

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date

2018-10-10

2. Department

Department of Human Resources

3. Organizational Placement (Division/Branch/Office Name)

Pre-employment Division

4. CEA Position Title

Division Chief

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

This position will be developing statewide policy for medical evaluation and screening for all classifications in the state consistent with job specifications and business need. In addition, this position will revise, update, and implement all policies to align with case law changes and Americans with Disabilities Act (ADA) laws. This position will oversee the Medical Evaluation program and mental health screening mandated by laws. The Peace Officer Standards and Training (POST), ADA and the Federal Employment Housing Act (FEHA) prescribe psychological and medical screening for peace officer candidates to ensure they are fit to take on the duties of a peace officer.

6. Reports to: (Class Title/Level)

Director of CalHR

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

8. Organizational Level (Select one)

- 1st 2nd 3rd 4th 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

Under the direction of the Director, the incumbent will promulgate regulations for the medical and mental health screening programs and make any needed updates to keep them current with the ADA; develop and implement statewide policies to ensure that departments are providing the needed accommodations for potential employment candidates; provide guidance to state departments on developing internal policies for their medical and mental health screening programs; seek input from stakeholders on statewide policy development or changes in order to obtain a solid understanding of the policies and the potential impact.

The CEA will oversee a total of 13 staff under 3 different units: 1) Psychological Screening Unit 2) Medical Screening Unit and 3) Administrative Support Unit. The incumbent will be responsible (through subordinate managers) for ensuring that staff receive the proper training and guidance to be able to assist departments with various statewide policy questions and concerns to ensure they are in compliance with all applicable laws, rules and regulations.

The three units are as follows:

- 1) Medical Screening Unit-Medical Evaluations and Screenings are completed by a Medical Officer (licensed physician)-evaluate potential candidates for peace officer positions for medical fitness and provide recommendations to the hiring authority on candidate fitness.
- 2) Psychological Screening Unit-Psychological Screenings are completed by licensed psychologists-evaluate potential candidates for peace officer and public safety dispatcher positions for psychological fitness.
- 3) Administrative Support-provides analytical and clerical support (which don't require a clinical background) to both the Medical and Psychological Screening programs.

The CEA would bring all three units together and will tie the program to the Executive staff by being a member of the executive team.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: The program's purpose aligns with CalHR's mission: To provide exceptional human resources leadership and services to state departments and all current and prospective employees with integrity, respect, and accountability. The Psychological and Medical Screening Unit needs to ensure that all state departments are following the ADA and FEHA laws for pre-employment screening in addition to ensuring they meet the standards set by POST. All departments are required to screen employees consistently by following applicable statewide policies. They must ensure the safety of not only the candidate for employment, but the health and safety of the public as well.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

A deficiency was found in CalHR's practices for pre-employment screening. There are currently no regulations that relate to medical exams; CalHR failed to follow steps consistent with the ADA and the Equal Employment Opportunity Commission (EEOC) found that CalHR is not in compliance with ADA laws. This impacts all statewide pre-employment screenings; CalHR is unable to provide the proper guidance to Human Resources offices which increases the liability of the state. In order to mitigate these serious issues, a position with policy setting authority and oversight is urgently needed in the Psychological and Medical Screening Unit.

The CEA will report directly to the Director due to the sensitivity of the EEOC case which has required two years of program oversight by a medical consultant. CalHR needs the CEA to create the structure and to keep up-to-date with changes in the law based on court decisions and federal regulations.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

CalHR sets statewide policy around administration of the medical screening process to ensure that selection for employment is inclusive of all qualified individuals and reflective of the state we serve, while at the same time enabling state departments to provide high quality service to the public. Examples include:

a) Setting Standards for Medical Screening: The ADA requirements state that job candidates may only be subject to medical screening when business necessity requires medical screening in order to determine whether candidates are able to perform essential job duties safely and competently at time of appointment, with or without a reasonable accommodation. The CalHR Medical Program sets standards that departments use to determine which classifications or appointments are subject to medical screening. If challenged, unjustified or blanket medical screening requirements are likely to be determined discriminatory employment practices in violation of the ADA and FEHA.

b) Ensuring Statewide ADA Compliance: ADA issues are constantly being litigated which results in the ADA rules constantly evolving as the courts rule on ADA issues. The program is currently monitoring law resources which share the cases currently being litigated. The CalHR Medical Program has to stay abreast of these developments and make policy changes as needed in order to ensure that the state's hiring practices remain in compliance. CalHR also serves as an advisor to all hiring authorities regarding compliance with pre-employment medical requirements of the ADA, FEHA, and other rules and regulations governing equal employment opportunity.

c) Administration of CalHR's Medical and Psychological Screening Program: The CalHR Medical Review Program performs pre-employment medical reviews and psychological screening of job candidates in-house for about 51 departments. In 2017, they conducted 1,782 medical screenings and 1,030 psychological screenings. This is necessary, as many departments do not have the resources to perform medical reviews or contract out for costly medical review services. However, this creates a liability exposure for CalHR. The fact that CalHR does medical reviews creates liability that needs to be managed. When CalHR administers the program for other departments, their determination sets the precedence, not the hiring department. Consequence of being found at fault is significant.

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

The CEA will report to the Director and will be working with all state departments and agencies to create policies that are ADA, FEHA and POST compliant for pre-employment screening. The incumbent must be able to navigate adversarial situations when departments are not amenable to policy recommendations and will involve communication from the Director of CalHR and the Director of the respective department.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The CEA will be developing and implementing new policy by ensuring that all stakeholders are involved in the process. The incumbent will seek their feedback and support to ensure that all concerns and issues are heard prior to the implementation of the policies.

Currently, there are only regs for the Psychological Screening program. There are none for the medical program. The State Personnel Board (SPB) revoked all policies January 1, 2001 and repealed regs during the Department of Personnel Administration (DPA) and SPB merger. CalHR needs to frame out the policies and draft proposed regs to give them the authority to impose requirements.