

COMPLIANCE REVIEW REPORT

CALIFORNIA GAMBLING CONTROL COMMISSION

Compliance Review Unit
State Personnel Board
December 18, 2018

TABLE OF CONTENTS

Introduction	1
Executive Summary	2
Background	3
Scope and Methodology.....	3
Findings and Recommendations	5
Appointments	5
Equal Employment Opportunity	6
Mandated Training	7
Compensation and Pay	9
Leave	11
Policy	14
Departmental Response.....	17
SPB Reply	17

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.

Effective July 1, 2012, the Governor's Reorganization Plan Number One (GRP1) of 2011 consolidated all of the functions of the Department of Personnel Administration and the merit-related operational functions of the State Personnel Board (SPB) into the California Department of Human Resources (CalHR).

Pursuant to Government Code section 18502(c), CalHR and SPB may "delegate, share, or transfer between them responsibilities for programs within their respective jurisdictions pursuant to an agreement." CalHR and SPB, by mutual agreement, expanded the scope of program areas to be audited to include more operational practices that have been delegated to departments and for which CalHR provides policy direction. Many of these delegated practices are cost drivers to the state and 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.

EXECUTIVE SUMMARY

The CRU conducted a routine compliance review of the California Gambling Control Commission (Commission)'s personnel practices in the areas of appointments, EEO, mandated training, compensation and pay, leave, and policy and processes¹. The following table summarizes the compliance review findings.

Area	Finding
Appointments	Appointments Complied with Civil Service Laws and Board Rules
Equal Employment Opportunity	Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules
Mandated Training	Mandated Training Complied with Statutory Requirements
Compensation and Pay	Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Compensation and Pay	Out-of-Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Leave	Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines
Leave	Departmental Leave Reduction Policy Was Not Developed
Policy	Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Workers' Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines
Policy	Performance Appraisals Were Not Provided to All Employees

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

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

- Red = Very Serious
- Orange = Serious
- Yellow = Non-serious or Technical
- Green = In Compliance

BACKGROUND

The focus of the Commission is to act as the regulatory body over gambling establishments (cardrooms), and third party providers of proposition players services and tribal casinos, pursuant to the Commission's authority under the Tribal-State Gaming Compacts. The Commission is responsible for setting policy, establishing regulations, making determinations of suitability for gaming employees and other individuals and entities, issuing licenses, acting as the administrator of gaming revenues deposited into the Indian Gaming Special Distribution Fund, the trustee over the revenues deposited into the Indian Gaming Revenue Sharing Trust Fund, and administering the provisions of the Gambling Control Act and the Tribal-State Gaming Compacts.

The Commission employs 33 employees. The Commission's vision is to ensure integrity and public trust in the controlled gambling industry. The Commission's mission is to cultivate relationships with all stakeholders, develop effective regulations, and make fair decisions, which ensure honesty, transparency, and integrity in the controlled gambling industry.

SCOPE AND METHODOLOGY

The scope of the compliance review was limited to reviewing the Commission's appointments, EEO program, mandated training, compensation and pay, leave, and policy and processes². The primary objective of the review was to determine if the Commission personnel practices, policies, and procedures complied with state civil service laws and Board regulations, bargaining unit agreements, CalHR policies and guidelines, CalHR delegation agreements, and to recommend corrective action where deficiencies were identified.

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

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

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

The Commission's appointments were also selected for review to ensure the Commission applied salary regulations accurately and correctly processed employees' compensation and pay. The CRU examined the documentation that the Commission provided, which included employment and pay history, and any other relevant documentation such as certifications, degrees, and/or appointees' applications. Additionally, the CRU reviewed specific documentation for the following personnel function related to compensation and pay: out-of-class assignments. During the compliance review period, the Commission did not issue or authorize any hire above minimum (HAM) requests, red circle rate requests, monthly pay differentials, bilingual pay or arduous pay.

