



Transmitted via e-mail

February 4, 2015

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### **Final Report—Agricultural Labor Relations Board Performance Audit**

The Department of Finance, Office of State Audits and Evaluations, has completed its performance audit of the Agricultural Labor Relations Board (ALRB) for fiscal years 2009-10 through 2013-14.

The enclosed report is for your information and use. The Labor and Workforce Development Agency's (Agency) response to the report observations is incorporated into this final report. Agency agreed with our observations and we appreciate its willingness to work with ALRB to implement corrective actions. The observations in our report are intended to assist management in improving operations. This report will be placed on our website. A detailed Corrective Action Plan (CAP) addressing the observations and recommendations is due within 60 days from receipt of this letter. The CAP should include milestones and target dates to correct all deficiencies.

We appreciate the assistance and cooperation of the Agency and ALRB. If you have any questions regarding this report, please contact Susan Botkin, Manager, or Sherry Ma, Supervisor, at (916) 322-2985.

Sincerely,

Original signed by:

Richard R. Sierra, CPA  
Chief, Office of State Audits and Evaluations

Enclosure

cc: On following page

cc: Mr. Jay Sturges, Associate Secretary, Fiscal Policy, California Labor and Workforce  
Development Agency  
Ms. Cathryn Rivera-Hernandez, Board Member, Agricultural Labor Relations Board  
Ms. Genevieve Shiroma, Board Member, Agricultural Labor Relations Board  
Mr. Paul Starkey, Acting Executive Secretary, Agricultural Labor Relations Board

Agricultural Labor Relations Board  
Performance Audit  
Fiscal Years 2009-10 through 2013-14



Lettuce Fields in Gonzales, California

Prepared By:  
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Final reports are available on our website at <http://www.dof.ca.gov>

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## EXECUTIVE SUMMARY

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In accordance with the Department of Finance's fiscal responsibilities, the Office of State Audits and Evaluations conducted a performance audit of the Agricultural Labor Relations Board (ALRB). The audit's purpose was to collect data about ALRB's processes, to assist in the resource deliberative process and quantify workload needs for future years, as requested by the California Labor and Workforce Development Agency (Agency) and the Department of Finance's Forecasting, Labor, and Transportation Unit. Specifically, our objectives were to:

- Evaluate whether ALRB's mission and operations comply with the Agricultural Labor Relations Act (Act) and California Code of Regulations, title 8, division 2.
- Assess how ALRB utilized its resources from fiscal years 2009-10 through 2013-14.

We identified significant weaknesses preventing ALRB from producing reliable workload and financial data. Workload data was incomplete, unavailable, or inaccurate for quantifying current resource utilization, as well as limiting the ability to forecast resource needs. ALRB is responsible for ensuring accurate financial and administrative reporting. Although the roles and responsibilities performed by ALRB appear consistent with the broad purpose of the Act, the following weaknesses impair ALRB from justifying or supporting, with data, its operational decisions on how best to accomplish its program goals:

- Inability to justify effectiveness or efficiency of resource utilization.
- Ineffective organizational structure.
- Misuse of limited-term blanket authority.
- Inefficient use of state funds.
- Incomplete and inaccurate accounting records.

ALRB must implement and strengthen internal controls related to the above-described weaknesses to produce reliable metrics to assist in managing and forecasting its resources. ALRB must develop a corrective action plan to address the observations and recommendations noted in this report.

# BACKGROUND, SCOPE AND METHODOLOGY

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## BACKGROUND

The California Labor and Workforce Development Agency (Agency) and the Department of Finance's Forecasting, Labor, and Transportation Unit (FLT) requested an audit of the California Agricultural Labor Relations Board's (ALRB) workload to ensure operations conformed with the Agricultural Labor Relations Act<sup>1</sup> (Act) and identify how resources were utilized. Using the results of the audit, the data gathered could potentially assist Agency, FLT, and ALRB in determining future resource needs.

### *Agricultural Labor Relations Board (ALRB)*

The Act was established to ensure peace in the fields of California by guaranteeing justice for all agricultural workers and stability in agricultural labor relations. The Act created ALRB with two principal functions: (1) conducting secret ballot elections to determine whether agricultural employees wish to be represented by a labor organization, and (2) preventing practices that the Act regards as impediments to the exercise of agricultural employee free choice, i.e. unfair labor practices. ALRB is comprised of the Office of the Board and the Office of the General Counsel. Both have distinct roles under the Act and both are essential to ensure implementation and compliance of the Act.<sup>2</sup> ALRB is headquartered in Sacramento and has four regional offices: Salinas, Visalia, Oxnard, and El Centro. An Administration unit supports ALRB in conducting its administrative operations. In addition to the Act, ALRB program operations are regulated by the California Code of Regulations, title 8, division 2. ALRB is overseen by Agency.

### *Office of the Board (Board)*

The Board is headed by five Board Members appointed by the Governor and subject to confirmation by the Senate; however, only three member positions were filled from fiscal years 2009-10 through 2013-14. The Board is responsible for overseeing and certifying the results of secret ballot elections. Elections, facilitated by employees in the regional offices, determine whether a majority of the employees of an agricultural employer wish to be represented by a labor organization or, if the employees are already represented, to determine whether they wish to continue to be represented by that labor organization, another labor organization, or no labor organization. Because of the seasonal nature of agriculture and the relatively short periods of peak employment, the Act provides for a speedy election process, mandating that elections be held within seven days from the date an election petition is filed, and within 48 hours after a petition has been filed in the case of a strike.<sup>3</sup> The Act provides further detail and requirements regarding the conduct of an election.

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<sup>1</sup> Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975, hereafter referred to as the Agricultural Labor Relations Act or Act. Labor Code sections 1140 through 1166.3.

<sup>2</sup> See Appendix A organization charts of ALRB, Office of the Board, Office of the General Counsel, and Administration unit.

<sup>3</sup> See Appendix B for additional descriptions of ALRB-related activities in addition to elections, and references to applicable code sections or regulations.

The Board is also responsible for deciding unfair labor practice cases brought before it by the General Counsel. The Board has delegated its authority to hear unfair labor practices to Administrative Law Judges. ALRB's Administrative Law Judges take evidence and make initial recommendations in the form of written decisions with respect to issues of fact or law raised by involved parties. Any involved party may appeal the Administrative Law Judge's findings, conclusions, or recommendations to the Board. For appeals, the Board reviews the record and issues its own decision and order. Parties dissatisfied with the Board's order may petition for review in the California Courts of Appeal. Attorneys for the Board defend the decisions rendered by the Board.<sup>4</sup>

The Act also describes the Board's responsibilities related to contract dispute resolution. The Board may issue orders directing parties, i.e. employers or labor organizations, to mandatory mediation and conciliation of their issues after certain criteria prescribed in the Act are met.

#### *Office of the General Counsel*

The Office of the General Counsel is headed by a General Counsel appointed by the Governor and subject to confirmation by the Senate. The General Counsel supervises and coordinates personnel in regional offices who are responsible for preventing, investigating, and prosecuting unfair labor practices, which are brought by external parties to ALRB for adjudication. The General Counsel is also responsible for settling cases where appropriate.

A component of preventing unfair labor practices is outreach activities. The General Counsel and her staff participate in outreach events aimed at educating agricultural employees, employers, and labor organizations of the requirements of the Act and the rights of agricultural employees granted by the Act.

#### *Administration Unit*

The Administration unit provides support to the Office of the Board and Office of the General Counsel in the form of accounting, business services, information technology, and human resources. In addition to the Administration unit accounting staff, ALRB receives accounting support through an interagency agreement with the Department of Industrial Relations.

Until June 2014, the Administration unit reported to the General Counsel. The Administration unit now reports directly to Agency through an ALRB Acting Chief of Administration. This reporting change was made to address weaknesses identified by Agency. The new reporting structure is intended to be temporary.

