



## **Methodological Shortcomings of the 2017 California State Employee Total Compensation Report Data on Administrative Law Judges**

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### **I. The Report is Ambiguous about its Sources and Methodology**

CalHR's 2017 California State Employee Total Compensation Report does not adequately support its claims about comparable wages for ALJs for the following reasons:

- **The body of the Report does not cite sources for their wage comparisons.** In the ALJ pay comparison section, the Report has a "Total Compensation Comparison" that includes monthly wages. Yet the report does not cite sources for its wage claims in any of the five categories.
- **The Data and Methodology section of the report fails to clarify this ambiguity.** This section only defines various federal government data sources without providing the following key information:
  - **The section does not explain which wage numbers come from which of these datasets.** The Report's claims about wages for comparable positions are impossible to assess without knowing where they come from.
  - **The section does not provide the raw data underlying the claims.** As explained in more detail below, the Report does not include the actual data, even when it is publicly available.
- **These ambiguities leave it entirely unclear what positions CalHR included as comparable to BU2 ALJ positions for wage comparison purposes.** For example, CalHR may have included positions that do not require state bar licensure and are thus not truly comparable.
- **The Data and Methodology Section suggests that the report used regional and national wage data which is not a useful comparator when wages in California are much higher.**

### **II. Issues by Federal Data Source**

#### **i. Occupational Employment Statistics Survey**

The Report's subsection on the Occupational Employment Statistics Survey (OES) only explains what that survey is and notes that "[t]he OES data in this report reflects wages for full-time workers in California as of March 2017." (Report at p. 56.) Despite the fact that this is publicly available data, the Report does not provide a precise citation to the source. Therefore, there is no way to know the basis for the Report's "Total Compensation Comparison."

The author's review of the OES data for ALJs (available at <https://www.bls.gov/oes/current/oes231021.htm#ind>) raises two additional questions about CalHR's methodology. First, the BLS provides a definition of the "Administrative Law Judges, Adjudicators, and Hearing Officers" category. Yet this definition does not state that state bar licensure is required. If non-attorneys are indeed included, this would artificially depress wage data. Second, OES only provides one California-specific piece of wage data: the average for all workers in their ALJ category. OES does not, for example, provide data for federal government employees located in California.

#### **ii. National Compensation Survey Data**

The methodology section also suggests the Report relies on "unpublished estimates" that the Bureau provided to CalHR. (Report at p. 53.) This makes it impossible to evaluate BLS and/or CalHR's methodology in identifying what they considered to be comparable positions. Further, this data is for the entire Pacific Region which includes four other states in addition to California: Hawaii, Alaska, Washington, and Oregon. With the possible exception of Hawaii, California has the highest cost of living in this group and including these other states artificially depresses the comparison.

#### **III. Federal ALJs as an Example of these Flaws**

The Report asserts that ALJs employed by the federal government earn \$9,546 per month. Yet a Federal Government Source, the Office of Personnel Management data show that federal Administrative Law Judges in California at the *very lowest step* make between \$11,627 (in Sacramento-Roseville) to \$12,994 (in San Jose-San Francisco-Oakland). (Source: [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/ALJ\\_LOC.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/ALJ_LOC.pdf).) Nothing in the report explains this discrepancy.