The review of the Commission's EEO program included examining written EEO policies and procedures; the EEO Officer's role, duties, and reporting relationship; the internal discrimination complaint process; and the Disability Advisory Committee (DAC).

The Commission did not execute any PSC's during the compliance review period.

The Commission's mandated training program was reviewed to ensure all employees required to file statements of economic interest were provided ethics training, and that all supervisors and managers were provided sexual harassment prevention training within statutory timelines. The Commission did not appoint any first time supervisors during the compliance review period; therefore, the CRU did not review supervisory training.

The CRU also identified the Commission employees whose current annual leave or vacation leave credits exceeded established limits. The CRU reviewed a cross-section of these identified employees to ensure that employees who have significant "over-the-cap" leave balances have a leave reduction plan in place. Additionally, the CRU asked the Commission to provide a copy of their leave reduction policy.

The CRU reviewed the Commission's Leave Activity and Correction Certification forms to verify that the Commission created a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely. The CRU

selected a small cross-section of the Commission's units in order to ensure they maintained accurate and timely leave accounting records. During the compliance review period, the Commission did not have any employees with non-qualifying pay period transactions. The Commission also did not authorize Administrative Time Off (ATO). Additionally, the Commission did not track any temporary intermittent employees by actual time worked during the compliance review period.

Moreover, the CRU reviewed the Commission's policies and processes concerning nepotism, workers' compensation, and performance appraisals. The review was limited to whether the Commission's policies and processes adhered to procedural requirements. The Commission did not report any workers' compensation claims during the compliance review period.

The Commission was given a copy of the draft report on December 7, 2018, and declined an exit conference. The Commission submitted a written response to the CRU's draft report on December 17, 2018, which is attached to this final compliance review report.

FINDINGS AND RECOMMENDATIONS

Appointments

In all cases not excepted or exempted by Article VII of the California Constitution, the appointing power must fill positions by appointment, including cases of transfers, reinstatements, promotions, and demotions in strict accordance with the Civil Service Act and Board rules. (Gov. Code, § 19050.) Appointments made from eligible lists, by way of transfer, or by way of reinstatement, must be made on the basis of merit and fitness, which requires consideration of each individual's job-related qualifications for a position, including his or her knowledge, skills, abilities, experience, and physical and mental fitness. (Cal. Code Regs., tit. 2, § 250, subd. (a).)

During the period under review, May 1, 2017 through April 30, 2018, the Commission made seven appointments. The CRU reviewed five of those appointments, which are listed below:

Classification	Appointment Type	Tenure	Time Base	No. of Appts
Staff Services Analyst	Certification List	Permanent	Full-time	2
Staff Services Manager I	Certification List	Permanent	Full-time	2
Associate Governmental Program Analyst	Transfer	Permanent	Full-time	1

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

The Commission measured each applicant's ability to perform the duties of the job by conducting hiring interviews and selecting the best-suited candidates. For each of the four list appointments reviewed, the Commission ordered a certification list of candidates ranked competitively. After properly clearing the certification lists including SROA, the selected candidates were appointed based on eligibility attained by being reachable within the first three ranks of the certification lists.

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

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

Equal Employment Opportunity

Each state agency is responsible for an effective EEO program. (Gov. Code, § 19790.) The appointing power for each state agency has the major responsibility for monitoring the effectiveness of its EEO program. (Gov. Code, § 19794.) To that end, the appointing power must issue a policy statement committed to EEO; issue procedures for filing, processing, and resolving discrimination complaints; issue procedures for providing equal upward mobility and promotional opportunities; and cooperate with the CalHR by providing access to all required files, documents and data. (*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.)

Because the EEO Officer investigates and ensures proper handling of discrimination, sexual harassment and other employee complaints, the position requires separation from the regular chain of command, as well as regular and unencumbered access to the head of the organization.