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<sup>4</sup> Ibid.

## SCOPE

In accordance with the Department of Finance's (Finance) fiscal responsibilities, the Office of State Audits and Evaluations conducted a performance audit of ALRB. The audit's purpose was to collect data about ALRB's processes, to assist in the resource deliberative process and quantify workload needs for future years, as requested by Agency and FLT. Specifically, our objectives were to:

- Evaluate whether ALRB's mission and operations comply with the Act and California Code of Regulations, title 8, division 2.
- Assess how ALRB utilized its resources from fiscal years 2009-10 through 2013-14.

Our audit was limited to evaluating and analyzing existing information made available to us by ALRB and Agency. We did not evaluate the merit or content of individual unfair labor practice charges, complaints, or Board Decisions. ALRB management is responsible for ensuring accurate financial and administrative reporting, and compliance with applicable laws, regulations, and administrative requirements.

## METHODOLOGY

To address the audit objectives, we performed the following general procedures:

- Reviewed the Act, California Code of Regulations, title 8, division 2, and other applicable regulations, policies, procedures, and guidelines.
- Reviewed ALRB website and Board Decisions to gain an understanding of ALRB's mission and operations.
- Conducted research on government entities responsible for performing legal-related work regarding the structure, monitoring, and forecasting of attorney workloads.
- Reviewed audit and review reports and other publications significant to the audit objectives.
- Performed a risk assessment to define detailed audit procedures.
- Identified opportunities for ALRB to control costs and increase efficiency.

Additionally, specific procedures were performed as follows:

<b>Audit Objective</b>	<b>Procedures</b>
Evaluate whether ALRB's mission and operations comply with the Act and California Code of Regulations, title 8, division 2.	<ul style="list-style-type: none"><li>• Interviewed a sample of Board, General Counsel, and Administration staff to gain an understanding of ALRB's mission, operations, and employee roles and responsibilities.</li><li>• Observed tasks performed by employees, such as witness interviews, trial preparation, a pre-hearing conference, a hearing, an outreach event, a Board meeting, compliance verifications, and administrative tasks.</li><li>• Reviewed a sample of ALRB-related documents and work products, including but not limited to, orders and decisions, briefs, complaints, charges, and correspondence.</li><li>• Reviewed employee duty statements and job specifications.</li></ul>

Audit Objective	Procedures
Assess how ALRB utilized its resources from 2009-10 through 2013-14.	<ul style="list-style-type: none"> <li>• Reviewed reports from ALRB's time tracking system (Case Time), case tracking system (Case Management), and internal outreach tracking table.</li> <li>• Identified employees who consistently used Case Time to record hours worked on different tasks.</li> <li>• Reviewed and analyzed Case Time reports to identify the types of data captured by the system.</li> <li>• Evaluated Case Time, Case Management, and outreach reports and data for completeness, accuracy, and usefulness.</li> <li>• On a sample basis, verified if case information and milestones were appropriately and accurately recorded in Case Management.</li> <li>• Aggregated the number of activities performed by ALRB by type, based on Case Management data.</li> <li>• Identified the number of blanket and limited term employees employed by ALRB as of June 2014.</li> <li>• Verified whether ALRB's use of blanket authority to hire employees complies with State Administrative Manual, State Personnel Board, and Department of Finance requirements.</li> <li>• Evaluated whether staff roles and responsibilities are commensurate with their job specifications and duty statements.</li> <li>• Analyzed accounting reports to quantify and classify expenditures by type.</li> <li>• Reviewed a sample of expenditures to determine if they were supported, accurately recorded, supported ALRB's mission and operations, and were an efficient use of resources.</li> </ul>

The accuracy of information obtained during interviews with ALRB staff was confirmed by observation, available documentation, and corroborating interviews with other staff, when possible. Information obtained during interviews was evaluated for relevance to the audit objectives, and is incorporated into the Results section.

In conducting our audit, we obtained an understanding of ALRB's internal controls, including any information systems controls, which we considered significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal control that were identified during our audit and determined to be significant within the context of our audit objectives are included in this report.

With regard to information systems controls, we assessed the reliability of the data from ALRB's Case Time and Case Management systems, which are used by both the Office of the Board and the Office of the General Counsel, by: (1) obtaining and analyzing available system reports, (2) reviewing existing information about the data and the systems from which they were produced, (3) interviewing ALRB employees knowledgeable about the data and the systems, and (4) reviewing existing supporting documentation related to the data sources. We determined that the data in the Case Time system was not sufficiently reliable or complete for the purposes of this report. The impact of this is further detailed in the Results section.

In order to gather information to identify trends in workload data, the audit period included five fiscal years: 2009-10 through 2013-14. ALRB's expenditures during these fiscal years were also included in the audit scope. However, ALRB was unable to provide reports needed to evaluate expenditures for a major portion of the audit period. Detailed expenditure reports for 2010-11 and 2013-14 were available, while 2009-10 and much of 2011-12 and 2012-13 were unavailable. The impact of this is further detailed in the Results section.

Except as discussed in the following paragraph, we conducted this audit in accordance with generally accepted government performance auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our observations and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our observations and conclusions based on our audit objectives.

Finance and ALRB are both part of the State of California's Executive Branch. As required by various statutes within the California Government Code, Finance performs certain management and accounting functions. Under government auditing standards, performance of these activities creates an organizational impairment with respect to independence. However, Finance has developed and implemented sufficient safeguards to mitigate the organizational impairment so reliance can be placed on the work performed.

Significant weaknesses prevent the Agricultural Labor Relations Board (ALRB) from producing reliable workload and financial data. ALRB's inability to adequately and completely capture workload and financial data precludes efforts to determine whether existing resources were efficiently and effectively utilized for fiscal years 2009-10 through 2013-14, as well as limiting its ability to forecast its future resource needs.

ALRB has broad authority over the implementation of the Agricultural Labor Relations Act (Act). As described in the Background section, ALRB is comprised of the Offices of the Board and General Counsel. Both perform various duties supporting the goals of the Act. Our observation of employees and review of documents confirmed assigned roles and responsibilities of ALRB staff appeared consistent with the Act, California Code of Regulations, title 8, division 2, and respective employee duty statements. In performance of these duties, ALRB staff process and produce various documents and perform activities, which are further detailed in Appendix B.

Although the roles and responsibilities performed by ALRB appear consistent with the broad purpose of the Act, significant weaknesses exist with ALRB's internal controls compromising its ability to justify or support, with data, its operational decisions on how to efficiently and effectively accomplish its goals and mission. The inability to justify operational decisions with supporting data could detract from its accomplishments by raising questions about the appropriateness of resource utilization.

To improve ALRB's internal controls and operational monitoring, we provide the following observations and recommendations. The results of our audit are based on our review of available documentation, observations of ALRB operations and employees, interviews with key staff, and other information made available to us.

### **Observation 1: Inability to Justify Effectiveness or Efficiency of Resource Utilization**

Workload data was incomplete, unavailable, or inaccurate for quantifying current resource utilization, as well as limiting the ability to forecast resource needs. ALRB uses two customized information systems to track staff time and manage workload: Case Time and Case Management. Case Time allows employees to record time worked by different categories for specific cases. Case Management is a database containing information on ALRB documents and activities such as case status, Administrative Orders issued, Board Decisions, complaints filed, elections performed, and hearings conducted. The systems should be used in tandem to provide a comprehensive picture to assess workload and resource needs. See Appendix B for a list of ALRB documents and definitions of the activities reported. Weaknesses exist with these two systems and their use that prevent ALRB from accurately monitoring employee time spent on tasks and effectively managing workloads, as explained below.

