

December 29, 2017

David Lanier, Secretary
California Labor and Workforce Development Agency
800 Capitol Mall, Suite 5000
Sacramento, CA 95814

Dear Mr. David Lanier,

In accordance with the State Leadership Accountability Act (SLAA), the Agricultural Labor Relations Board submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2017.

Should you have any questions please contact Kristine Rodrigues, Chief Administration Officer , at (916) 651-7607, krdrigues@alrb.ca.gov.

BACKGROUND

The ALRB is responsible for: (1) carrying out the policy of the State of California to encourage and protect the associational rights of agricultural employees; (2) conducting secret ballot elections so that farmworkers in California may decide whether to have a union represent them in collective bargaining with their employer; and (3) investigating, prosecuting, and adjudicating unfair labor practice disputes.

The main objective of the Office of the Board is to administer, interpret, and enforce the Agricultural Labor Relations Act (ALRA or Act). The Office of the Board holds evidentiary hearings and adjudicates disputes in unfair labor practice cases, as well as disputes arising out of representation elections. The Office of the Board also administers the mandatory mediation law and is vested with the authority to promulgate regulations to implement the Act. When required, the Office of the Board initiates and oversees litigation before the Court of Appeal and grants authority to the General Counsel to take action in Superior Court. The Board, where appropriate, conducts education and outreach activities.

The General Counsel is the department's chief prosecutor. The responsibility of the General Counsel's office is to enforce the Act in unfair labor practice proceedings before the Board, supervise and coordinate personnel in regional offices who are responsible for conducting elections, investigating unfair labor practice charges, prosecuting unfair labor practice cases, settling or dismissing cases where appropriate, and seeking compliance with final Board orders. The General Counsel's office supervises and oversees litigation before administrative law judges, the Board and, when necessary, the Superior Courts. The General Counsel's office also conducts education and outreach activities on behalf of the Office of the Board.

The Division of Administrative Services provides administrative and operational support necessary to administer effectively the ALRB's programs, which includes the following functions: Fiscal and Budget Services, Accounting, Purchasing, Contracts, Human Resources, Training, Information Technology, Information Security, Facilities and Fleet Management.

The mission of the Agricultural Labor Relations Board (ALRB) is to administer and enforce the ALRA in an efficient manner that gives full effect to the rights afforded to employees and employers under the Act. By providing a means for the timely and orderly resolution of labor disputes, the ALRB plays a key role in promoting stability in agricultural labor relations.

ONGOING MONITORING

As the head of Agricultural Labor Relations Board, Genevieve A. Shiroma, Chairwoman, is responsible for the overall establishment and maintenance of the internal control and monitoring systems.

EXECUTIVE MONITORING SPONSOR(S)

The executive monitoring sponsor responsibilities include facilitating and verifying that the Agricultural Labor Relations Board internal control monitoring practices are implemented and functioning as intended. The responsibilities as the executive monitoring sponsor(s) have been given to: Kristine Rodrigues, Chief Administration Officer, Silas Shawver, Deputy General Counsel, Santiago Avila-Gomez, Executive Secretary, and Julia Montgomery, General Counsel.

MONITORING ACTIVITIES

The Executive Management team is comprised of the Chairwoman, General Counsel, Executive Secretary, and the Chief Administrative Officer (CAO). These executives meet on a bi-weekly basis to discuss operational activities of the department. Through these meetings, key performance indicators are identified, discussed, and, where needed, internal controls are explored. Additionally, bi-weekly meetings are conducted between the members of the Executive Management team to discuss program specific issues and develop the appropriate strategies and action plans. The Executive Management team also holds ad hoc meetings to discuss and address future planning needs. In addition, there are regular meetings with key agency personnel.

ADDRESSING VULNERABILITIES

As vulnerabilities are identified, action plans, policies, and procedures are developed to address deficiencies. ALRB Executive leadership is responsible for ensuring completion of assignments. During the Executive Management team meetings, follow-up is conducted to ensure that the vulnerabilities are being addressed accordingly.

COMMUNICATION

All ALRB staff are responsible for monitoring risks and identifying new risks that fall within their areas of expertise (legal, operational, administrative, policy, etc.) All employees are encouraged during monthly staff meetings to discuss and consult with management if they discover issues that should be addressed to assist the ALRB in fulfilling its mission, goals and objectives. The Executive Management team discusses the risks and status of any mitigation efforts on an ongoing basis. The ALRB's three program areas use emails and/or policy memoranda to communicate the details of policies and procedures related to control processes and as a means of documenting and monitoring them. Additionally, the Division of Administrative Services provides department-wide emails and handbooks on policies, procedures, and other subject matter that crosses all program responsibilities. All of this information is either available in each program's electronic drives, or, for the department wide information, on the shared drive for all employees to access.

