

California State Auditor

B U R E A U O F S T A T E A U D I T S

California Science Center:

It Does Not Ensure Fair and Equitable Treatment of Employees, Thus Exposing the State to Risk



August 1999
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August 24, 1999

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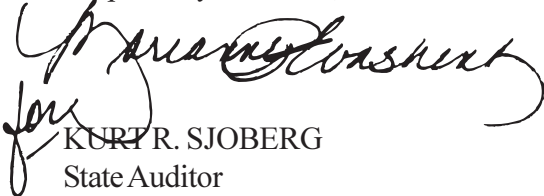
The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the California Science Center's mismanagement of its personnel function.

This report concludes that the Science Center has poorly managed its personnel responsibilities and created a workplace in which employees are not assured fair and equitable treatment. Specifically, we found problems with its examination and hiring process, inconsistent resolution of employee complaints and grievances, a deficient training program, and poor record keeping. As a result, it is exposing the State to the risk of litigation.

Respectfully submitted,


KURT R. SJOBERG
State Auditor

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SUMMARY

Audit Highlights . . .

The California Science Center has mismanaged its personnel function by:

- Ignoring state requirements and prudent practices when hiring employees.*
- Failing to enroll employees in the State's retirement system.*
- Allowing employees to work more hours than allowed by law.*
- Exceeding its budgetary authority for temporary help and overtime by more than 140 percent.*
- Failing to establish a system for addressing employee complaints or properly informing employees of their rights.*

Moreover, only 41 percent of current employees received any training, with most opportunities offered to higher-level staff.

RESULTS IN BRIEF

The California Science Center (science center), a downtown Los Angeles state-of-the-art museum focusing on science, industry, and economics, has poorly managed its personnel responsibilities, creating a work place in which employees are not assured fair and equitable treatment. As a result of serious problems with its examination and hiring processes, inconsistent resolution of complaints and grievances, a deficient training program, and poor record keeping, the science center exposes the State to future litigation. For the science center to successfully accomplish its mission, it relies on the work of many employees. In fact, more than 140 civil service employees, ranging from museum curators to security officers, carry out its day-to-day functions. Therefore, it is imperative for the science center's executive management team to foster an attitude of fairness and equality for all employees by ensuring its staff adhere to sound personnel practices.

The science center has failed to follow many personnel practices established by the State to ensure the fair and equitable treatment of civil service employees. These personnel practices include rules for testing and selecting candidates, classifying and compensating employees, notifying employees of their rights, and requirements for training and record keeping. Our review reveals serious problems with many of these activities. For example, the science center does not always comply with rules for appointing civil service employees. Consequently, in some instances the science center may not have hired the most qualified individuals, and thus will be unable to defend any of these decisions should they be challenged. We noted instances when the science center failed to follow regulations and procedures for properly classifying and compensating employees. Had we not brought these errors to its attention, several employees may not have received appropriate retirement benefits. We also found that the science center significantly exceeded its budgets for temporary help and overtime.

In addition, employees are not consistently informed of their rights and responsibilities, either through a manual, bargaining unit contract, or an orientation class when they are hired. The science center's documentation of complaints and grievances

and the related resolutions was severely limited, making it unclear whether complaints were properly addressed and resolved. Finally, individuals responsible for considering proposed disciplinary actions have not been properly trained. Therefore, the science center cannot be certain that employee rights are protected.

In addition to not informing employees of their rights, the science center has an inadequate training program. Despite regulations, the science center does not have an overall training plan or program designed to promote a capable, efficient, and service-oriented work force, nor does it maintain central training records to demonstrate which employees have received training. It further appears that higher-level employees receive more training opportunities than those at a lower level. As a result, some employees are better informed of important policies, which gives the appearance that the science center treats its staff unfairly or inequitably.

RECOMMENDATIONS

To ensure the fair and equitable treatment of all employees, the science center needs to adhere to sound personnel practices. Specifically, the science center should:

- Comply with the State's testing and hiring procedures and provide necessary training to staff in its personnel office.
- Account for the number of hours its employees work so that it can enroll them in the appropriate retirement system and limit their hours to the maximum allowed by state law.
- Continue the practice it began recently of informing all staff of discrimination and sexual harassment policies and procedures, as well as provide staff with copies of their bargaining unit contracts. In addition, train Skelly officers, or those individuals who consider and make recommendations regarding any disciplinary actions proposed against civil service employees.
- Track and maintain all employee complaints, as well as monitor their resolution.
- Provide supervisors with complaint resolution procedures and training.

- Establish a comprehensive training program that includes equal opportunities for all levels of staff, and then track the training given to employees.
- Develop and distribute an employee manual.
- Continue efforts to obtain additional permanent positions.

AGENCY COMMENTS

The California Science Center agrees with our recommendations and states that it has begun taking corrective actions. ■

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INTRODUCTION

BACKGROUND

In early 1998, the California Science Center (science center) opened to the public. Formerly known as the California Museum of Science and Industry (CMSI), the science center is now a state-of-the-art museum. Its primary purpose is to stimulate the interest of Californians in science, industry, and economics. The science center is in Exposition Park (park), a 104-acre tract of land just south of downtown Los Angeles. The State owns most of the land within the park in the name of the science center but leases much of it to the city and county of Los Angeles and to the Coliseum Commission, all of which operate other museums and sports venues within the park.

THE STATE'S PERSONNEL POLICIES

The science center, or its predecessor, the CMSI, has been a state entity for many years. State entities must follow civil service personnel regulations and procedures established by the State Personnel Board (board) and the Department of Personnel Administration (DPA). The board administers the system of civil service employment within California state government and has established hiring procedures designed to select employees based on merit in a fair, nondiscriminatory fashion. The DPA manages the nonmerit aspects of the State's personnel system, which cover salary and benefits, hours and working conditions, training, performance evaluations, and grievances. Therefore, it has also established regulations and procedures that state entities must follow. Similarly, bargaining unit contracts, or agreements between employee unions and the State, establish rules that define wages, hours, and conditions of employment. They also outline steps for resolving grievances of those employees assigned to bargaining unions.

In addition to the established regulations and procedures, the board, the DPA, the State Controller's Office, and the California Public Employees' Retirement System (CalPERS) have developed manuals to assist state entities with their personnel responsibilities.

ORGANIZATION OF THE SCIENCE CENTER

A nine-member board of directors appointed by the governor manages the science center and oversees the State's interests in the park. This board appoints an executive director to direct the day-to-day operations of the science center and the park, and to supervise the civil service and California Science Center Foundation (foundation) employees that work there. The foundation is a nonprofit auxiliary organization formed in 1950 to support the science center's predecessor, the CMSI, through fund-raising activities. It also has numerous agreements with the science center that allow it to operate enterprises and provide certain services within the science center.

To function as a state-of-the-art science museum, the science center relies on approximately 145 civil service and 175 foundation employees. These employees include janitors, security officers, exhibit designers, and museum assistants, who create a clean, safe, and friendly public environment. Because many of its staff are civil service employees, the science center must test, select, and hire them according to the State's requirements—duties for which its personnel office is responsible.

Additionally, the science center may hire temporary employees for a period of up to six months per calendar year using its statutory authority under the State's Constitution Article VII, Section 4(l). During fiscal year 1998-99, for example, it hired some of its janitors, security officers, and office assistants as temporary employees to fill staffing shortages.

SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee requested the Bureau of State Audits to examine the science center's personnel practices and to review a specific claim of race discrimination against the science center.

To understand the specific claim of race discrimination, we reviewed the complaint and the investigative report completed by an outside firm and interviewed the science center's management. We did not speak to the complainant because he did not return our phone calls. Although the investigative report did not substantiate the specific claims of race discrimination, we reviewed the science center's personnel structure to assess whether it is vulnerable to employee claims of discrimination or sexual harassment.

To understand the science center's responsibilities as an employer, we researched applicable laws and regulations, and reviewed the bargaining unit contracts between the State and the employee unions. In addition, we reviewed sections of procedural manuals published by the board and the State Controller's Office that guide testing, hiring, classifying, training, and compensation for civil service employees. We also interviewed management and staff of the science center to identify existing personnel policies and procedures, and surveyed current and former employees. To determine the number of current employees at the science center, the positions they hold, and whether personnel costs are within budget, we first reconstructed data from accounting and personnel records because the science center could only give us accurate information after we completed our fieldwork. We then compared positions and costs to those approved in the Governor's Budget.

Next, to determine if the science center adheres to the State's laws, regulations, and policies, we reviewed its personnel activities. Specifically, we selected a sample of exams recently administered, as well as a sample of employees it recently hired, to see if the science center complies with the State's civil service selection procedures. We also reviewed employee personnel files and payroll information obtained from both the science center and the State Controller's Office.

To ascertain whether the science center informs its employees of their civil service rights, and if it appropriately protects those rights, we interviewed management and staff, and surveyed current and former employees. We also surveyed and spoke to employees to determine the adequacy of the science center's training policy and program. ■

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AUDIT RESULTS

As a state agency and employer of civil service employees, the (science center) must comply with the State's established personnel policies and practices. However, we found many instances in which it has both failed to follow mandated hiring processes and adequately protect its employees' rights. As a result, the science center does not ensure fair and equitable treatment of employees and exposes the State to the risk of litigation.

THE SCIENCE CENTER DOES NOT ADHERE TO MANDATED TESTING AND HIRING PROCEDURES

To ensure the fair and equitable treatment of civil service employees, or those employed by state government agencies, state law dictates many requirements and procedures, including those governing testing, hiring, and promoting staff. The State Personnel Board (board) oversees these activities and distributes a manual outlining the State's regulations. One of these regulations addresses the exams agencies administer to establish lists of candidates qualified to fill vacant positions. Another requires agencies to select permanent—rather than temporary or seasonal—employees from those lists according to the highest scores or ranks from the exams given.

Despite these criteria, we found that the science center does not reasonably administer its exams, or consistently comply with the State's testing procedures. In addition, because of poor record keeping, the science center cannot demonstrate that it always appoints employees from eligible lists and appropriate ranks.

The State's Testing and Hiring Procedures

When an agency wants to fill a vacant position, state law requires it to select employees from an eligible list of qualified candidates. Often, a list is unavailable, and therefore the agency must give an exam to establish one. Before administering an exam, state law requires an agency to advertise the position in an announcement bulletin. It must also set a deadline for receiving applications, known as the final filing date.

Once the final filing date has passed, the agency will generally evaluate all the applications received to ensure that each applicant has met the minimum qualifications for the position advertised. For those exams consisting only of a review of education and work experience, the agency will score and rank the applicants based on this evaluation. For other exams, individuals who have met the minimum qualifications may take a writing test or be scheduled for an interview, and be scored and ranked accordingly. After ranking each applicant, agencies must establish a list of all those eligible for the position. Then, pursuant to regulations, they must hire employees according to the “rule of three ranks,” which means they must make their selections from the employees in the three highest ranks on the eligibility list. If no one is available from these three groups, either because the individuals within it were previously hired or declined interviews, the agency can select someone from the next rank down.

Personnel Staff Do Not Follow Necessary Procedures to Ensure Compliance With Testing Requirements

As we discussed earlier, there are occasions when the science center must give exams to generate lists of qualified individuals from which to hire. To do this, it must review applications received by the final filing date advertised in the exam announcements. It then determines which applicants are qualified. Nevertheless, the science center does not ensure that all individuals submit their applications on time, or that the applications are complete. In fact, the science center has interviewed—and even hired—applicants who appear to have submitted late or incomplete applications.

In reviewing the personnel office’s files for 10 of 28 exams administered within the last two years, we found that staff had not date stamped any applications received. Although date stamping is a simple way to verify when applications came in, we found that the science center just recently made this a practice at the end of June. Because the science center did not date stamp applications in the past, it cannot demonstrate that the applicants it tested and hired met final filing dates and, therefore, it may have unfairly given certain individuals jobs.