Government Code section 13401, subdivision (b), states each state agency must maintain effective systems of internal accounting and administrative control as an integral part of its management practices. Monitoring internal control systems and processes is vital to facilitating public resources and other decisions by ensuring the availability of accurate and reliable information. With regard to ALRB's two workload tracking information systems, we observed the following weaknesses:

*Case Time Data is Unreliable*

The data within Case Time cannot be relied on to accurately determine ALRB's workload in terms of hours or employees, for the following reasons:

- Lack of participation: 28 of ALRB's 53 employees<sup>1</sup> as of June 2014 did not consistently use the Case Time system, including essential employees within all levels of the organization. Non-participating employees were from the Office of the Board, Office of the General Counsel, and the Administration unit.
- Employees do not always accurately track the hours spent on specific tasks. For example, although a Staff Services Analyst worked on a specific case, he would track hours worked as "Clerical" with no reference to the case number.
- Several employees' hours were incomplete because some months or weeks went unrecorded in Case Time, which was inconsistent with other documentation indicating they were working during that time.
- Case Time does not allow for hours to be recorded to closed cases, although workflow may continue after a case is officially closed.
- Case Time does not include a sufficient level of detail to allow for management oversight of tasks performed. The available categories for employee hours are broad, sometimes lacking sufficient detail indicating what staff worked on, such as "Other."

**Positions That Did Not Consistently Record Time in the Case Time System**

Office of the Board

- Chairperson
- Board Members
- Senior Board Counsels
- Attorney IV's
- Executive Secretary
- Hearing Officer I
- Associate Government Program Analyst
- Executive Secretary I
- Senior Legal Typist I

Office of the General Counsel

- General Counsel
- Associate General Counsels ULP
- Attorney IV
- Field Examiners
- Associate Government Program Analyst
- Administrative Assistant I

Administration Unit

- Staff Services Manager I
- Associate Information Systems Analyst
- Accounting Officer
- Accountant Trainee
- Personnel Specialist
- Associate Personnel Analyst

These weaknesses prevent ALRB from accurately determining the total hours spent on cases, tasks, and activities. Without full participation, the data collected by any workload time tracking system is not useful to ALRB, and a meaningful, comprehensive analysis of workload and trends cannot be completed. If the data within Case Time was complete and accurate, management could use the information to readily manage employee workloads, project future workload demands, justify utilization of current resources, and identify needed increases or decreases in resources. These management tasks cannot be completed using the current Case Time data.

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<sup>1</sup> As of June 2014, 53 employees worked at ALRB. Three of these employees were borrowed positions from other Labor and Workforce Development Agency departments.

### *Case Management System Structure is Ineffective*

The information captured in Case Management is not readily accessible for employees to use when working on ALRB documents and activities. The Case Management system is designed to track case status. Information from ALRB documents such as motions, decisions, and investigations are manually input into the system. The system generates reports based on date ranges or regions. The data within Case Management appears to be accurate, but the data's usefulness in daily operations is limited. The system design and controls only allow one user to access, input, and retrieve information. This responsibility has been assigned to the Acting Chief of Administration (Acting Chief). Because other employees do not have access to the database, they must obtain reports from the Acting Chief. Information input to the system and the production of reports is solely dependent on the Acting Chief's availability. As a result, backlogs in data entry and report generation occur and key person dependency exists.

Additionally, the available reports and data fields are pre-defined and cannot be customized for current operational needs due to a lack of in-house information technology expertise. Because reports must be requested from the Acting Chief, and due to system limitations, employees independently track case information through other methods such as Excel spreadsheets or Word documents, duplicating and expanding on the work performed by the Acting Chief.

Further, the Case Management system does not track all operational activities. As an example, the General Counsel's outreach efforts are solely tracked in an Excel worksheet. We evaluated the information within the General Counsel's outreach worksheet by comparing data to available supporting documentation. We noted 6 of 32 outreach events sampled contained inaccurate information or activities that could not be supported by source documentation. As a result, reliance could not be placed on the outreach worksheet.

A sample of the documents and activities captured in Case Management for the period 2009-10 through 2013-14 are presented in Table 1. The average length of time for an activity to conclude is presented in Table 2.

Although the information in the tables is available in Case Management, absent reliable information regarding staffing and hourly resources needed to work on these milestones, this data alone cannot be used by ALRB or other interested parties to effectively plan, identify trends, and forecast future resource needs. Without accompanying staffing and hourly data, information within Case Management does not provide an accurate depiction of ALRB's workload. For example, for 2013-14 in Table 2 below, an average of 353.8 days elapsed from when an unfair labor practice charge was filed to when it was closed; however, the average number of employees or hours needed to close a charge is not captured due to system design. Given the complexity and the numerous variables associated with working unfair labor practice charges, the hours and number of employees working on each charge varied from day-to-day and/or case-by-case. Therefore, one cannot use the Case Management system to translate average days elapsed into staff days or hours worked. Further, relying on the average days elapsed as a workload metric may lead to inaccurate conclusions because of the potential uniqueness of each charge, as well as other variables affecting the disposition of a charge that are inconclusive when solely looking at days elapsed.

**Table 1: ALRB Documents and Activities Reported in Case Management  
Fiscal Years 2009-10 through 2013-14**

Document or Activity <sup>2</sup>	Total Documents or Activities by Fiscal Year					Total
	2009-10	2010-11	2011-12	2012-13	2013-14	
Notices of Intent to Take Access	7	31	24	9	66	137
Notices of Intent to Organize	2	9	12	7	2	32
Election Petitions Filed	7	7	2	6	5	27
Unfair Labor Practices Filed	105	86	102	136	117	546
Complaints Issued	10	5	5	10	19	49
Hearing Reports	2	5	7 <sup>3</sup>	2	0	16
Board Decisions	9	4	8	19	17	57
Litigations	5	1 <sup>4</sup>	1	1	2 <sup>5</sup>	10
Remedies Completed or Closed	15	49	13	5	13	95
Mediations	2	0	2	4	1	9
Administrative Orders	23	15	24	63	55	180
<b>Total</b>	<b>187</b>	<b>212</b>	<b>200</b>	<b>262</b>	<b>297</b>	<b>1,158</b>

**Table 2: Average Length of Time for an Activity to Conclude per Case Management  
Fiscal Years 2009-10 through 2013-14**

Document or Activity <sup>6</sup>	Average Days to Conclusion				
	2009-10	2010-11	2011-12	2012-13	2013-14
Elections <sup>7</sup>	7.0	7.0	4.0	3.3	8.3
Unfair Labor Practice Charges <sup>8</sup>	432.3	284.8	282.9	255.6	353.8
Complaints <sup>9</sup>	457.4	490.8	478.6	0	182.4
Hearings <sup>10</sup>	4.5	2.3	9.6	8.5	N/A <sup>11</sup>
Remedies Completed or Closed <sup>12</sup>	201.9	1,105.2	3,640.8	1,177.8	182.0
Mediations <sup>13</sup>	124.5	N/A <sup>11</sup>	871.0	158.3	122.0

<sup>2</sup> See Appendix B for definitions of documents and activities.

<sup>3</sup> One hearing occurred from June 2011 through September 2011. It is included in the total for both fiscal years when the hearing took place.

<sup>4</sup> This was a continuation of a litigation initiated in 2009-10.

<sup>5</sup> These were a continuation of litigations initiated in 2011-12 and 2012-13.

<sup>6</sup> Notices of Intent to Take Access, Notices of Intent to Organize, Board Decisions, Litigations, and Administrative Orders are not included in this table because a definitive start and end date was not applicable to the document or activity type or could not be determined by the data in Case Management.

<sup>7</sup> Average indicates number of days from election petition filed to election held. Only instances where elections were held are included in the calculation, i.e. election petitions that were blocked, dismissed, or withdrawn are not included.