ONGOING MONITORING COMPLIANCE

The Agricultural Labor Relations Board has implemented and documented the ongoing monitoring processes as outlined in the monitoring requirements of California Government Code sections 13400-13407. These processes include reviews, evaluations, and improvements to the Agricultural Labor Relations Board systems of controls and monitoring.

RISK ASSESSMENT PROCESS

The following personnel were involved in the Agricultural Labor Relations Board risk assessment process: Executive Management, Middle Management, Front Line Management, and Staff.

RISK IDENTIFICATION

The Executive Management team discussed with their respective management teams and key personnel the Department of Finance's Control Environment Questions. The Executive Management team used these questions as a baseline for a brainstorming session to discuss and address any potential deficiencies or weaknesses within the department.

The Executive Management team also considered the prior audit findings to determine any prior or emerging risks.

RISK RANKING

A collaborative effort and discussions between the Executive Management team members resulted in the selection and ranking of the identified risks. Factors such as severity of impact, likelihood of vulnerability, business impact, customer impact, and statutory requirements verses departmental policy were all considered in determining the identified risks.

RISKS AND CONTROLS

RISK: OPERATIONS -INTERNAL-STAFF—KEY PERSON DEPENDENCE, WORKFORCE PLANNING

There is a risk that with key person dependency when an employee is unavailable, limits the effective, efficient, and timely processing of cases. This may adversely affect the case, or obtaining timely restitution to the farmworkers.

As the ALRB is a small department with 62 authorized positions, it relies heavily on specific individuals with significant expertise and knowledge in key program areas. This creates vulnerabilities for the ALRB when they leave, retire, or are temporarily unavailable.

The transition of hiring new employees without the expertise in the ALRB requires significant training which results in delays in timely processing and resolution to cases which negatively affects the mission of the ALRB.

CONTROL A

Minimize key person dependence through establishment of succession planning efforts, increased cross training, and partnerships with other departments.

Develop and maintain documentation that captures key, relevant, and/or historical information in an easy to locate structure.

Update where information and documentation are maintained using established file structures.

Identify information and documentation gaps and revise information to close gaps.

RISK: OPERATIONS -EXTERNAL-STAFF—RECRUITMENT, RETENTION, STAFFING LEVELS

The limitations of internal upward mobility in addition to the difficulty in promptly filling vacancies causes backlogs, which negatively affects the mission of the ALRB.

As the ALRB is a small department with 62 authorized positions, upward mobility is limited and unavailable in certain classifications. This creates vulnerabilities due to the inability to promote-in-place and provide future incentives for employees beyond two to four years.

The ALRB regional offices are located in rural agricultural regions of California where recruitment within the State salary scale has proven to be challenging.

The inability to promptly fill vacancies causes backlogs, which negatively affects the mission of the ALRB.

CONTROL A

Continue recruitment efforts in the various agricultural areas and promote the valuable work conducted by the ALRB.

Identify and document key reasons for employee departure or applicants declining job opportunities to explore dialogue with control agencies.

Where possible, recruit at the lowest possible level in order to mentor and develop key staff, which will allow longer retention cycles.

Explore opportunities for training and development assignments to encourage job growth.

RISK: OPERATIONS -EXTERNAL-LITIGATION

The ALRB may experience rapid workload increases due to an upsurge in union organizing activity due to new legislation.

The Medical and Adult Use Cannabis Regulation and Safety Act effective January 1, 2018, established by Senate Bill 94, Chapter 27, signed by Governor Brown.

Unfair labor practice charges might increase due to this new workforce covered by the ALRA. The ALRB is currently not staffed or funded for the potential impact or increase in workload based on this new legislation.

CONTROL A

Continue to monitor other impacted departments' workload.

Continue to communicate with key statewide cannabis associations, California Cannabis Industry Association (CCIA) and California Growers Association (CGA), union representatives and other state departments.

Prepare to track workload increases pursuant to the new legislation for discussion with control agencies.

Continue to brainstorm ideas and discuss potential solutions to ensure compliance with the ALRA if/when this increase in workload impacts the existing operations of the ALRB.

CONCLUSION

The Agricultural Labor Relations Board strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising controls to prevent those risks from happening. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

Genevieve A. Shiroma, Chairwoman

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency