were Not Timely.** The CRU found that the Water Boards did not provide 19 probationary reports of performance and was untimely for 13 of the 52 appointments reviewed by the CRU. This is the third consecutive time this has been a finding for the Water Boards.

Cause: The Water Boards Human Resources Branch (HRB) implemented a procedure sometime after the audit in 2016 to provide the employee's probationary report to the supervisors and managers for the month that the probationary report was due to the employee. Another process was also established around 2017, to notify supervisors and managers of their employees three probationary report due dates by scheduling a Microsoft Outlook appointment on the supervisors and managers calendars one week prior to each probationary report due date. This

procedure alerts the supervisors and managers of their requirement to complete their employee's probationary reports in a timely manner. The HRB also follows up with the supervisors and managers when the Microsoft Outlook appointment reminder for the probationary report due date appears on their calendar to ensure the supervisor and manager has completed the probationary report. Additionally, the Water Boards conducts Best Hiring Practices training and Performance Management training which emphasizes the legal requirements of the completion of probationary reports in accordance with the California Code of Regulations (CCR). While the notification procedure and training implemented has improved the number of probationary reports completed, the probationary reports in question were not completed or completed untimely by the supervisors. We recognize it is imperative all probationary reports are not only completed, but also completed within the timeframe specified in the CCR, title 2 § 599.795. We will continue with the procedure and training that have implemented and research additional procedures to ensure all probationary reports are in compliance with the CCR. Furthermore, our Executive Office will emphasize the requirement and importance of completing probationary reports in management meetings.

- 4. Appointment Documentation Was Not Kept for the Appropriate Amount of Time.** The CRU found that out of the 52 appointments reviewed, the Water Boards failed to retain 16 Notices of Personnel Action (NOPA). This is the third consecutive time this has been a finding for the Water Boards.

Cause: The Water Boards' Human Resources Branch (HRB) provides NOPAs to the respective staff in the Regional Water Boards and State Water Boards programs. However, the NOPAs are not being returned to HRB. This may be due to the lack of a tracking system to follow up on submitted NOPAs. As a result of CRU's finding, the Water Boards will develop a tracking mechanism and process to ensure NOPAs are returned properly so they can be maintained adequately.

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

- 5. The CRU determined that the EEO Program Complied with Civil Service Laws and Board Rules.**

PERSONAL SERVICES CONTRACTS (PSC)

- 6. The CRU determined that PSCs Complied with Procedural Requirements.**

MANDATED TRAINING

The CRU reviewed the Water Boards' mandated training program that was in effect during the compliance review period, January 1, 2021 through December 30, 2022. The CRU made the following findings:

- 7. Ethics Training Was Not Provided for All Filers.** The CRU found that the Water Boards did not provide ethics training to 18 of 92 existing filers and did not provide ethics training to 3 of 56 new filers within 6 months of their appointment. This is the second consecutive time this has been a finding for the Water Boards.

Cause: The Ethics Training is mandatory for all Form 700 filers, and the Water Boards notifies and reminds all filers of this requirement; however, despite notification of the requirement, not all filers completed the training as required or within the required timeframe. As a result of CRU's finding, the Water Boards will implement a process to notify deficient employees that corrective action will be taken against them for failure to take the training.

- 8. Supervisory Training Was Not Provided for All Supervisors, Managers, and CEAs.** The CRU found that the Water Boards did not provide basic supervisory training to 1 of 46 new supervisors within 12 months of appointment and did not provide CEA training to 2 of 5 new CEAs within 12 months of appointment. This is the third consecutive time this has been a finding for the Water Boards.

Cause: The Water Boards released a Learning Management System (LMS) on July 1, 2023. Training and Technical Services has successfully created Leadership Compliance Dashboards within the LMS that are accessible by the Training Liaisons at each Regional Water Board and State Water Board Division and Office, as well as to the the Deputy Management Committee representatives. Training Services meets with Training Liaisons monthly and reminds them to review leadership compliance dashboards and contact anyone nearing compliance deadlines. However, supervisors and managers are still failing to complete the required training. Additional groups within the Water Boards may need to be involved to ensure supervisors, managers, and CEAs are held accountable for non-compliance. The Water Boards Training Academy is currently updating processes to now include notification to the Human Resources Branch's Labor Relations Office when an employee is in danger of being non-compliant with mandatory training requirements.

- 9. Sexual Harassment Prevention Training Was Not Provided for All Employees.** The CRU found that the Water Boards did not provide sexual harassment prevention training to 20 of 86 new supervisors within 6 months of their appointment. In addition, the Water Boards did not provide sexual harassment prevention training to 92 of 518 existing supervisors every 2 years. This is the third consecutive time this has been a finding for the SWRCB. Additionally, CRU found that the Water Boards did not provide sexual harassment prevention training to 8 of 196 sampled non-supervisors reviewed.

Cause: The Water Boards' Training Services transitioned to a Learning Management System (LMS) in July of 2023 and data from the legacy system (a registration system – not an LMS) was still being processed when the Anti-Harassment Training (SB1343) completion records were requested. This means there was a strong possibility that not all completion records were accounted for in the reporting data pulled from the LMS. Furthermore, Training Services discovered anomalies in the data export/import that have since been remedied that could also have contributed to missing completion records. The LMS implementation specialist had never worked with state government before and was not equipped to advise training services during the transition. However, Training Services states that the LMS will sufficiently track the EEO training and that they will provide quarterly reports to EEO so that Water Boards can work with supervisors and managers to ensure compliance with the mandatory sexual harassment training.