<sup>8</sup> Average indicates number of days from when an unfair labor practice charge is filed to closed. For the purpose of this analysis, charges are considered closed when they are dismissed, settled, withdrawn, or a complaint is issued.

<sup>9</sup> Average indicates number of days from when a complaint is issued to closed. For the purpose of this analysis, complaints are considered closed when they are dismissed, withdrawn, settled, released for compliance, or a decision or order has been issued.

<sup>10</sup> Average indicates the number of days a hearing was held. One hearing included days in fiscal years 2010-11 and 2011-12. Most of this hearing occurred in 2011-12; therefore, the total hearing days are included in the average calculation for 2011-12.

<sup>11</sup> Not applicable. Average number of days was not calculated for this activity because there were zero activities of this type reported in Case Management during this fiscal year.

<sup>12</sup> Average indicates number of days from when a case entered the remedy phase to when the remedy was completed and closed.

<sup>13</sup> Average indicates number of days from when a request for mediation was made to when an order or decision was issued.

## Recommendations:

Reevaluate workload tracking information systems by: (1) developing policies and procedures to maximize the usefulness of existing systems, and (2) consider alternative systems to efficiently and effectively track and manage workloads. Workload tracking system design and policies and procedures should be supported by ALRB executive management and:

- Identify and capture the information management and employees need to perform their daily tasks and manage workloads for Case Management or an equivalent system. For example, information captured could include: activity types, activity status and dates, activity location, and assigned resources.
  - Ensure outreach efforts are tracked within the system.
- Provide access to all staff with appropriate levels of system security. For example, read-only, read-write, or report generating roles.
- Require full employee participation in the workload time tracking system, including executive management.
- Ensure accurate recording of employee time by category, task, or specific case regardless of classification.
- Ensure regular supervisory review of employee time and workload data for accuracy.
- Ensure timekeeping and workload tracking systems are integrated or reconcilable, i.e. systems should track data at the same level of detail for accurate comparisons and conclusions about ALRB activities.
- Develop customizable reports for management and employees to use in their daily tasks and to manage workloads.
- Develop metrics such as total workload, total resources available, and total unassigned workload or resources for effective annual planning.
- Establish protocols to periodically review agreed-upon tracking information to ensure relevancy of data.

After strengthening workload tracking methods, use the time tracking and workload data captured to improve operations, identify trends in workloads, increase efficiency, and respond to questions from oversight agencies.

## Observation 2: A More Effective Organizational Structure is Needed

Historically, the organizational placement of ALRB's Administration unit under the Office of the General Counsel was not effective, included internal control weaknesses, and lacked appropriate accountability and responsibility. Labor Code section 1149 states the General Counsel shall have other duties as the Board may prescribe or as may be provided by law. In the past, the Board assigned the duty of overseeing ALRB's Administration unit to the General Counsel. As described in Observations 3 through 5, this structure fostered an environment that allowed for the performance of administrative actions inconsistent with state regulations. Additionally, the Board did not provide sufficient oversight of ALRB's administrative activities.

Agency recognized weaknesses existed; therefore, effective June 2014, the Administration unit within ALRB began reporting directly to Agency. This reporting structure is a short-term solution, but is not sustainable because it does not require ALRB to be directly accountable for its administrative functions, or for the monitoring and oversight of its administrative operations as required by government code.

Government Code section 13402 requires entity management be responsible for the establishment and maintenance of a system of internal accounting and administrative control, and effective, independent, and objective monitoring of the internal accounting and administrative controls within their agencies.

### **Recommendations:**

ALRB should establish an independent administrative function to support the operations of the Office of the Board and the Office of the General Counsel. The unit chief should have sufficient authority to develop and implement ALRB-wide administrative policies and procedures, prevent the override of established controls, and ensure operational consistency.

ALRB should exercise adequate oversight of the Administration unit by:

- Ensuring Administration staff possess the necessary experience and are sufficiently trained and knowledgeable of state administrative laws, rules, and regulations.
- Periodically reviewing established policies and procedures to ensure they are functioning as intended.
- Consistently monitor operational activities to ensure they are in compliance with the Act, risks are mitigated, assets are safeguarded, and resources are efficiently utilized.

### **Observation 3: Misuse of Limited-Term Blanket Authority**

The Office of the General Counsel did not justify the need for its seven limited-term, blanket position employees. As of June 2014, ALRB had a total of ten employees hired in blanket positions, which included three retired annuitants and seven limited-term employees. The seven limited-term employees consisted of one Administration unit employee and six General Counsel employees. The hiring documentation for the limited-term employees did not include an analysis or justification of why a limited-term position was appropriate or necessary in lieu of an authorized, permanent position, as required by State Personnel Board "Personnel Management Policy and Procedures Manual" section 331.7. For 2011-12 through 2013-14,<sup>14</sup> ALRB budgeted \$10,000 annually for temporary help (or blanket positions); however, actual expenditures incurred for these positions per State Controller's Office (SCO) reports were \$195,797, \$221,928, and \$293,649, respectively. Although California State Accounting and Reporting System (CALSTARS) and SCO reports can be used as a tool to monitor temporary help expenditures, ALRB continued to exceed its temporary help budget for these years.

At the time these limited-term employees were hired, discussions between the General Counsel and Associate Personnel Analyst occurred regarding the need for the appointments, but these discussions were not documented or retained in the hiring files. After we inquired regarding the lack of written documentation, General Counsel staff subsequently provided a memorandum dated September 25, 2014 explaining the justification for the seven positions. Although the memorandum explained the need for the limited-term positions and included past Budget Change Proposals requesting additional permanent positions, the memorandum did not include workload metrics specifically justifying each position, or an analysis of the fiscal impact of each position on current resources. Without such fiscal evaluation, ALRB is unable to ensure accurate budget management as well as monitoring whether appropriations will be exceeded. Government Code section 13324 and Budget Act Control section 32.00 subdivision (b) state

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<sup>14</sup> State Controller's Office Blanket Balance Reports listing total blanket position expenditures were not available for 2009-10 and 2010-11.

that those who incur expenditures in excess of the fiscal year budget are personally liable for the amount of the excess expenditures.

State Administrative Manual section 6518 defines blanket positions as authorizations in the Budget Act (Salaries and Wages Supplement) in terms of full-time equivalent personnel years and salaries and wages that may be spent for short-term or intermittent uses. Such uses are characterized as temporary, seasonal, or intermittent, as contrasted with classified positions which are normally used for longer-term, more permanent staffing needs.

Without thorough written documentation justifying limited-term appointments, ALRB is unable to substantiate to control agencies such as Finance or State Personnel Board, its need for limited-term appointments in lieu of permanent appointments authorized through the annual Budget Act, or its need for exceeding the amount of temporary help expenditures projected in the annual Budget Act.

**Recommendations:**

Follow the requirements for blanket positions prescribed by the State Administrative Manual, the State Personnel Board "Personnel Management Policy and Procedures Manual," and Finance Budget Letters, which include documenting a thorough justification for the limited-term appointments and the need for using a limited-term appointment in lieu of a permanent appointment.

Strengthen forecasting techniques to better estimate temporary help positions and expenditures in the annual Salaries and Wages Supplement.

**Observation 4: Inefficient Use of State Funds**

The El Centro regional office incurred \$18,905 in rent expenses from May 2013 through June 2014 for a vacant office, and continues to incur \$1,350 per month. In April 2013, this office became vacant when its single employee transferred to the General Counsel headquarters in Sacramento. At the May 2013 Board meeting, the General Counsel stated her desire to relocate the El Centro regional office. Subsequent discussions were held at Board meetings regarding the appropriateness of this office location; however, as of September 2014, a decision had not been reached regarding office closure or relocation, and rent expenses continue to be incurred. Although Labor Code section 1142, subdivision (b), allows the Board to establish offices in other cities as it deems necessary, incurring rent expense on unused office space is not an efficient use of funds.

