

**State of California
Office of Administrative Law**

In re:
California Prison Industry Authority

Regulatory Action:

Title 15, California Code of Regulations

Amend sections: 8000, 8001, 8004, 8004.1,
8004.2, 8004.3, 8004.4,
8005, 8006, 8007, 8008,
8104, 8107, 8115, 8116,
8116.1, 8117, 8118, 8119,
8119.1, 8201

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

OAL Matter Number: 2021-0614-01

OAL Matter Type: Nonsubstantive (N)

This action by the California Prison Industry Authority revises terminology within its regulations as changes without regulatory effect. Specifically, the Authority changes terms "inmate," "offender," and "under the jurisdiction of CDCR" to "incarcerated individuals" and "parolee" to "paroled individual."

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: July 27, 2021



Nicole C. Carrillo
Attorney

For: Kenneth J. Pogue
Director

Original: William Davidson, Executive
Officer

Copy: Moira Doherty

NONSUBSTANTIVE

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STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2021-0614-01N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		2021 JUN 14 A 10:56 OFFICE OF ADMINISTRATIVE LAW	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Prison Industry Authority			AGENCY FILE NUMBER (if any)

ENDORSED - FILED
in the office of the Secretary of State
of the State of California
JUL 27 2021
1:26 PM

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Incarcerated Individuals		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)			
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)					
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT				
	AMEND				
	REPEAL				
3. TYPE OF FILING					
<input type="checkbox"/> Regular Rulemaking (Gov. Code § 11346)		<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§ 11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.		<input type="checkbox"/> Emergency Readopt (Gov. Code, § 11346.1(h))	
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code § 11349.3, 11349.4)		<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)		<input type="checkbox"/> File & Print	
<input type="checkbox"/> Emergency (Gov. Code, § 11346.1(b))		<input type="checkbox"/> Other (Specify)		<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100)	
<input type="checkbox"/> Print Only					
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, § 44 and Gov. Code § 11347.1)					
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, § 100)					
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code § 11343.4(a))		<input type="checkbox"/> Effective on filing with Secretary of State		<input checked="" type="checkbox"/> § 100 Changes Without Regulatory Effect	
				<input type="checkbox"/> Effective other (Specify)	
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY					
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM § 6660)		<input type="checkbox"/> Fair Political Practices Commission		<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify)					
7. CONTACT PERSON M. Doherty		TELEPHONE NUMBER 916-413-1140		FAX NUMBER (Optional)	
				E-MAIL ADDRESS (Optional) piaregs@calpia.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>William Davidson</i>	DATE 6/3/2021
TYPE, NAME AND TITLE OF SIGNATORY William Davidson, General Manager, Prison Industry Board Chair Delegate	

For use by Office of Administrative Law (OAL) only
ENDORSED APPROVED
JUL 27 2021
Office of Administrative Law

TEXT OF PROPOSED REGULATORY CHANGE

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Title 15. Crime Prevention and Corrections

Division 8. California Prison Industry Authority

Chapter 1. Rules and Regulations of California Prison Industry Authority

Article 1. Scope of Authority

§ 8000. Definitions.

“Background Clearance” means a process by which an individual submits his or her fingerprints to the Department of Justice so that CALPIA can obtain any criminal history information of the individual from the Department of Justice.

“Board” means Prison Industry Board, also known as PIB.

“CALPIA” means California Prison Industry Authority, also known as PIA, Prison Industry Authority.

“CALPIA Program” means a work program, specific to CALPIA ~~inmates~~incarcerated individuals. Assorted programs within CALPIA are designed to teach ~~inmates~~incarcerated individuals various trades and necessary skill sets including education and life application skills.

“Controlled Substance” means a substance, drug, narcotic, opiate, hallucinogen, depressant, or stimulant as defined by California Health and Safety Code Section 11007. Also included are prescribed medications containing substances identified in Health and Safety Code Section 11007.

“Drug” means a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, and as defined in Health and Safety Code Section 11014.