Because the applications were not date stamped for the exams we reviewed, we relied on the dates placed on the applications by the applicants themselves. Based on these dates, we noted that the science center accepted late applications from several

The science center may have unfairly given jobs to certain individuals.

people, and included them on eligibility lists. One applicant, for example, received the highest rank for a museum coordinator position, even though her application was late and had nothing more on it than a name, signature, and date. We question the science center's decision to interview someone who neither met the final filing date nor demonstrated she met the minimum qualifications by properly completing her application, especially when its own examination bulletin specifically stated: "Applications postmarked, personally delivered, or received via interoffice mail after the final filing date will not be accepted for any reason." Because the science center did not have budgetary authority to fill this position, it ultimately did not hire this applicant.

In a similar instance, the science center interviewed and hired a candidate for a security position although the application was late. The announcement for this exam also stated that late applications would not be accepted. The science center was fortunate that no one apparently contested this hiring decision, because it would have been unable to defend its actions had anyone done so.

When we asked the science center why it did not date stamp applications, it stated that the date stamp machine was being repaired, but once it was fixed staff would begin date stamping all applications as they came in. However, because the exams we reviewed covered more than a two-year period it does not seem reasonable that the machine was being repaired the entire time. The day after we questioned staff, we noted that a machine was in the personnel office and in working order. The science center was unable to explain why it hired the individual who turned in his application late. The acting personnel officer agreed that personnel staff need training on how to appropriately test and hire civil service employees.

Poor Record Keeping Raises Concerns About Hiring Decisions

We could not verify that two of eight recent hires were from eligible lists and appropriate ranks.

As we stated earlier, agencies must hire permanent employees from eligibility lists and according to the "rule of three ranks." Nevertheless, the science center cannot demonstrate that it regularly adheres to this rule. We selected eight employees appointed to permanent positions between October 1997 and March 1999, and asked personnel staff to show us the related eligibility lists. Because the science center could not provide the related lists for two of the eight employees, we could not verify that the science center hired these people from eligible lists and

from appropriate ranks. We also found during our review of the science center’s administration of exams that it hired one person who had not made the first three ranks on the list. The science center claims that it gave notice of the position to the four other people with higher ranks, but that they waived interviews. However, it had no documentation to corroborate this statement, such as the notices it would have sent to inform candidates of the interviews, or memos documenting that they declined to attend. Without records to demonstrate that it hires employees pursuant to the rule of three ranks, the science center is leaving itself open to challenges from more qualified individuals who are eligible for employment, but not hired.

Preselecting Certain Employees for Promotions Inhibits Advancement for Others

Our review of the past exams identified two instances when the science center preselected the employees it wanted to promote to fill vacant positions before the exams were over, that is, before the final filing dates. In both cases, we found documentation, such as organization charts and personnel transaction requests, indicating the science center’s intent to promote the employees even though it could not have been certain that it had received and considered all other applications. Not surprisingly, it also gave the highest ranks to these individuals, one of whom we discussed earlier because her application was late and incomplete. While we understand that on occasion an agency may have in mind an individual they believe will do well in a vacancy, it is unfair to initiate their appointment before considering all qualified applicants, or to relax testing requirements for them. Doing so inhibits employment and promotional opportunities for others who may be equally well suited—or even better qualified—for the position. Moreover, it violates state law.

We found two instances where employees were chosen to fill positions before exams were held.

SOME EMPLOYEES HAVE NOT RECEIVED THE RETIREMENT BENEFITS DUE THEM

Although membership in a retirement system is afforded to all civil service employees, the science center has failed to enroll some employees in the appropriate system when they become eligible. Specifically, we noted 12 employees who became eligible for retirement benefits under the California Public Employees’ Retirement System (CalPERS), but were not enrolled in the system.

Although 12 intermittent and temporary employees became eligible for CalPERS retirement benefits, the science center failed to enroll them.

When the science center hires a new employee, its personnel office must establish the individual in the State's payroll system, operated by the State Controller's Office (SCO). According to an SCO manual distributed to all state agencies, this entails inputting into the payroll system information such as job classification, rate of pay, tenure, time base, and desired tax withholding. A code specifying what retirement system the employee is eligible for is also entered, and updated if and when eligibility changes.

Most permanent, full-time employees are automatically eligible for CalPERS, while intermittent, temporary, or seasonal employees are not. Instead, they pay into another retirement system, the PST Retirement Plan (PST). The main difference between CalPERS and the PST is that the State contributes to the retirement funds of those in CalPERS but PST employees fund their retirement themselves. In addition, pursuant to federal law, employees who are in the PST do not have Social Security taxes withheld from their pay. To be eligible for CalPERS, intermittent, temporary, or seasonal employees must work 1,000 hours in one fiscal year. Their membership begins the first month after they have worked these hours, and continues until separation from state service.

Our review found 12 intermittent and temporary employees who worked over 1,000 hours in one fiscal year, yet the science center's personnel office failed to change the codes to begin their enrollment in CalPERS. As a result, when the SCO processed their paychecks it continued to deduct PST contributions unnecessarily, and did not withhold Social Security taxes. Further, the State did not make retirement contributions on their behalf. Because of this oversight, one employee who became eligible in March 1994 has had more than \$5,900 in PST contributions deducted from her pay in error. In addition, almost \$9,900 in Social Security taxes—both the employee's and science center's shares—were not withheld. Although the employee stated that she asked the science center's personnel office about the PST contribution and to explain why it did not withhold Social Security taxes, staff did not follow up. More than five years have passed since the science center should have enrolled the employee in CalPERS. If we had not called this error to the personnel office's attention, the employee may have retired and not received the benefits to which she is entitled.

The science center's personnel office could not explain why it did not enroll the 12 employees in CalPERS when they became eligible. However, it stated that it would take appropriate actions to enroll them, as well as establish a method to ensure that it properly enrolls other employees in the future. As for the employee who paid \$5,900 in PST contributions unnecessarily, we confirmed that the science center has since enrolled her in CalPERS. In addition, we determined that she will ultimately receive all the benefits due her from CalPERS when she retires, and also receive a refund of PST contributions. Specifically, CalPERS stated that it will back date her enrollment to her initial date of eligibility in March 1994. Further, although the employee must pay her share of the unpaid Social Security taxes, the statute of limitations confines this repayment to only the past three years' taxes, according to the State's payroll procedures manual. The SCO said it has applied some of her PST contributions to the unpaid Social Security taxes and will refund \$2,450, the remainder.