Government Code section 13403, subdivision (a), states internal accounting and administrative controls, if maintained and reinforced through effective monitoring systems and processes, can provide reasonable assurance that assets are safeguarded and operations are efficient. Finance Budget Letter 14-12 states departments must control costs and increase efficiency.

**Recommendations:**

Reach an immediate resolution regarding the status of the El Centro regional office. If the decision to close the office is made, provide notice of rental termination and cease rent payments.

Regularly assess the appropriateness and cost effectiveness of the physical locations of regional offices to ensure services are provided where most needed.

## **Observation 5: Incomplete and Inaccurate Accounting Records**

The Administration unit's processes for recording and maintaining accounting records need improvement. The weaknesses described in the following paragraphs impair ALRB's ability to accurately evaluate and rely on reported expenditures. Government Code section 13401, subdivision (b), states each state agency must maintain effective systems of internal accounting and administrative control as an integral part of its management practices. Monitoring internal control systems and processes is vital to ensuring the availability of accurate and reliable information. We observed the following weaknesses:

### *Incomplete Accounting Records*

The Administration unit was unable to provide the CALSTARS monthly transaction detail reports for fiscal years 2009-10 and parts of 2011-12 and 2012-13. For the years where detailed reports were available, it was also unable to provide supporting documentation for some of the transactions selected for testing. ALRB's policy is to retain accounting files for the current year plus the four previous years; therefore, records dating from 2010-11 should have been available. ALRB states that records were not available due to its transition of accounting duties to contracted agencies, as well as its relocation of headquarter offices in Sacramento. The incomplete accounting records prevent ALRB from substantiating claims made and prevented us from thoroughly evaluating, categorizing, and verifying expenditures for the entire period of 2009-10 through 2013-14. Administration staff stated the supporting documentation for expenditures, such as claim schedules, may have been available for these time periods. However, without CALSTARS reports to reconcile to, supporting documentation alone was of limited value to categorize, evaluate, and validate expenditures.

### *Errors in Recording Accounting Transactions*

We identified multiple transactions that were recorded incorrectly in the 2013-14 accounting records, and were not identified or corrected through ALRB's existing review process. Specifically, we observed:

- Salaries for seven temporary employees were recorded as permanent employees, totaling \$172,940.
- Salaries and benefits totaling \$63,140 for a General Counsel headquarter employee were recorded as though the employee worked in the EI Centro regional office. Also, operating expenditures totaling \$10,366 were recorded for the vacant EI Centro office during 2013-14.
- A space planning invoice totaling \$2,280 was recorded as a postage expense.

These incorrectly recorded transactions were a result of staff errors during the Department of Industrial Relations' process of recording ALRB's accounting transactions. These erroneously recorded transactions caused the related expenditure categories to be misstated in ALRB's official accounting records. Although ALRB contracted with the Department of Industrial Relations to perform accounting work during 2013-14, the responsibility of maintaining accurate and reliable accounting records ultimately lies with ALRB management. For example, ALRB should regularly review transactions for accuracy and ensure errors are corrected timely.

**Recommendations:**

Follow the existing record retention schedule to ensure accounting records, reports, and supporting documentation are retained for ALRB management's use, and for state control agencies.

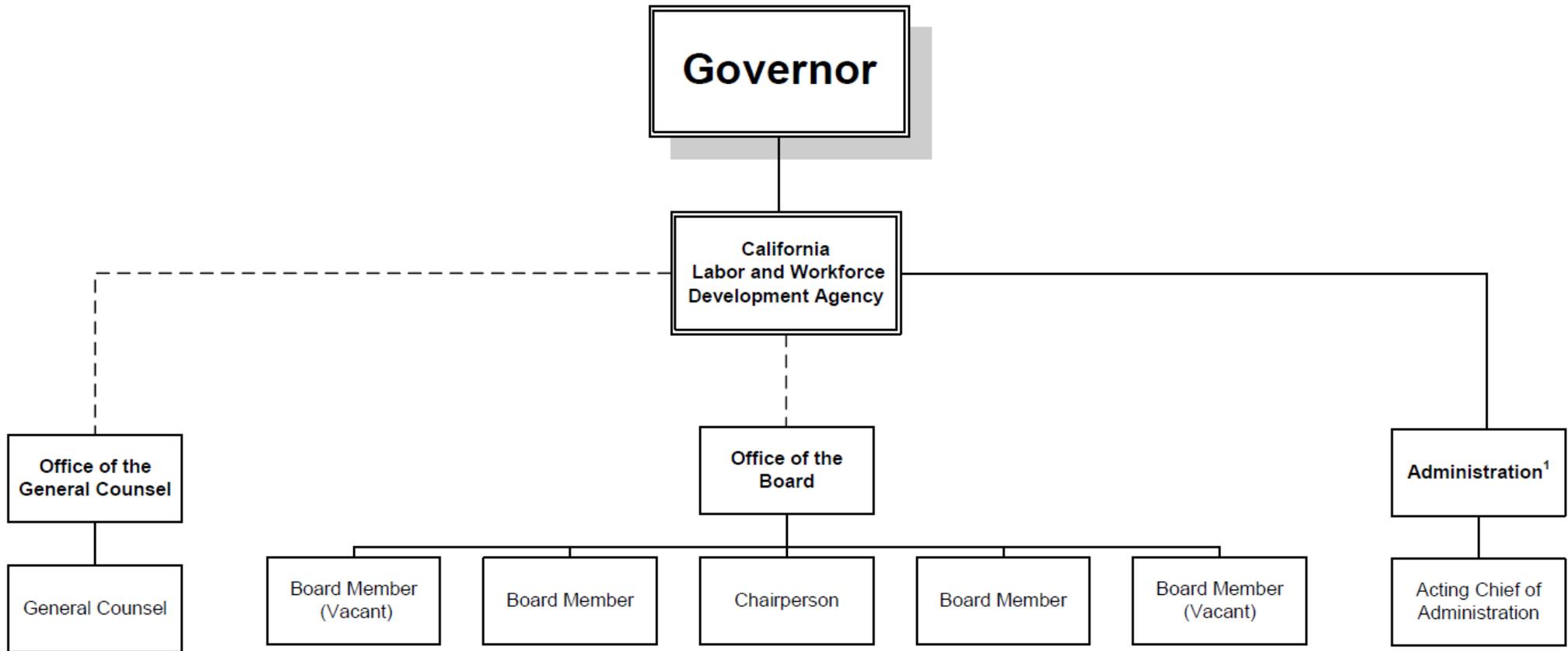
Strengthen controls over recording accounting transactions, including supervisory review and reconciliations. Accounting transactions processed by partner agencies should be regularly reviewed and reconciled to maintain accurate and reliable accounting records.