COMPENSATION AND PAY

During the period under review, January 1, 2022 through June 30, 2022, CRU reviewed 23 of 333 appointments to determine if the Water Boards applied salary regulations and processed employees' compensation accurately and correctly. The CRU made the following findings:

10. Incorrect Applications of Salary Determination Laws, Rules, and CalHR Policies and Guidelines for Appointment. The CRU found 3 errors in the 23 salary determinations reviewed.

Cause: With the high turnover in the Personnel Specialist classification, it is difficult to train and retain staff who can develop thorough and comprehensive knowledge in salary determination. Additionally, the salary determination training as provided by the State Controller's Office has lessened in scope and does not allow for the in-depth training it once provided.

11. Alternate Range Movements Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines. The CRU found 1 error in the 36 alternate range movements reviewed.

Cause: With the high turnover in the Personnel Specialist classification, it is difficult to train and retain staff who can develop thorough and comprehensive knowledge in the area of salary determination. Additionally, the salary determination training as provided by the State Controller's Office has lessened in scope and does not allow for the in-depth training it once provided.

12. Hiring Above Minimum Requests Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines.

13. Incorrect Authorizations of Bilingual Pay. The CRU found five errors in the five bilingual pay authorizations reviewed. This is the second consecutive time this has been a finding for the Water Boards.

Cause: The Water Boards was unable to supply the STD. 897 forms for the five bilingual pay authorizations that were reviewed due to former staff who was not following established retention procedures. The team member who is currently responsible for bilingual pay authorizations has been trained to retain all supporting documentation for bilingual service needs.

14. Pay Differential Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

15. Incorrect Authorization of Out of Class (OOC) Pay. The CRU found 8 errors in the 14 OOC Pay assignments reviewed.

Cause: With the high turnover in the Personnel Specialist classification, it is difficult to train and retain staff who can develop thorough and comprehensive knowledge in the area of salary determination. Additionally, the salary determination training as provided by the State Controller's Office has lessened in scope and does not allow for the in-depth training it once provided.

LEAVE

The CRU reviewed various positive and negative paid appointments to ensure compliance with applicable laws, regulations, policies, and guidelines and determined the following:

16. Positive Paid Temporary Employees' Work Exceeded Time Limitations. The CRU reviewed 21 out of 132 positive paid appointments and found that the Water Boards did not consistently monitor the actual number of days and/or hours worked to ensure that positive paid employees did not exceed the 189-day or 1,500-hour limitation in any 12-consecutive month period. This is the second consecutive time this has been a finding for the Water Boards.

Cause: A high turnover rate and inconsistent training for Personnel Specialists may contribute to the inconsistent application of laws and rules pertaining to this issue. In addition, the program managers of the positive paid staff often do not comply with the notifications of working limitations. This may be due to a lack of knowledge and understanding restrictions of positive paid employees. Additional training methods will be developed for Personnel Specialists and program managers.

17. Administrative Time Off Authorizations Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines.

18. Incorrectly Posted Leave Usage and/or Leave Credit. During the period of July 1, 2022 through September 30, 2022, 26 units comprised of 2,462 active employees were reported for review. The CRU found that the Water Boards did not correctly enter 2 of 104 timesheets into the Leave Accounting System during the July 2022 and August 2022 pay periods. As a result, two employees retained their prior leave balance despite having used leave credits.

Cause: The Water Boards payroll unit was backlogged due to staffing shortages which caused them to fall behind in auditing leave records.

19. Service and Leave Transactions Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

POLICY AND PROCESSES

The CRU reviewed various polices to ensure compliance with applicable laws, regulations, policies and determined the following:

20. Nepotism Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines.

21. Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines.

22. Performance Appraisals Were Not Provided to All Employees. The CRU selected 93 permanent Water Boards employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations, policies, and guidelines. The CRU found that the Water Boards did not provide annual performance appraisals to 14 of 93 employees reviewed after the completion of the employee's probationary period. This is the second consecutive time this has been a finding for the Water Boards.

Cause: The Water Boards implemented a mandatory requirement for supervisors and managers to complete Performance Appraisals for their employees in May 2019. Supervisors and managers were instructed to provide constructive feedback of their employees' performance, accomplishments, and goal achievements over the previous 12 months, the period of July 2018 to May 31, 2019. The Water Boards continues to implement this requirement on an annual basis. On March 22, 2022, supervisors and managers were notified of the requirement to complete the annual performance appraisal summary and were informed of the revised evaluation period of June 1, 2021, through May 31, 2022, with a due date of June

15, 2022. In addition, on April 22, 2022, and May 24, 2022, emails were sent to supervisors and managers to remind them of the requirement to complete the performance appraisal summaries. In these email notifications, the Water Boards HRB instructed supervisors and managers of their requirement to complete performance appraisals in accordance with California Code of Regulations, title 2, section 599.798. On June 28, 2022, executive management were notified of the outstanding performance appraisal summaries and were requested to assistance in ensuring compliance. Additionally, the Water Boards conducts Performance Management training sessions for supervisors and managers which emphasizes the importance of completing performance appraisals for their employees. Despite these efforts, some supervisors and managers are still not completing their staff's performance appraisal summaries. Upper-level management may need to be involved to ensure supervisors and managers are held accountable for non-compliance. As a result of this finding, the Water Boards HRB will implement an additional step to the process which will include notification to the supervisors and managers that failure to complete performance appraisals for their staff will result in corrective action being taken against them.