Because of the science center's lack of vigilance, one employee may be required to return eight years of retirement allowance.

In another example, the science center's failure to enroll an employee in CalPERS when she became eligible resulted in her working more hours than permitted by law, which may have an adverse effect on her current retirement benefits. In this case, the science center hired the employee as a museum assistant on a permanent intermittent basis in 1990, not knowing that she had previously retired and was receiving a retirement allowance from CalPERS. Because she was receiving this allowance, state law limits her to working a maximum of 960 hours a year. However, she worked an average of 1,170 hours each year from 1991 through 1998. When we asked the science center why it permitted this employee to work so many hours, it stated that it did not know she was retired, and thus that it needed to limit her hours. Given this explanation, the science center should have then treated her like any other employee and enrolled her in CalPERS on June 1, 1991—the date she became eligible for CalPERS. Had it done so, CalPERS would have likely detected that she was already a retired member and informed her and the science center that she was violating state law. To correct the violation, the science center could have limited her to working only 960 hours each year. However, now that more than eight years have passed, the employee may be required to pay back all retirement allowances received during 1991 through 1998.

The science center's personnel staff stated that they were aware this employee became eligible for CalPERS on June 1, 1991, but thought that she was supposed to enroll herself. We explained to them that enrolling employees in CalPERS is the personnel office's responsibility.

THE SCIENCE CENTER PERMITTED SOME EMPLOYEES TO WORK LONGER THAN ALLOWED

Twelve permanent intermittent and temporary employees have worked longer than allowed under state law.

State law limits the number of hours intermittent employees may work in a year, and also places certain restrictions on the science center's temporary employees hired under its provisions as a district agricultural association, discussed on page 17. For example, while permanent, full-time employees work an average of 2,080 hours each year, intermittent employees may work a maximum of 1,500 hours, and temporary employees may work only six months. Nevertheless, we identified two museum assistants hired as permanent intermittent employees who have worked more than 1,500 hours; one has worked an average of 2,122 hours for the past five years, and the other, 2,070 hours for the past six. Both of these employees stated that they were never told that they could not work more than 1,500 hours per year. In addition, we noted during 1998 that the science center allowed ten temporary employees to work longer than 6 months. In fact, one of the ten worked 11 months in 1998.

When we explained to the supervisor that the assistants worked longer than allowed, he stated that he was unaware of the annual hourly limitation. In fact, he was surprised that one of them worked so much. In addition, when we asked the acting personnel officer why her staff were not aware that some employees worked longer than allowed, she replied that she did not know. Not only is it inexcusable for a supervisor not to know how often his employees work, especially when he signs their time sheets, but it is also troublesome that the personnel office, which should know of the annual hourly limitations, did not discover the problem and correct it. As a result of the science center's mismanagement, it has not only exceeded its authority and circumvented the State's civil service system, but it has also treated some employees unfairly.

In late July, a foundation supervisor, rather than the acting personnel officer or a civil service supervisor, finally told the two museum assistants that they cannot work more than 1,500 hours a year. Because they had already worked

approximately 1,200 hours, they were also told that they could only work another 300 hours for the rest of 1999; an average of 60 hours a month instead of the 170 for which they were usually scheduled. Consequently, the employees are now faced with a substantial reduction in income from what the science center has led them to believe they could anticipate.

Moreover, it appears that the science center misuses its authority to hire temporary employees since it uses people in these positions longer than allowed. Because the science center does not have to comply with all of the procedures for hiring civil service employees when it hires individuals on a temporary basis, it may be denying potential applicants a fair and equitable opportunity for state employment. Further, by hiring some people on a temporary basis, yet allowing them to work as much as permanent intermittent employees, the science center is denying them certain health, dental, or vision benefits for which they would otherwise be eligible.

ONE EMPLOYEE HAS NOT RECEIVED ADEQUATE COMPENSATION

We also noted that one of the museum assistants who worked more hours than allowed has been working out-of-class—that is performing duties beyond those listed under his current classification—without appropriate compensation. For at least 20 months and perhaps as long as five years, he has been performing the duties of a museum assistant II, yet in all this time, the science center compensated his additional efforts for only one month. The science center should have compensated him for one year, the maximum time an employee is allowed to work out-of-class, and then either discontinued his additional duties, or taken appropriate steps to promote him.

According to the bargaining unit contract between the State, and the California State Employees' Association, the union that represents this employee, employees are to receive an additional 5 percent when they work more than 30 consecutive days in a higher classification. Using payroll history data, we calculated that the science center should have paid this employee an additional \$1,450 over the 20-month time period. Nevertheless, the science center paid him just \$67 more. Unfortunately, because of a provision in the bargaining unit contract that limits employees to collecting out-of-class pay for one year only, as of June 1999, he may be able to collect only \$871.

The science center worked one employee out-of-class without appropriate compensation for at least 20 months and perhaps up to 5 years.

The science center disagrees that this employee is working out-of-class because he does not supervise the other museum assistants or take disciplinary actions against them. Despite this contention, a November 1997 memo written by his former supervisor states that he “has stepped up and is doing several of the tasks that under regular circumstances fall to the museum assistant II. These tasks include daily and monthly tabulation of time sheets, scheduling, supervision of the other museum assistants, and in general making sure the museum opens and closes on time and the critical areas are staffed.” The memo’s purpose was to request additional compensation for this employee.

In addition to the above memo, the science center’s current organization chart shows the other museum assistants reporting to this employee, a depiction that clearly indicates he is working in a role above the others in the same class. Further, we confirmed through conversations with the museum assistants that they report to him. Therefore, while the science center contends that he is not working out-of-class, evidence suggests otherwise. As a result, the science center may wish to submit a request to the Department of Personnel Administration (DPA) to retroactively compensate him for at least one year of the work he performed. If the science center chooses not to take this action, the employee may file a grievance and appeal to the DPA, if necessary, to receive the amounts to which he is entitled.