# APPENDIX A

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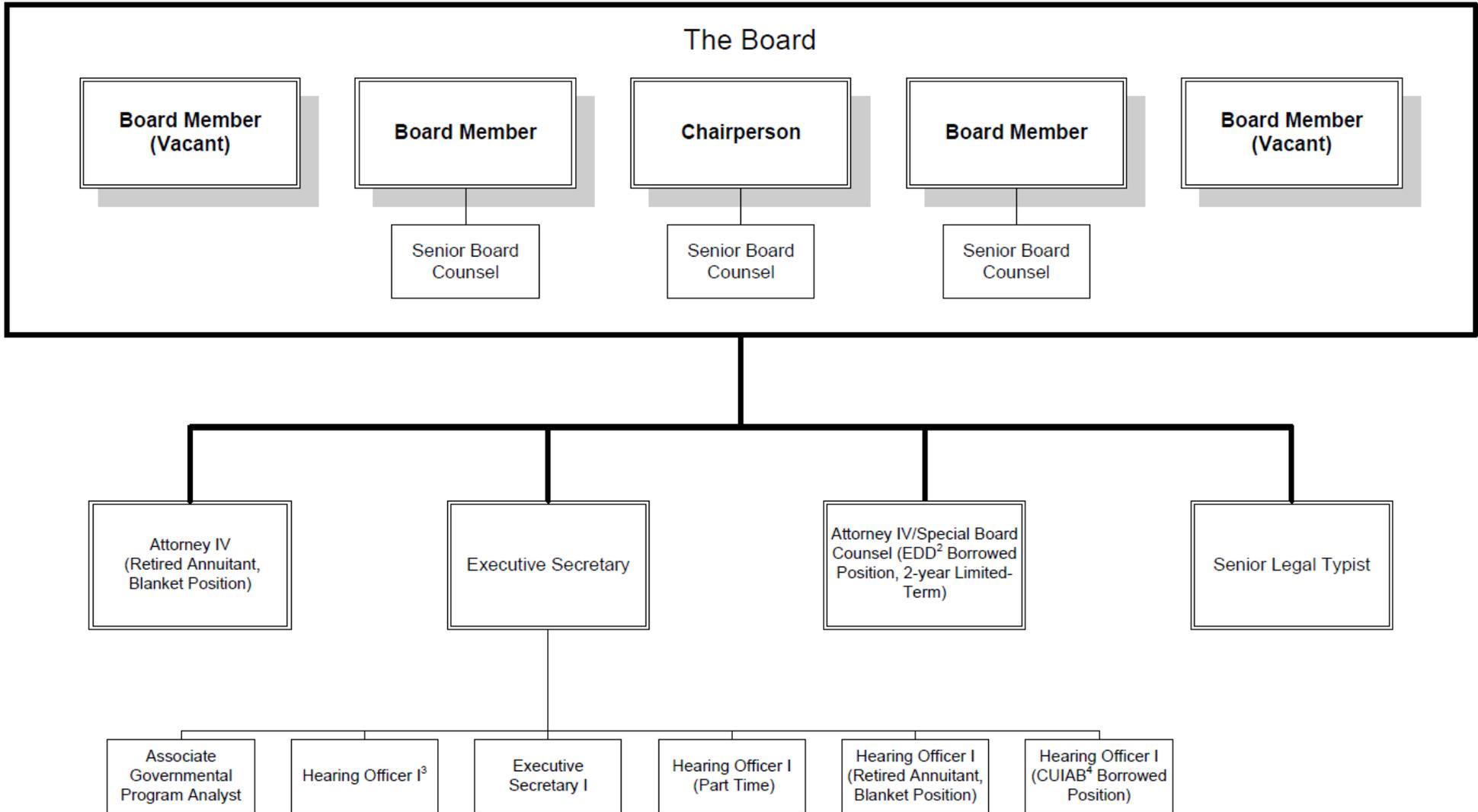
The following organizational charts present the Agricultural Labor Relations Board's (ALRB) organizational structure as of June 2014, as provided by the Labor and Workforce Development Agency and ALRB's Office of the Board, Office of the General Counsel, and Administration unit.

# Agricultural Labor Relations Board Overview – June 2014



<sup>1</sup> Beginning in June 2014, the Administration unit temporarily began reporting directly to the California Labor and Workforce Development Agency through an ALRB Acting Chief of Administration.

Agricultural Labor Relations Board, Office of the Board – June 2014



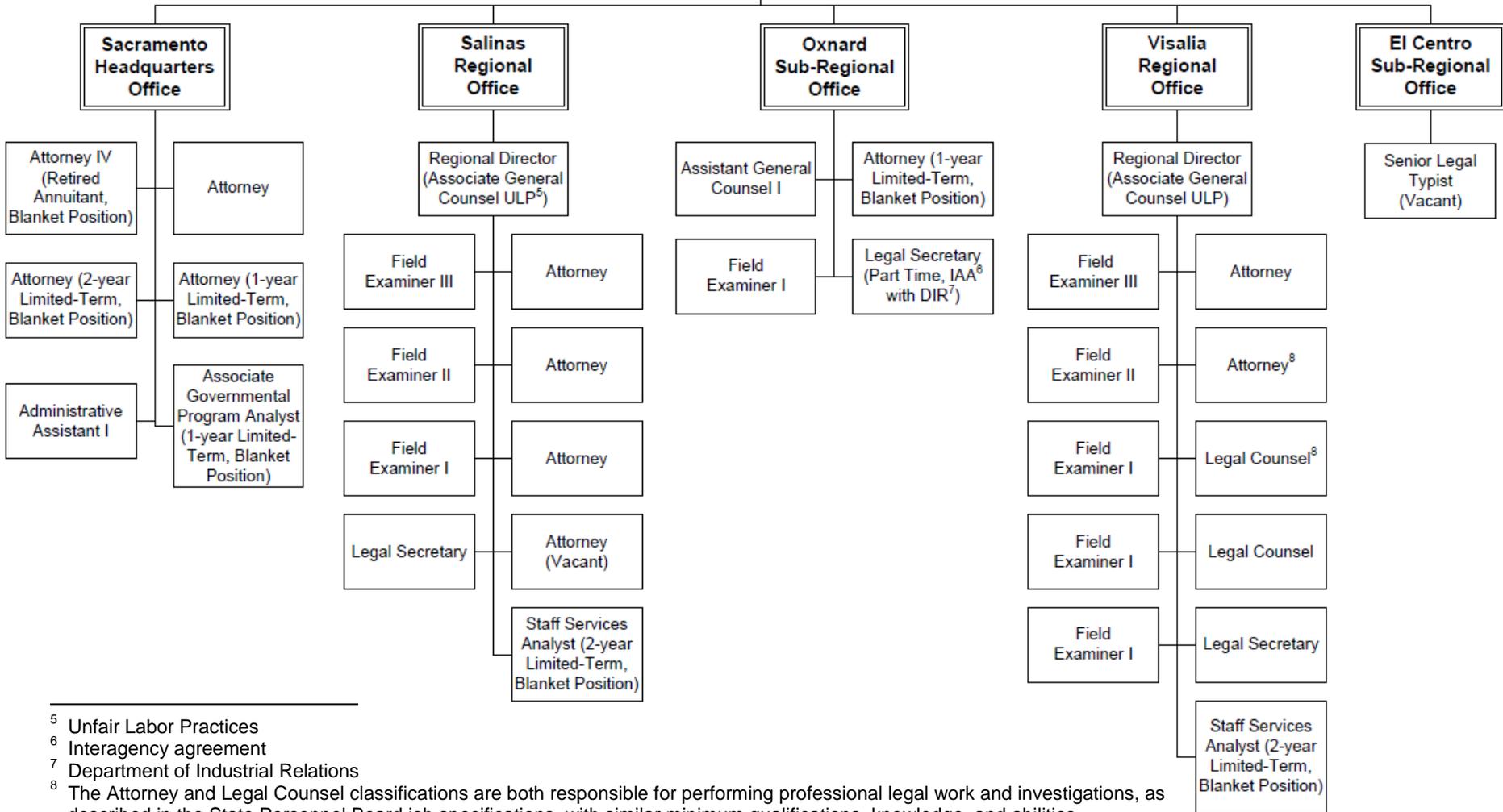
<sup>2</sup> Employment Development Department

<sup>3</sup> Hearing Officer is the job classification used for ALRB Administrative Law Judges