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

FINDING NO. 2 – Equal Employment Opportunity Program Complied with Civil Service Laws and Board Rules

After reviewing the policies, procedures, and programs necessary for compliance with the EEO program's role and responsibilities according to statutory and regulatory guidelines, the CRU determined that the Commission'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 Commission's Executive Director on any matters related to EEO. In addition, the Commission has an established DAC, which reports to the Commission's Executive Director on issues affecting persons with disabilities. The Commission also provided evidence of its efforts to promote EEO in its hiring and employment practices. Accordingly, the Commission's EEO program 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 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), (b), & (c), & 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).) As to the sexual harassment and abusive-conduct prevention component, the training must thereafter be provided to supervisors once every two years. (Gov. Code, § 12950.1.)

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.*) Thereafter, for both categories of appointment, the employee must be provided a minimum of 20 hours of leadership training on a biannual basis. (*Ibid.*)

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.

In reviewing the Commission's mandated training program that was in effect during the compliance review period, the CRU determined the following:

FINDING NO. 3 – Mandated Training Complied with Statutory Requirements

The Commission provided ethics training to its six new filers within six months of appointment and semiannual ethics training to its 28 existing filers. In addition, the Commission provided sexual harassment prevention training to its one new supervisor within six months of appointment, and sexual harassment prevention training to its six existing supervisors every two years. Thus, the Commission complied with mandated training requirements within statutory timelines.

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 rate³ upon appointment depending on the appointment type, the employee's state employment and pay history, and tenure.

During the period under review, May 1, 2017, through April 30, 2018, the Commission made seven appointments. The CRU reviewed five of those appointments to determine if the Commission applied salary regulations accurately and correctly processed employees' compensation, which are listed below:

Classification	Appointment Type	Tenure	Time Base	Salary (Monthly Rate)
Staff Services Analyst	Certification List	Permanent	Full-time	\$3,977
Staff Services Analyst	Certification List	Permanent	Full-time	\$3,977
Staff Services Manager I	Certification List	Permanent	Full-time	\$5,689
Staff Services Manager I	Certification List	Permanent	Full-time	\$6,046
Associate Governmental Program Analyst	Transfer	Permanent	Full-time	\$4,784

FINDING NO. 4 – Salary Determinations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

³ "Rate" is any one of the dollar amounts found within the salary ranges and steps of the Pay Plan established by the CalHR (CA CCR Section 599.666).

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

Out-of-Class Assignments (OOC) and Pay

For excluded⁴ and most rank and file employees, out of class 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).

According to CalHR's 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 DPA Rule 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 provision or DPA regulation. Before assigning the OOC work, the department should have a plan to correct the situation before the 120-day time period expires (Section 375).

During the period under review, February 1, 2017, through January 31, 2018, the Commission issued out-of-class pay⁵ to four employees. The CRU reviewed the four out-of-class assignments to ensure compliance with applicable CalHR policies and guidelines, which are listed below:

Classification	Bargaining Unit	Out-of-Class Classification	Time Frame
Associate Governmental Program Analyst	R01	Staff Services Manager I	12/26/2016 – 2/10/2017
Associate Governmental Program Analyst	R01	Staff Services Manager I	2/13/2017 – 3/31/2017
Associate Governmental Program Analyst	R01	Staff Services Manager I	4/1/2017 – 4/30/2017
Associate Governmental Program Analyst	R01	Staff Services Manager I	5/1/2017 – 5/26/2017

⁴ "Excluded employee" means an employee as defined in section 3572(b) of the Government Code (Ralph C. Dills Act) except those excluded employees who are designated managerial pursuant to section 18801.1 of the Government Code.

⁵ Excluding bilingual and arduous pay.

FINDING NO. 5 – Out-of-Class Pay Authorizations Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU found no deficiencies in the four out-of-class pay assignments that the Commission authorized during the compliance review period. Out-of-class pay was issued appropriately to employees performing, more than 50 percent of the time, the full range of duties and responsibilities allocated to an existing class and not allocated to the class in which the person has a current, legal appointment.

Leave

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).