TEMPORARY HELP AND OVERTIME COSTS SIGNIFICANTLY EXCEEDED BUDGETED AMOUNTS

For the first 10 months of 1998-99, budgets were exceeded by 140 percent, or about \$138,000.

The science center exceeded its budgets for temporary help and overtime for the first 10 months of the 1998-99 fiscal year by more than 140 percent. Specifically, expenditures for overtime totaled approximately \$235,000 for the first 10 months of fiscal year 1998-99, significantly exceeding the budget of \$97,000. When it significantly exceeds authorized amounts, the science center absorbs the extra costs, thereby reducing funds available for other operating needs. In addition, overtime can lead to increased use of employee sick leave, greater employee turnover, and loss of productivity.

The science center has unique authority to use temporary appointments under the State Constitution because of its designation as an agricultural association. Agricultural associations

44 temporary employees were paid \$370,000 during the first 10 months of the year.

throughout the State hold fairs and expositions to exhibit industries, resources, and products, to improve and stimulate interest in these areas. The authority granted allows the science center to hire temporary employees without going through the normal civil service process. Not only are we concerned that the science center is exceeding the budgeted amount for temporary help, but we are also concerned with the large number of temporary employees it uses. Specifically, the science center's budget for fiscal year 1998-99 authorized 6 temporary positions at an estimated cost of \$100,000. However, it paid 44 temporary employees more than \$370,000 during the first 10 months of the fiscal year. Hiring temporary employees to address peaks in workload is a valid practice; however, our review indicates the science center has a constant need for additional employees. For the 10 months reviewed, the number of temporary employees paid each month ranged from a low of 18 to a high of 37. According to the science center, it was in the first year of operation as a new facility and there was increased attendance—thus it believes these factors contributed to the significant overages. Nonetheless, while the science center continues to significantly exceed its budget for temporary help, it is absorbing deficits at the expense of other operating needs.

According to the acting deputy director of administration, the science center requested 92 additional permanent positions for fiscal year 1999-2000; however, only 9 were approved. Four maintenance staff positions were approved, and a park manager and 4 supporting staff positions were added in a new area of the science center. Although we did not confirm that the science center needs 92 new positions, our review confirms that some additional positions are needed. Specifically, one unit continually used 7 to 10 temporary employees during the first 10 months of fiscal year 1998-99. In addition, approximately 65 percent of all overtime for the first 10 months was logged by the public safety department's staff. By obtaining additional permanent positions, the science center should be able to reduce the number of temporary employees needed as well as reduce the amount of overtime expenses incurred.

THE SCIENCE CENTER FAILS TO ADEQUATELY PROTECT EMPLOYEE RIGHTS

Among the problems we found in the science center's compliance with employment requirements was its failure to consistently inform employees of their civil service rights

and privileges, and protect those rights. This includes establishing, distributing, and following policies and procedures to ensure that employees work in an environment free of sexual harassment and discrimination. It also includes giving employees copies of their bargaining unit contracts—which explain the right to appeal the outcome of a dispute or grievance—and giving employees a fair opportunity to respond to disciplinary actions.

Employees Are Not Consistently Informed of Their Rights

The State of California’s laws and policies provide civil service employees with the right to a work place free from any type of discrimination, whether based on race, color, age, religion, sex, disability, national origin, ancestry, marital status, sexual orientation, or political affiliation. State policy also grants them the right to work in an environment free from unwelcome sexual overtures and advances. Further, it requires agencies to establish internal policies and procedures to protect employee rights, and to make their employees aware of them. Despite this requirement, the science center cannot demonstrate, either through signed statements or training rosters, that it made all employees aware of the policies until May 1999, after we began the audit. When employees do not receive important policies and procedures, they cannot be expected to know which activities and types of behavior are unacceptable. As a result, the science center leaves itself open to lawsuits stemming from the activities and behavior of employees uninformed of appropriate policies.

Only after we began our audit did the science center make its employees aware of discrimination and sexual harassment policies and procedures.

In addition to state law, bargaining unit contracts also afford employees certain rights. However, the science center does not ensure that its employees are aware of these rights either. Currently, three separate unions represent the science center’s employees. While one of these unions provides copies of the bargaining unit contracts directly to its members, two require that the employer (in this case the science center) provide them. However, when we asked the science center’s personnel office if it provides copies, it said no.

Although employees are aware of many of their rights granted under the bargaining unit contracts, such as the right to certain holidays off with pay and the right to take breaks, they are not always aware of others. It is therefore important for the science center to provide the contracts when required. For example,

More than half of the employees responding to our survey reported that they were not informed of the process to resolve a dispute or grievance.

more than half of the 106 employees who responded to a survey we conducted said that they were not informed of the process for resolving a dispute or grievance. While the bargaining unit contracts fully explain the process, including the right to appeal an unsatisfactory outcome to the DPA, the science center did not give its employees copies. It also cannot demonstrate that it explained the process to its employees, either through training or in an employee manual. Consequently, some employees may have had disputes and grievances while not knowing how to handle or appeal them, as described below.

We previously discussed an employee who worked out-of-class without appropriate compensation. This same employee responded to our survey that the science center did not provide him with a copy of his bargaining unit contract. Had the science center given him the required copy, the employee may have known when he was first required to work out-of-class that he could file a grievance and appeal to the DPA if necessary, to receive appropriate compensation. The employee only became aware of this right six months ago when he became a union job steward.

Employee Complaints Are Not Adequately Resolved or Documented

In addition to its insufficient efforts to inform employees of their rights and responsibilities, the science center does not adequately maintain employee complaint records or ensure that staff are aware of and follow consistent procedures when addressing complaints. As a result, the science center cannot demonstrate that it effectively resolves complaints.

At the beginning of our audit, we asked the science center to provide us with copies of all formal, or written, complaints and grievances filed by its employees within the last three years, including those alleging sexual harassment and discrimination. However, because the science center does not track complaints, and has not assigned anyone to monitor their resolution, its staff could provide us with just one example. Believing there may be more, we surveyed 132 current and 30 former civil service employees and asked them whether they had ever filed a formal written complaint or grievance.

