

## Department of Social Services

### Investigations of Improper Activities by State Employees, July 2008 Through December 2008

#### ALLEGATION I2007-0962 (REPORT I2009-1), APRIL 2009

##### *Department of Social Services' response as of March 2010*

The Department of Social Services (Social Services) failed to follow the requirements imposed by state civil service laws when a high ranking official arranged for the selection of a subordinate employee to fill a field analyst position. Social Services further violated state civil service laws by appointing the employee to a field analyst position even though she continued to perform the duties of a lower level analyst. As a result, Social Services paid the employee \$6,444 more than what is permitted by the State for the duties she performed.

##### **Finding #1: The official's actions to reserve a field analyst position for her assistant were improper.**

In 2005 the official decided that she wanted to promote her assistant to a higher paying position in Sacramento where they both were headquartered. The official located an unoccupied field analyst position in the San Jose field office she felt would be suitable for her assistant. She then contacted the regional manager at that field office and advised the regional manager that she wanted to reserve the position for her assistant in Sacramento but that she would have another field analyst position transferred to the San Jose office soon to make up for the position she was reserving.

Apparently, Social Services had already begun the recruiting process for the unoccupied field analyst position in San Jose when the official contacted the regional manager and reserved the position. After the official contacted the regional manager, who was on the interview panel for the position, the panelists understood that the position had already been reserved for the official's assistant. Subsequently, the panelists selected the assistant to fill the first position, and then presumably they selected the candidate they considered the best of the other candidates to fill the later position.

We recommended that Social Services take corrective action against the official for her improper actions and provide training to management and other key staff regarding the laws, regulations, and policies governing the hiring process.

##### ***Social Services' Action: Corrective action taken.***

In April 2009 Social Services informed us that the official had since retired but still worked at its headquarters as a retired annuitant. In May 2009 Social Services informed us that it had hired a replacement for the official, and that it no longer employed her as a retired annuitant. Nevertheless, Social Services stated that it discussed the findings of our investigation with the official along with the personnel policies and procedures that should have been

##### ***Investigative Highlight . . .***

*A high-ranking Department of Social Services (Social Services) official arranged for the selection of a subordinate employee to fill a field analyst position. However, the employee continued to perform the duties of a lower-level analyst, and Social Services paid her \$6,444 more than what is permitted for the duties she performed.*

followed. Social Services also commented that it might hire the official as a retired annuitant in the future, but that she would not be placed in a supervisory position with the authority to hire or promote. In addition, Social Services stated that in its supervisor and manager training classes it would incorporate and emphasize the laws, regulations, and policies governing the hiring process and the need to ensure that employees are performing the duties described in their duty statements. Finally, in a June 2009 memo it reminded all supervisors of these rules.

**Finding #2: The official's appointment of her assistant to a field analyst position, when she did not intend for the assistant to perform the duties of that position, was also improper.**

After the assistant was selected for the field analyst position, the official directed her formal appointment to this higher paying position. The documentation for the appointment reflected that the assistant would be serving as a field analyst in San Jose. However, after the appointment, the official did not change the assistant's assigned duties but instead directed her to continue performing the same duties that she had performed previously. Moreover, after the appointment, the assistant continued working in Sacramento, even though her assigned position number and Social Services' organizational charts indicated that she was now headquartered in San Jose.

After we inquired about the employee's duties, Social Services reported to us in February 2008 that it had determined the employee was not performing the essential duties of a field analyst as described in the duty statement for the position, such as performing inspections in the field. Social Services then offered the assistant the option of either remaining as a field analyst and performing the duties of that position or transferring into an office analyst position and continuing to perform primarily the same duties she had been assigned as the official's assistant. In June 2008 the employee chose to maintain her current duties and transfer into the office analyst position. The transfer became effective retroactive to May 2008. Regarding the assistant having been assigned a San Jose position number even though she was performing her work in Sacramento, Social Services reported that this resulted from a "poor administrative practice."

We recommended that Social Services seek retroactive cancellation of the assistant's appointment to the field analyst position and seek repayment from the assistant of the \$6,444 that it improperly paid her. In addition, we recommended that Social Services take steps to ensure that its position numbers and organization charts accurately reflect where employees are headquartered.

***Social Services' Action: Partial corrective action taken.***

In April 2009 Social Services reported that it consulted with the State Personnel Board (Personnel Board). Social Services stated that the Personnel Board determined that the appointment should not be rescinded and the overpayment should not be collected because the employee accepted that appointment in good faith more than one year prior to discovery. However, we learned subsequently that Social Services misled us about the Personnel Board's determination. Social Services had not shared any of the findings detailed in our report with the Personnel Board. Instead, it merely told the Personnel Board that when it had appointed the employee to the field analyst position, it had mistakenly appointed her to an incorrect salary range. Social Services stated subsequently it disagreed that it misled us. However, the facts remain that it did not provide the full details of our investigation to the Personnel Board. As a result of Social Services' failure to provide vital information, the Personnel Board was unable to make a sound determination regarding whether the employee's appointment to the field analyst position was made and accepted in good faith. Therefore, we still conclude that neither the employee nor Social Services acted in good faith in the appointment since evidence showed that the employee never intended to relocate to San Jose or to perform the primary duties associated with the field analyst position.

In addition, as part of the employee's incorrect classification, Social Services stated that it erred in its salary determination when the employee was appointed as an office analyst in May 2008. Thus, it had overpaid the employee by \$1,516. As of March 2010 Social Services had collected the \$1,516 overpayment it made to the employee from May 2008 through December 2008.

Finally, in its June 2009 memo, Social Services reminded all supervisors of the need to ensure that the department's position numbers and organization charts accurately reflect where employees are headquartered.