Additionally, in accordance with CalHR Online Manual Section 2101, departments must create a monthly internal audit process to verify all leave input into any leave accounting system is keyed accurately and timely. 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. Attendance records shall be corrected by the pay period following the pay period in which the error occurred. Accurate and timely attendance reporting is required of all departments and is subject to audit.

During the period under review, November 1, 2017, through January 30, 2018, the Commission reported five units comprised of 29 active employees during the November 2017, December 2017, and January 2018 pay periods. The pay periods and timesheets reviewed by the CRU are summarized as follows:

Timesheet Leave Period	Units Reviewed	Number of Employees	Number of Timesheets Reviewed	Number of Missing Timesheets
November 2017	3	25	25	0
December 2017	3	25	25	0
January 2018	3	25	25	0

FINDING NO. 6 – Leave Auditing and Timekeeping Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

The CRU reviewed employee leave records from three different leave periods to ensure compliance with applicable laws, regulations and CalHR policy and guidelines. Based on our review, the CRU found no deficiencies. The Commission kept complete and accurate time and attendance records for each employee and officer employed within the department and utilized a monthly internal audit process to verify all leave input into any leave accounting system was keyed accurately and timely.

Leave Reduction Efforts

Departments must comply with the regulations that require a written leave plan for every employee with vacation or annual leave hours over the maximum amount permitted (Cal. Code Regs., tit. 2, § 599.742.1 and applicable Bargaining Unit Agreements). Bargaining Unit Agreements and California Code of Regulations prescribe the maximum amount of vacation or annual leave permitted. For instance, according to California Code of Regulations, title 2, section 599.737, if a represented employee does not use all of the vacation to which he or she is entitled in a calendar year, “the employee may accumulate the unused portion, provided that on January 1st of a calendar year, the employee shall not have more than “the established limit as stipulated by the applicable bargaining unit agreement⁶”. Likewise, if an excluded employee does not use all of the vacation to which he or she is entitled in a calendar year, the “employee may accumulate the unused portion of vacation credit, provided that on January 1st of a calendar year, the excluded employee shall not have more than 80 vacation days” (Cal. Code Regs., tit. 2, § 599.738).

In accordance with CalHR Online Manual Section 2124, departments must create a leave reduction policy for their organization and monitor employees’ leave to ensure compliance with the departmental leave policy; and ensure employees who have significant “over-the-cap” leave balances have a leave reduction plan in place.

As of December 2017, the Commission reported seven employees who exceeded the established limits of vacation or annual leave. The CRU reviewed all seven of the employees’ leave reduction plans to ensure compliance with applicable laws, regulations and CalHR policy and guidelines, which are listed below:

⁶ For represented employees, the established limit for annual or vacation leave accruals is 640 hours, however for bargaining units 06 there is no established limit and bargaining unit 5 the established limit is 816 hours.

Classification	Collective Bargaining Identifier	Total Hours Over Established Limit ⁷	Leave Reduction Plan Provided
Associate Governmental Program Analyst	R01	45.75	Yes
Associate Personnel Analyst	C01	281.25	Yes
Career Executive Assignment	M01	23	Yes
Career Executive Assignment	M01	56	Yes
Executive Director	E99	71	Yes
Information Technology Manager I	M01	289	Yes
Information Technology Specialist I	R01	633.25	Yes
Total Hours		1,399.25	

FINDING NO. 7 – Leave Reduction Plans Complied with Civil Service Laws, Board Rules, and CalHR Policies and Guidelines

The CRU reviewed employee vacation and annual leave to ensure that those employees who have significant leave balances over the established limits have leave reduction plans in place and are actively reducing hours.

However, the Commission did not develop a general departmental leave reduction policy.

FINDING NO. 8 – Departmental Leave Reduction Policy Was Not Developed

Summary: The Commission did not develop a general departmental leave reduction policy.

Criteria: According to CalHR Online Manual Section 2124, “It is the policy of the state to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. Therefore, appointing authorities and state managers and supervisors must create a leave reduction policy for the organization and monitor employees’ leave to ensure compliance with the departmental leave policy; and; ensure employees who have significant ‘over-the-cap’ leave

⁷ As of December 2017

balances have a leave reduction plan in place and are actively reducing hours”.