<sup>4</sup> California Unemployment Insurance Appeals Board

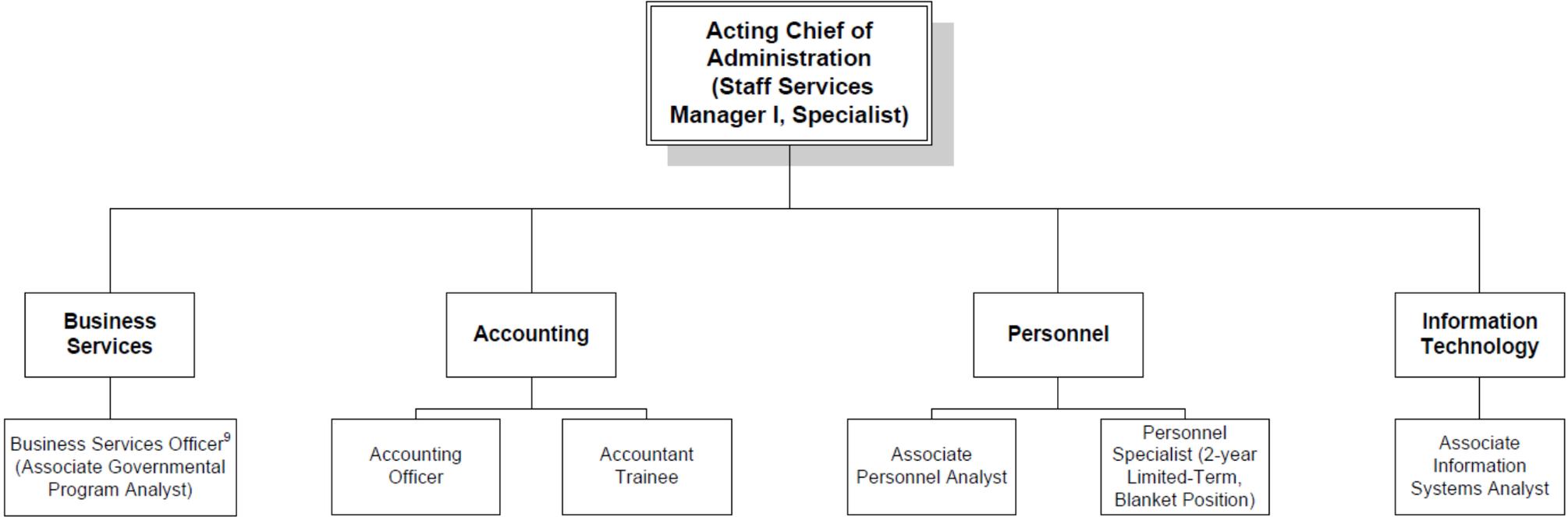
Agricultural Labor Relations Board, Office of the General Counsel – June 2014

**General  
Council**



<sup>5</sup> Unfair Labor Practices  
<sup>6</sup> Interagency agreement  
<sup>7</sup> Department of Industrial Relations  
<sup>8</sup> The Attorney and Legal Counsel classifications are both responsible for performing professional legal work and investigations, as described in the State Personnel Board job specifications, with similar minimum qualifications, knowledge, and abilities.

Agricultural Labor Relations Board, Administration Unit – June 2014



<sup>9</sup> As of June 2014, the Business Services Officer became the Acting Chief of Administration.

**Definitions of Agricultural Labor Relations Board (ALRB) Key Documents and Activities Captured in the Case Management System**

Document or Activity	Relevant Code or Regulation Section	Definition <sup>1</sup>
Notice of Intent to Take Access	California Code of Regulations, title 8, section 20900 (e), “The Board will consider the rights of employees under Labor Code section 1152 to include the right of access by union organizers to the premises of an agricultural employer for the purpose of meeting and talking with employees and soliciting their support.”	A labor organization will file this notice when they wish to have access to agricultural employees on an employer’s property. This form must be filed with and accepted by the ALRB or a labor organization cannot enter the private property of an employer.
Notice of Intent to Organize	California Code of Regulations, title 8, section 20910 (a), “Any labor organization that has filed within the past 30 days a valid notice of intent to take access as provided in section 200900(e) (1) (B) on a designated employer may file with the appropriate regional office of the Board two (2) copies of a written notice of intention to organize the agricultural employees of the same employer.”	A labor organization will file this notice to gain access to a current list of agricultural employees. Labor organizations must provide employee cards that have been signed by at least 10 percent of an employer’s active employees. Once the notice is filed, the employer is notified to prepare the list of employees. Signed employee cards are reviewed by ALRB to determine accuracy and then both the labor organization and the employer will be notified of the results of ALRB’s review.
Election Petitions Filed	Labor Code section 1156.3(b), “Upon receipt of a signed petition, as described in subdivision (a), the board shall immediately investigate the petition. If the board has reasonable cause to believe that a bonafide question of representation exists, it shall direct a representation election by secret ballot to be held, upon due notice to all interested parties and within a maximum of seven days of the filing of the petition.”	When agricultural employees wish to certify or decertify a labor organization, they will file a petition for an election. The petition must show a majority of the employees desire an election, evidenced by signatures submitted along with the petition. Regional office employees perform elections. In the event of a large election, ALRB has historically received support from other agencies to complete the election within statutory timelines.

<sup>1</sup> Information obtained from ALRB’s *A Handbook on the California Agricultural Labor Relations Law*, FY 2009-10 ALRB Report to the Legislature, and discussions with ALRB management and staff.

Document or Activity	Relevant Code or Regulation Section	Definition <sup>1</sup>
Unfair Labor Practices Filed	California Code of Regulations, title 8, section 20201, "Any person may file a charge that any person has engaged in or is engaging in an unfair labor practice."	An agricultural employee or labor organization may file an unfair labor practice charge when they believe an unfair labor practice has occurred. Charges are typically filed at regional offices with Office of the General Counsel attorneys or field examiners. Charges are investigated by attorneys and field examiners to determine if there is a reasonable basis for the charge. The charge can be dismissed if there is insufficient evidence to prove that an unfair labor practice has been committed.
Complaints Issued	Labor Code section 1160.2, "Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the board, or any agent or agency designated by the board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect."	If there is sufficient evidence to prove that an unfair labor practice has been committed, a complaint will be issued for the related unfair labor practice charge. The complaint is a legal document which identifies the conduct that is alleged to be an unfair labor practice. Complaints are prepared by Office of the General Counsel staff and served to the involved parties. Complaints may consolidate multiple charges, if appropriate.
Hearing Reports	<p>California Code of Regulations, title 8, section 20260, "If there is a conflict in the evidence upon which an unfair labor practice is based, an evidentiary hearing shall be held. The hearing shall be public. If there is no conflict in the evidence, the parties may, where appropriate, file with the Board a stipulated set of facts and briefs and request permission to make oral arguments concerning matters of law."</p> <p>California Code of Regulations, title 8, section 20279, "The administrative law judge shall file a decision with the executive secretary within 30 days of the administrative law judge's receipt of all transcripts or records of the proceedings, exhibits, and briefs from those parties who submit briefs, or within such other period as the executive secretary may direct in extraordinary</p>	Complaints are brought by the Office of the General Counsel before Administrative Law Judges in hearings. The Office of the Board Executive Secretary schedules and arranges hearings. Hearings can occur at regional offices or other locations such as hotel conference rooms. Hearings typically involve an Administrative Law Judge, Office of the General Counsel employees, respondents or respondents' attorneys, charging parties, court reporter, translator(s), and witnesses. Administrative Law Judges will hear the case during which both the attorneys for the respondent and charging parties have an opportunity to present their evidence. After the hearing, the Administrative Law Judge receives, reviews, and analyzes the post hearing briefs from all parties. The Administrative Law Judge will then draft and issue his or her decision on the case.