In total, 106 employees responded to our survey, 21 of whom stated that they had filed formal complaints or grievances. A review of the personnel files for 12 of these employees produced no documentation to substantiate that the science center was aware of the complaints or that it had acted to resolve them. For example, we found neither copies of the complaints, nor memos from the science center to the employees describing the efforts it took to investigate their issues. Therefore, we met with 12 of the 21 respondents to determine whether they could provide us with more detailed information. Of these, 5 provided us with copies of their written complaints.

For three of five complaints reviewed, there was no documentation to show that the science center addressed its employees' concerns.

After reviewing the five employees' complaints, we determined that they had either filed them with their supervisor, labor representative, or the science center's personnel office. To the extent possible, we interviewed their supervisors to assess the attempts they made to ensure the complaints were addressed. For three of the five complaints, the employees' supervisors were unable to provide any documentation to demonstrate that they had responded to the issues themselves, or that they had followed up with someone else. For the other two, we substantiated that reasonable resolution efforts were made.

Although we obtained documentation to confirm only 5 of the 21 formal complaints that its employees stated they filed, this is 5 more than the science center provided when we first asked. In addition, because it does not have a method to track and account for employee complaints, we believe there may be more. The science center not having documentation or not being aware of all complaints is not our only concern. We are also troubled that it cannot demonstrate that all complaints are investigated and resolved.

In total, we interviewed seven supervisors—including those we met with to follow up on the five specific complaints discussed above—and asked them to describe how they respond to employee complaints. Four of the seven supervisors interviewed gave similar responses addressing the appropriate steps for resolving and documenting their efforts. However, three of the supervisors listed inadequate or inconsistent procedures. Specifically, one supervisor stated that he handles all complaints verbally and does not prepare formal letters to the parties involved. Additionally, two supervisors stated that they simply forward all complaints to the personnel office for resolution and do not retain copies for their files. These varied responses from the supervisors demonstrate both inconsistency

in and uncertainty over complaint resolution. One contributing factor to this confusion may be a lack of adequate training in this area and in general supervision. As we discuss on the next page, the science center has not established a comprehensive training program. This confusion over procedures may have led to a situation involving a harassment complaint that the science center never addressed.

On May 21, 1999, an attorney representing an employee who filed a complaint sent a letter to the science center's personnel officer. In the letter, the attorney stated that the employee had filed a complaint on December 4, 1998, with her supervisor, and followed up four times over the course of two months, but the science center had taken no action. The acting personnel officer wrote back to the attorney and stated that the science center could not investigate the complaint or take any actions because the employee against whom the complaint was filed no longer worked at the science center. Although this was true, we noted that nearly five full months passed between the date the employee first filed her complaint and the time when the other employee left. The science center needs to address complaints in a timely manner to avoid exposing the State to litigation.

The Skelly Officer Has Not Been Trained

Another important civil service employee right is the opportunity to respond to disciplinary actions before they are taken. This right, often referred to as a Skelly right, is based on a 1975 California Supreme Court decision, which recognized that a person's job is a property right that cannot be taken away without due process. Therefore, before a department can take disciplinary actions, employees must be given the chance to meet with a Skelly officer, or someone appointed by the department, who will objectively consider the circumstances and recommend whether to revoke, modify, or uphold the proposed actions. While we found that the science center provides its employees with the opportunity to respond to disciplinary actions before it takes them, it had not sent its acting Skelly officer to training, even though this person has held this position for the last six months, and twice performed the role of Skelly officer.

After we discussed the lack of training with the science center, it provided the Skelly officer with on-the-job training and a Skelly procedures handout obtained from another agency's Skelly officer. In addition, it has appointed a second Skelly officer, and

Despite not receiving adequate training, the Skelly officer made disciplinary recommendations on two occasions.

intends to appoint a third, all of whom it intends to formally train. However, we believe that it should have trained the Skelly officer before he made disciplinary decisions. Until such time that the science center ensures that its Skelly officers know and protect its employees' Skelly rights, it will remain vulnerable to lawsuits challenging the appropriateness of their disciplinary decisions.

THE SCIENCE CENTER LACKS A COMPREHENSIVE TRAINING PROGRAM

State regulations require departments to develop an overall training plan designed to promote a capable, efficient, and service-oriented work force, yet the science center does not have such a plan. According to the California Code of Regulations, Section 599.818(a)(b), all state departments must establish a training plan and policy that includes categories such as job-required training, job-related training, upward-mobility training, career-related training, and an individual development plan. We also found that the science center does not document the training that employees have received and does not ensure that all staff attend mandatory training, including training in sexual harassment awareness. Additionally, training opportunities may not be equally available to employees at all levels.

The science center poorly maintains training records and inadequately monitors training activities. When we asked the science center for a summary of its employee training, it was unable to provide one. As a result, we compiled and summarized training activities for all employees based on records provided from various individuals at the science center. Our summary revealed that only 41 percent of current employees have attended training of any kind, such as new-employee orientation, sexual harassment awareness, or more specific job training, such as forklift training. As a result, this leaves 59 percent of current employees without documented attendance in any training activity. Since 82 percent of the current employees have been at the science center for more than one year, we would expect that, in addition to new employee training, they would have received some other training as well. It is possible that other training activities may exist; however, the science center was unable to demonstrate additional activities through other documents such as attendance rosters, certifications, or invoices paid for training

Documentation revealed that only 41 percent of current employees have attended any kind of training, with most opportunities offered to higher-level staff.

services. Without proper training and record keeping of such activities, the science center cannot ensure that all employees receive training necessary to cultivate sound job performance.

While it appears the science center is not training all employees, the deputy director of operations contends that training classes in sexual harassment awareness, diversity awareness, and guest services are mandatory for all employees. These classes provide employees the necessary tools to effectively carry out their job-related duties as well as inform them of these important policies and procedures. Despite this claim, our review of the science center records supports that only 24 percent of current employees attended training in at least one of these classes. According to the science center's records, not one employee attended all three, even though the science center claims it requires attendance by all employees. However, two employees who responded to our questionnaire told us they had received training in all three areas.

Although management deems training in sexual harassment and diversity awareness, and guest services mandatory, only 24 percent of staff attended one of these classes.

Although training activities are equally important for all employees, it appears that more training opportunities exist for higher-level employees. For example, according to science center records, 89 percent of its supervisors have attended some type of training, as opposed to only 30 percent for rank-and-file employees, or non-supervisors. Specifically, when we analyzed records for sexual harassment, diversity awareness, and guest services training, we found that 67 percent of current supervisors attended at least one of the classes, as opposed to only 14 percent of current rank-and-file employees. Without proper training, lower-level employees may not be aware of the organization's policies, and management may be viewed as treating employees unfairly or inequitably.

CONCLUSION

The State has established specific personnel practices that are designed to ensure both the competitive selection of the most qualified individuals as well as fair and equitable treatment of employees in the work place. Despite this, the science center's executive management team has fallen short in ensuring that staff follow these practices. Although many of the deficiencies we identified may not seem significant on an individual basis, collectively they amount to a serious problem. The numerous deficiencies have had a negative impact on the science center's

work place, and if left uncorrected, will continue to result in unfair treatment of employees, and expose the State to legal consequences.

RECOMMENDATIONS

To ensure that it fairly hires only qualified employees, the science center should continue the practice it began recently and date stamp all applications received, and then consider for employment only those individuals who have filed their completed applications on time. In addition, the science center should retain appropriate records, such as eligibility lists and offers of employment, to demonstrate that it hires staff in accordance with state laws and regulations. Further, the science center should consider all qualified applicants before appointing employees to vacant positions, and schedule its personnel staff for training on the State's testing and hiring procedures.

To ensure that all employees receive the retirement benefits due them, the science center should appropriately enroll eligible employees in CalPERS. Additionally, the science center should develop a tracking system, such as a spreadsheet, to account for the number of hours or length of time intermittent and temporary employees have worked. This will allow it to determine when these employees have become eligible for CalPERS retirement benefits, as well as allow it to determine when retired annuitants, intermittent, and temporary staff have worked the maximum number hours allowed under state law.

To protect employee rights as well as itself from potential lawsuits, the science center should continue the practice it began recently of informing all staff of discrimination and sexual harassment policies and procedures. Also, it should give staff copies of their bargaining-unit contracts, and provide necessary training to its Skelly officers.

To help reduce significant overages of its temporary help and overtime budgets, the science center should continue efforts to obtain additional permanent positions necessary to address workload.

To ensure that its supervisory staff consistently address employee complaints and grievances appropriately, the science center should take the following actions:

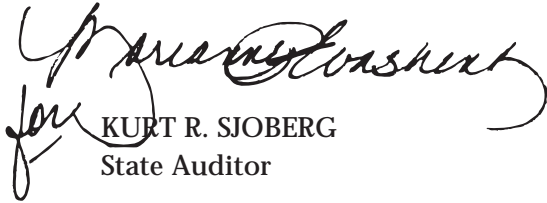
- Establish an internal tracking process for employee complaints that includes maintaining formal complaints and related documentation in a central location, such as the personnel office. Further, establish a process for routinely checking the status of ongoing complaints.
- Provide all supervisors with specific procedures and training that outline how to handle employee complaints, including time frames for resolution, documentation requirements, as well as requirements for notifying complainants of the outcome.

Finally, to ensure that training opportunities are fair and equitable, to inform employees of important policies and procedures, and to promote a capable, efficient, and service-oriented work force, the science center needs to establish a comprehensive training program that complies with state law. Specifically, the science center should:

- Establish a training policy and plan that includes equal opportunities for training at all employee levels.
- Develop and distribute an employee manual, and establish a new employee orientation program.
- Develop a system that formally tracks and monitors training activities for all employees, and ensure that employees attend required training classes.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



KURT R. SJOBERG
State Auditor

Date: August 24, 1999

Staff: Ann K. Campbell, CFE, Audit Principal
Tammy Lozano, CPA
Bryan Beyer
Jennifer Harris

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Agency response provided as text only.

State and Consumer Services Agency
Office of the Secretary
915 Capitol Mall, Suite 200
Sacramento, CA 95814

August 18, 1999

Kurt R. Sjoberg, State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

Dear Mr. Sjoberg:

RE:
CALIFORNIA SCIENCE CENTER: IT DOES NOT ENSURE FAIR AND
EQUITABLE TREATMENT OF EMPLOYEES, THUS EXPOSING THE STATE
TO RISK

Enclosed is our response prepared by the California Science Center to the Bureau of State Audits' Report No. 98115.1 entitled "California Science Center: It Does Not Ensure Fair and Equitable Treatment of Employees, Thus Exposing the State to Risk," as well as a copy of the response on a diskette.

We thank you for your thoughtful review of the personnel practice of the California Science Center. As is indicated in the Science Center response, many of the audit findings have been remedied. However, we want to assure you that we take these findings seriously and will be performing our own independent review of the policies and procedures of the Science Center. We hope this will provide further assurance that the findings and recommendations identified in your report are remedied.

If you have any questions or need additional information, please contact me at 653-4090.

Sincerely,

(Signed by: Clothilde V. Hewlett)

Clothilde V. Hewlett
Undersecretary

Enclosures

California Science Center
700 State Drive
Los Angeles, California 90037

August 18, 1999

Mr. Kurt R. Sjoberg, State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, California 95814

SUBJECT: BUREAU OF STATE AUDITS REPORT – NO. 98115.1

Thank you for the opportunity to respond to the Bureau of State Audit's Report 98115.1 entitled, "California Science Center: It Does Not Ensure Fair And Equitable Treatment Of Employees, Thus Exposing the State to Risk" which includes recommendations to the California Science Center (Science Center). The following response addresses each of the recommendations.

OVERVIEW OF THE REPORT

The Science Center has reviewed the findings, conclusions, and recommendations presented in Report No. 98115.1. As discussed in this response, appropriate actions are being taken to address the recommendations.

* The Bureau of State Audits raised a number of concerns relative to the personnel practices of the Science Center. The audit primarily identified administrative and procedural issues that individually do not impact on the accomplishment of the Science Center's mission. The audit further points out that Science Center staff has already developed policies and procedures to implement a number of the audit recommendations since changes in its personnel department management in March 1999 occurred. We are particularly pleased that the report recognizes that the Science Center is understaffed and should seek augmentations of additional positions to meet its goals and objectives and workload demands.