Severity: Non-serious or Technical. California state employees have accumulated significant leave hours over the last several years creating an unfunded liability for departmental budgets. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.

Cause: The Commission states it did not have a general departmental leave reduction policy, although employees with significant leave balances over the established limits have leave reduction plans in place and are actively reducing hours. Effective December 14, 2018, the Commission established a written Leave Reduction Plan Policy, which has been distributed to all Commission employees.

Action: The Commission has published and disseminated a departmental policy regarding excess vacation and annual leave reduction. It is recommended that the Commission continuously monitor excess leave balances to ensure reduction.

Policy

Nepotism

It is the policy of the State of California to recruit, hire and assign all employees on the basis of merit and fitness in accordance with civil service statutes, rules and regulations. Nepotism is expressly prohibited in the state workplace because it is antithetical to California’s merit based civil service. Nepotism is defined as the practice of an employee using his or her influence or power to aid or hinder another in the employment setting because of a personal relationship. Personal relationships for this purpose include but are not limited to, association by blood, adoption, marriage and/or cohabitation. In addition, there may be personal relationships beyond this general definition that could be subject to these policies. Overall, departmental nepotism policies should aim to prevent favoritism or bias based on a personal relationship when recruiting, hiring or assigning employees. Departments have the discretion, based on organizational structure and size, to develop nepotism policies as they see fit (CalHR Online Manual Section 1204).

FINDING NO. 9 – Nepotism Policy Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the Commission’s nepotism policy in effect during the compliance review period, the CRU verified that the policy was disseminated to all staff and emphasized the Commission’s commitment to the state policy of recruiting, hiring and assigning employees on the basis of merit. Additionally, the Commission’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 as outlined in CalHR’s Online Manual Section 1204.

Workers’ Compensation

Pursuant to California Code of Regulations, title 8, section 9880, employers shall provide to every new employee at the time of hire or by the end of the first pay period, written notice concerning the rights, benefits, and obligations under Workers’ Compensation Law. This notice shall also contain a form that the employee can use to pre-designate their personal physician or medical group as defined by Labor Code section 4600. Additionally, employers shall also provide a claim form and notice of potential eligibility to their employee within one working day of notice or knowledge that the employee has suffered a work related injury or illness (Labor Code, § 5401).

According to Labor Code section 3363.5, public employers may choose to extend workers' compensation coverage to volunteers that perform services for the organization. Workers’ compensation coverage is not mandatory for volunteers as it is for employees. This is specific to the legally uninsured state departments participating in the Master Agreement. Departments with an insurance policy for workers’ compensation coverage should contact their State Compensation Insurance Fund (SCIF) office to discuss the status of volunteers (PML, “Workers’ Compensation Coverage for Volunteers,” 2015-009). Those departments that have volunteers should have notified or updated their existing notification to the SCIF by April 1, 2015, whether or not they have decided to extend workers’ compensation coverage to volunteers.

In this case, the Commission did not report any workers’ compensation claims during the compliance review period. Further, the Commission did not employ volunteers during the compliance review period.

FINDING NO. 10 – Workers’ Compensation Process Complied with Civil Service Laws, Board Rules, and/or CalHR Policies and Guidelines

After reviewing the Commission’s workers’ compensation process that was in effect during the compliance review period, the CRU verified that when the Commission provides notice to their employees to inform them of their rights and responsibilities under CA Workers’ Compensation Law.

Performance Appraisals

According to Government Code section 19992.2, departments 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 11 Commission employees to ensure that the department was conducting performance appraisals on an annual basis in accordance with applicable laws, regulations and CalHR policy and guidelines.

FINDING NO. 11 – Performance Appraisals Not Provided to All Employees

Summary: The Commission did not provide performance appraisals to three of the 11 employees at least once in each twelve calendar months after the completion of the employee’s probationary period.

Classification	Date Performance Appraisals Due
Attorney III	12/1/2017
Attorney III	7/14/2017
Senior Legal Analyst	5/31/2017

Criteria: Departments are required to “prepare performance reports and keep them on file as prescribed by department rule” (Government Code section 19992.2). 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.

- Severity:** Serious. The department does not ensure that all of its employees are being apprised of work performance issues and/or goals in a systematic manner.
- Cause:** The Commission states that the three instances of performance appraisal non-compliance were for employees supervised by the same supervisor. This was an isolated incident limited to one supervisor who inappropriately prioritized other workload ahead of completing the required written performance appraisals.
- Action:** It is recommended that within 60 days of the Executive Officer's approval of these findings and recommendations, the Commission submit to the SPB a written corrective action plan that 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 any relevant documentation should be included with the plan.

DEPARTMENTAL RESPONSE

The Commission's response is attached as Attachment 1.

SPB REPLY

Based upon the Commission's written response, the Commission will comply with the CRU recommendations and findings and provide the CRU with an action plan. It is further recommended that the Commission comply with the afore-stated recommendations within 60 days of the Executive Officer's approval and submit to the CRU a written report of compliance.



GAMBLING CONTROL COMMISSION

2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231

(916) 263-0700 Phone
(916) 263-0499 Fax

www.cgcc.ca.gov

JIM EVANS, CHAIRMAN
PAULA LABRIE
GARETH LACY
TRANG TO

ATTACHMENT 1

December 17, 2018

Suzy Ambrose, Executive Officer
State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

RESPONSE TO COMPLIANCE REVIEW REPORT – CALIFORNIA GAMBLING CONTROL COMMISSION

The California Gambling Control Commission (CGCC) has completed a review of the State Personnel Board's Compliance Review Report prepared by the State Personnel Board's Compliance Review Team. CGCC's responses to the findings are as follows:

FINDING NO. 8 – Departmental Leave Reduction Policy Was Not Developed

Response

Although CGCC employees that have significant leave balances over the established limits have leave reduction plans in place and are actively reducing hours, CGCC did not have a general departmental leave reduction policy. CGCC has since established a written Leave Reduction Plan Policy which has been distributed to all CGCC employees. (Please refer to the attachment.)

FINDING NO. 11 – Performance Appraisals Not Provided to All Employees

Response

CGCC did not provide performance appraisals to 3 of the 11 employees at least once in each twelve calendar months after the completion of the employee's probationary period. CGCC's Human Resource (HR) Office makes a good faith effort to inform CGCC supervisors and managers regarding the requirements of completing annual performance appraisals. Supervisors and managers are provided the due dates of upcoming performance appraisals of their employees at least two weeks prior to the upcoming due date. The CGCC HR Office also sends reminders up to and after the due date (if necessary), as was done in the above finding.

The three instances of non-compliance within the twelve calendar month period were for employees supervised by the same supervisor. This was an isolated incident limited to one specific supervisor who inappropriately put other workload ahead of the required written performance appraisals. That supervisor has been spoken to regarding this matter and has been reminded of the importance of completing performance appraisals timely.

CGCC's HR Office and executive management will continue to emphasize the importance of completing performance appraisals to all CGCC supervisors and managers. In addition, the Commission's Executive Director will send out an individual reminder to supervisors and managers that have not submitted the required performance appraisal(s) within one week of the due date.

If you have any questions or would like to discuss CGCC's responses further, please contact me at (916) 263-0904 or Acarter@cgcc.ca.gov.