Document or Activity	Relevant Code or Regulation Section	Definition <sup>1</sup>
Hearing Reports (continued)	circumstances. The decision shall contain findings of fact, conclusions of law, and the reasons for the conclusions.”	
Board Decisions	California Code of Regulations, title 8, section 20286(b), “Where one or more parties take exception to the decision of the administrative law judge, the Board shall review the applicable law and the evidence and determine whether the factual findings are supported by a preponderance of the evidence taken.”	If exceptions are filed on Administrative Law Judges’ case decisions, the Board, acting as a reviewing court, reviews the record, deliberates, and renders their decision for that case. Senior Board Counsels aid the Board in developing, researching, and drafting decisions. Board Decisions set precedence for future cases.
Litigations	Labor Code section 1160.8, “Any person aggrieved by the final order of the board granting or denying in whole or in part the relief sought may obtain a review of such order in the court of appeal.”	Parties to Board Decisions may file petitions for review in the California Courts of Appeal. Therefore, a portion of the Board’s workload is comprised of writing and filing appellate briefs and appearing for oral argument in appeal cases. Occasionally, the Board is required to defend against challenges to its jurisdiction and other types of collateral actions in both state and federal courts. Senior Board Counsels and Staff Counsel IVs assist in this process.
Remedies	California Code of Regulations, title 8, section 20279, “If the administrative law judge finds that an unfair labor practice has been committed, the decision shall contain an order for such affirmative action by the respondent as will effectuate the policies of the Act.”	If the Administrative Law Judge’s decision is that an unfair labor practice has been committed, then the decision may include a remedy, or a set of instructions, intended to cure whatever damage may have been caused by the unfair labor practice. The Board may delegate enforcement of these remedies to Office of the General Counsel employees. Examples of remedies may include informing agricultural employees that a violation of their rights occurred or calculating back pay settlements. Remedies may also include other settlements agreed to by involved parties, occurring at various times throughout the complaint process.

<b>Document or Activity</b>	<b>Relevant Code or Regulation Section</b>	<b>Definition<sup>1</sup></b>
Mediations	Labor Code section 1164 (b), "Upon receipt of a declaration pursuant to subdivision (a), the board shall immediately issue an order directing the parties to mandatory mediation and conciliation of their issues."	In select circumstances where the labor organization and the employer are unable to reach a collective bargaining agreement, mandatory mediation can be provided. The mediator tries to help the parties involved reach an agreement, but if that is not successful, the mediator issues a report that contains the terms of the collective bargaining agreement. The Board oversees and facilitates this process.
Administrative Orders	California Code of Regulations, title 8, section 20287, "All board decisions published in the format bearing a volume and decision number shall constitute precedent for future cases. Numbered administrative orders shall be precedential only if expressly so designated by the Board."	The Board rules on requests made for appeals of Administrative Law Judge orders granting or denying motions to hearing parties, Executive Secretary decisions, or Mediations. Administrative Orders generally only apply to the parties that are involved and are made in place of Board Decisions for more routine matters.





STATE OF CALIFORNIA  
Labor & Workforce Development Agency

GOVERNOR Edmund G. Brown Jr. • SECRETARY David Lanier

Agricultural Labor Relations Board • California Unemployment Insurance Appeals Board  
California Workforce Investment Board • Department of Industrial Relations  
Employment Development Department • Employment Training Panel • Public Employment Relations Board

January 16, 2015

Mr. Richard Sierra, CPA  
Chief, Office of State Audits and Evaluations  
915 L Street  
Sacramento, CA 95814

Dear Mr. Sierra,

Thank you for the opportunity to respond to the performance audit of the Agricultural Labor Relations Board (ALRB) for fiscal years 2009-10 through 2013-14. The Labor and Workforce Development Agency (Agency) appreciates your effort and that of your staff in conducting this review and compiling the recommendations that provide valuable insight as to how the ALRB can improve its operations and fulfill its mission.

While it is unfortunate that the data collected cannot be immediately used to fully measure and substantiate the current and future workload needs of the ALRB as originally anticipated, we generally agree with the recommendations and will work with the Office of the General Counsel, the Office of the Board, and the Administrative Unit to develop appropriate corrective action plans to address the recommendations in the report.

If you have any questions, please feel free to contact Jay Sturges, Associate Secretary, at (916) 653-9900.

Sincerely,

Original signed by

David Lanier

Secretary, Labor and Workforce Development Agency

Enclosure

cc: Mr. William B. Gould IV, Chairman, Agricultural Labor Relations Board  
Mr. Paul Starkey, Acting Executive Secretary, Agricultural Labor Relations Board  
Ms. Sylvia Torres-Guillen, General Counsel, Agricultural Labor Relations Board  
Mr. Andre Schooli, Undersecretary, Labor and Workforce Development Agency  
Mr. Jay Sturges, Associate Secretary, Labor and Workforce Development Agency



The Labor and Workforce Development Agency (Agency) response to the Office of State Audits and Evaluations Draft Report on the Agricultural Labor Relations Board (ALRB) Performance Audit:

**Observation 1: Inability to Justify Effectiveness or Efficiency of Resource Utilization**

**Recommendation:** Reevaluate workload tracking systems by: (1) developing policies and procedures to maximize the usefulness of existing systems and (2) consider alternative systems to efficiently track and manage workload.

We agree with these recommendations and are considering the most prudent course of implementation. This includes developing procedures to ensure full employee participation, appropriate level of access, accurate reporting, and supervisory review of the current workload tracking systems or any future workload tracking systems that are implemented. Improved workload data and integrated time tracking will improve the ALRB's ability to identify efficiencies, improve operations, identify workload trends, and appropriately justify future resource requests.

**Observation 2: A More Effective Organizational Structure is Needed**

**Recommendation:** The Board Chair should establish an independent administrative function within ALRB; the unit chief should have sufficient authority to develop and implement ALRB-wide administrative policies and procedures, prevent the override of established controls, and ensure operational consistency.

We concur with these recommendations and are in the process of implementing them. As identified in the report, the reporting structure for Administrative Unit was adjusted in June 2014 to ensure administrative actions are performed in accordance with state rules and regulations while the ALRB establishes policies and procedures to ensure that the unit can function independently. The goal of the ALRB is to assure compliance with all statutes, regulations, and state administrative procedures.

**Observation 3: Misuse of Limited-Term Blanket Authority**

**Recommendation:** Follow the requirements for blanket positions prescribed by the State Administrative Manual, the State Personnel Board, and Department of Finance. Document a thorough justification for limited-term appointments and the need for using a limited-term appointment. Strengthen forecasting techniques to better estimate temporary help positions and expenditures.

We agree with the recommendations related to following processes prescribed by the control agencies and are establishing procedures to ensure the requirements outlined in the State Administrative Manual, the Personnel Management Policy and Procedures Manual, and Budget Letters are followed. The ALRB will monitor all expenditures related to limited-term blanket employees to ensure these expenditures do not result in the department exceeding its

appropriation authority. The implementation of the independent administrative function in recommendation 2 will contribute significantly to the ALRB's ability to successfully implement these recommendations.

**Observation 4: Inefficient Use of State Funds**

**Recommendation:** Reach an immediate resolution regarding the status of the El Centro regional office and regularly assess the appropriateness and cost effectiveness of the physical location of regional offices.

We agree with the recommendations.

**Observation 5: Incomplete and Inaccurate Accounting Records**

**Recommendation:** Follow the existing record retention schedule to ensure accounting records, reports, and supporting documentation are retained. Strengthen controls over recording accounting transactions, including supervisory review and reconciliations.

We agree with these recommendations and are reviewing the record retention schedule and related policies to ensure appropriate accounting records, reports, and supporting documents are maintained. ALRB is evaluating its existing expenditure review processes and will examine and modify current processes as needed to ensure the integrity of accounting information. The implementation of the independent administrative function in recommendation 2 will contribute significantly to the ALRB's capacity to implement these recommendations.