RECOMMENDATIONS

Recommendation #1 – The Science Center should continue the practice it began recently of date stamping all applications received, and then consider for employment only those individuals who have filed their completed applications on time.

California Science Center Response #1 – The Science Center concurs with this recommendation and will continue to date stamp all applications when submitted.

*California State Auditor's comment on this response appears on page 35.

Further, only applications that have been submitted within the timeframes of the examination announcement and final filing date will be considered timely for examination purposes. No applicant will be considered if the applicant's application is received and date stamped after the final filing date.

Recommendation #2 – The Science Center should retain appropriate records, such as eligibility lists and offers of employment to demonstrate that it hires staff in accordance with state laws and regulations.

California Science Center Response #2 – The Science Center is reorganizing its personnel files to ensure that all appropriate records, eligibility lists, offers of employment, waivers of hire from an eligibility list, etc. are accurately retained and that we can demonstrate that all staff are hired pursuant to the rules and regulations set forth by the Department of Personnel Administration and State Personnel Board.

Recommendation #3 – The Science Center should consider all qualified applicants before appointing employees to vacant positions, and schedule its personnel staff for training on the State's testing and hiring procedures.

California Science Center Response #3 – The Science Center concurs with this recommendation. The Board of Director's Administration Committee will conduct periodic review of the Science Center's personnel and hiring practices to ensure that Science Center continues to adhere to State Personnel Board and Department of Personnel Administration rules and regulations in appointing employees to vacant positions. In addition, the Science Center is developing a comprehensive Training Plan for all of its program areas and for all employees. The personnel staff will be an integral part of this plan and will receive additional training on the State's testing and hiring procedures.

Recommendation #4 – The Science Center should appropriately enroll eligible employees in CalPERS.

California Science Center Response #4 – The Science Center has revised its procedures to ensure that all employees that are eligible for enrollment in CalPERS are enrolled when qualified. The Science Center has taken corrective action to enroll all eligible employees in CalPERS.

Recommendation #5 – The Science Center should develop a tracking system, such as a spreadsheet, to account for the number of hours or length of time intermittent and temporary employees have worked.

California Science Center Response #5 – The Science Center has revised its procedures to use the Science Center's computerized tracking system to account for the number of hours or days worked for all intermittent and temporary

employees. Further, all intermittent and temporary employees will be notified in writing of their appointment and expiration dates. The personnel office will notify each employee and the employee's supervisor 30-60 days prior to the anticipated expiration date to further ensure compliance with all state laws.

Recommendation #6 – The Science Center should continue the practice it began recently of informing all staff of discrimination and sexual harassment policies and procedures. It should also give staff copies of their bargaining-unit contracts, and provide necessary training to its Skelley Officers.

California Science Center Response #6 – As noted in the report, the Science intends to continue its practice of informing all staff of discrimination and sexual harassment policies and procedures. As part of the overall training plan being developed by the Science Center, training will also be provided to employees on these policies and procedures.

The Science Center will comply with all provisions of the collective bargaining agreements, including providing a copy of such agreements to employees as required. Skelley Officers appointed at the Science Center will complete the State-provided Skelley Officer training courses provided by the State Training Center. No person appointed as a Skelley Officer will conduct Skelley hearings until such training is completed.

Recommendation #7 – To help reduce significant overages of its temporary help and overtime budgets, the Science Center should continue its efforts to obtain additional permanent positions necessary to address workload.

California Science Center Response #7 – The Science Center concurs with this finding. The Science Center will be proposing staff augmentations during the 2000-01 budget process to address increased workload needs. Favorable consideration of these proposals will enable the Science Center to significantly reduce its temporary help and overtime costs and more effectively serve the public.

Recommendation #8 – Establish an internal tracking process for employee complaints that includes maintaining formal complaints and related documentation in a central location, such as the personnel office. Establish a process for routinely checking the status of on-going complaints.

California Science Center Response #8 – The Science Center has just completed an improved tracking process for employee complaints. The personnel office will maintain files on all formal complaints and related

documentation. The Personnel Officer will routinely check the status of each complaint and provide follow-up to the appropriate employees and supervisors.

Recommendation # 9 – Provide all supervisors with specific procedures and training that outline how to handle employee complaints including time frames for resolution, documentation requirements, as well as requirements for notifying complainants of the outcome.

California Science Center Response #9 – All supervisors and managers have been provided with the Science Center’s policies and procedures for complaint handling and resolution. Supervisors and managers will also be provided training on the proper methods to follow in handling formal employee complaints.

Recommendation #10 – The Science Center needs to establish a comprehensive training program that complies with state law, including: (1) establishing a training policy and plan that includes equal opportunities for training at all employee levels; (2) developing and distributing an employee manual, and establishing a new employee orientation program; and (3) developing a system that formally tracks and monitors training activities for all employees, and ensures that employees attend required training classes.

California Science Center Response #10 – The Science Center concurs with this recommendation and is currently developing a comprehensive Training Plan to provide a climate for training and educational development which sponsor employee training activities that: 1) promote efficiency and high quality service to guests, staff, and all concerned; 2) improve employees’ skills, knowledge, and abilities required to perform their jobs adequately and; 3) encourage and facilitate achievement of employee upward mobility.

If you need further information or assistance on this issue, please call me at (213) 744-7483.

Sincerely,

(Signed by: Jeffrey N. Rudolph)

JEFFREY N. RUDOLPH
Executive Director

cc: Aileen Adams, Secretary, State and Consumer Services Agency

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COMMENTS

California State Auditor's Comments on the Response From the California Science Center

To provide clarity and perspective, we are commenting on the California Science Center's (science center) response to our audit report. The number corresponds to the number we placed in the response.

- As we state on page 24, the deficiencies we identified collectively amount to a serious problem, and they negatively impact the science center's work place.

cc: Members of the Legislature
Office of the Lieutenant Governor
Attorney General
State Controller
Legislative Analyst
Assembly Office of Research
Senate Office of Research
Assembly Majority/Minority Consultants
Senate Majority/Minority Consultants
Capitol Press Corps