Alana Carter
Deputy Director, Administration Division



CALIFORNIA GAMBLING CONTROL COMMISSION

POLICY AND PROCEDURES

TITLE: EXCESS LEAVE REDUCTION POLICY	SUPERSEDES: N/A	POLICY #: 2018-02
POLICY OWNER: ADMINISTRATION DIVISION	EFFECTIVE: IMMEDIATELY	PAGE: 1 OF 2 ATTACHMENT(S): CalHR Leave Balance Calculator CalHR 138 Leave Reduction Plan
DISTRIBUTE TO: ALL EMPLOYEES	ORIGINAL APPROVED BY: <i>This document was digitally signed by Alana Carter, Deputy Director, Administration Division.</i>  ALANA CARTER, DEPUTY DIRECTOR, ADMINISTRATION DIVISION	
ISSUE DATE: DECEMBER 14, 2018		

PURPOSE:	The purpose of this memorandum is to inform all California Gambling Control Commission (CGCC) employees of the California Department of Human Resources (CalHR) Leave Reduction Program. The CalHR requires that all State employers and employees make every effort to adhere to a maximum cap of annual leave/vacation hours in accordance with Memorandums of Understanding and California Code of Regulations. The maximum cap of annual leave/vacation hours for all CGCC employees is 640 hours.
APPLICABILITY:	All staff with annual/vacation leave balances above the 640 hour cap must complete a CalHR 138 Leave Reduction Plan and submit to their supervisor annually in December. Supervisors must review and approve the plans and submit them to Human Resources by December 31. Leave Reduction plans may cover a time period up to one year.
POLICY:	<p>California state employees who have accumulated significant leave hours create an unfunded liability for the State and individual departmental budgets. The value of this liability increases with each passing promotion and salary increase. Accordingly, leave balances exceeding established limits need to be addressed immediately.</p> <p>It is the policy of the State of California to foster and maintain a workforce that has the capacity to effectively produce quality services expected by both internal customers and the citizens of California. Therefore, CGCC managers and supervisors must:</p> <ul style="list-style-type: none">• Manage and schedule workload in a manner that accommodates employee leave to reinvigorate employees without seriously compromising organizational performance;

	<ul style="list-style-type: none"> • Comply with existing leave statutes, regulations, Memorandums of Understanding and policies pertaining to annual leave, vacation leave, Compensating Time Off (CTO), personal leave, and voluntary personal leave; and • Ensure all staff with annual/vacation leave balances above the 640 hour cap have a leave reduction plan in place every January 1 and are actively reducing hours throughout the year in accordance with the approved Leave Reduction Plan.
AUTHORITY:	Memorandums of Understanding (MOUs) California Code of Regulations, Title 2, Sections 599.742 and 599.742.1 California Department of Human Resources (CalHR) Manual Section 2124
ROLES AND RESPONSIBILITIES:	<p><i>Employee Responsibilities</i></p> <ul style="list-style-type: none"> ➤ Monitor your vacation/annual leave balances for excess time on a regular basis ➤ Use excess time in the pay period accrued when possible ➤ For leave balances over 640 hours, complete CalHR's Leave Reduction Plan form (CalHR 138) annually and submit to supervisor for approval in December of each year. ➤ Leave reduction forms must be signed and routed to your supervisor. <p><i>Supervisor Responsibilities</i></p> <ul style="list-style-type: none"> ➤ Monitor your employees' vacation/annual leave balances for excess time on a regular basis ➤ Encourage staff to use excess time in the pay period accrued when possible ➤ Require the completion of CalHR's Leave Reduction Plan form (CalHR 138) annually for staff with excess leave balances with a due date set by Human Resources in December of each year. Review and approve the submitted plans, after ensuring the plan will not impede workload requirements. ➤ Ensure Leave Reduction Plans are submitted to Human Resources by December 31 and are being followed; encourage staff to use excess leave as planned on CalHR 138 Leave Reduction Plan. <p><i>HR Responsibilities</i></p> <ul style="list-style-type: none"> ➤ Generate quarterly reports and provide to Managers/Supervisors to monitor their staff's excess leave balance reduction. ➤ Maintain record of all CalHR 138 forms and file appropriately in employee Official Personnel Files. Ensure forms are complete and accurate.
ATTACHMENTS:	CalHR Leave Balance Calculator CalHR 138 Leave Reduction Plan