“Employee” means an individual hired under the authority of the CALPIA General Manager through California State civil service rules (Government Code Section 18500 *et. seq.*). The definition of “employee” includes the General Manager. The term employee does not include ~~inmate~~incarcerated individual.

“Enterprise” means organized business practices that comprise manufacturing, agriculture and various other operations under the authority of CALPIA.

“External Accreditation Certificate” means a certificate issued by an accredited external organization that is under contract with CALPIA to train ~~inmates~~incarcerated individuals to certain standards and then certify that the ~~inmate~~incarcerated individual is competent in a specific skill set.

“Family Member” means related to another person through kinship, marriage, adoption, foster relationship, registered domestic partnership, or civil union.

“General Manager” means an individual appointed or contracted by the PIB to serve as the Chief Executive Officer of CALPIA.

“Health or Safety Complaint” means any written allegation made by a CALPIA inmate worker regarding unhealthful or unsafe conditions or hazards at their place of employment.

“Inmate Allocation” means the current number of ~~inmate~~incarcerated individual workers needed in a specific enterprise to maintain adequate production levels, supporting the volume of sales orders and service contracts.

“~~Inmate~~Incarcerated individual Candidate Pool” means a pool of ~~inmate~~incarcerated individual candidates from all security level designations who have been screened by the facility/institution's

Classification Committee and after program review have been found eligible for placement in CALPIA work/training programs at specific facility/institutional enterprises.

“InmateIncarcerated individual compensation” means payment to the inmateincarcerated individual worker with a graduated pay schedule based on the quality and quantity of work performed and the skill required of the inmateincarcerated individual worker.

“Institution” means a community-access facility, community correctional facility, camp, or subfacility of an institution under the jurisdiction of the California Department of Corrections and Rehabilitation (CDCR) and headed by a warden.

“Intoxicant” means any type of substance that is not identified as a controlled substance or drug that diminishes an individual's working abilities that would normally be accomplished with the same characteristics of a sober individual. Intoxicants include, but are not limited to, toluene, paint thinner, fingernail polish, lacquer, gasoline, and kerosene.

“Learning disability” means a broad range of cognitive deficits. Under the Americans with Disabilities Act of 1990 (ADA) definition, individuals with learning disabilities may have difficulty in one or more of the following: listening, speaking, reading, writing, spelling, and mathematics. They also may have problems in reasoning, remembering, organizing, managing time, and social skills. Specific learning disabilities are not the same as learning problems that result from mental retardation, blindness, deafness, or emotional disturbance.

“PIB” means the Prison Industry Board, also known as Board.

“Prescription” means an order for a controlled substance given individually for the person(s) for whom prescribed, directly or indirectly from the prescriber, and as defined in Health and Safety Code Section 11027.

“Prison Industries Revolving Fund” means the fund described in Penal Code 2806.

“Test of Adult Basic Education (TABE)” means a test designed to assess reading, mathematics, language, and spelling skills. It also assesses basic skills in work-related contexts.

“Transient population” means a population of inmatesincarcerated individuals who are at an institution for a brief period of time such as at a reception center or inmatesincarcerated individuals whose sentences are shorter in duration.

“Unauthorized Electronic Communication Device” means devices that are not issued by the State of California and are not labeled with an “Authorized for State Use” sticker. Unauthorized electronic communication devices include, but are not limited to, cell phones, computers, hybrid cellular/Internet/wireless devices, personal digital assistants (PDAs), cameras, video recorders, fax machines, and pagers, including components and parts of devices.

“Under the Influence” means an employee's working abilities are impaired and the employee does not have the ability to perform his or her duties with the same characteristics of a sober person due to alcohol, drugs, controlled substances, or a combination thereof.

“Workplace” means all offices, warehouses, enterprises, and the showroom under the authority of CALPIA, regardless of location.

Authority: Sections 2801 and 2809, Penal Code.

Reference: Sections 2800, 2801, 2803, 2805, 2806, 2807, 2808, 2809 and 2811, Penal Code; and Sections 6303 and 6304.3, Labor Code.

TEXT OF PROPOSED REGULATORY CHANGE

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Title 15. Crime Prevention and Corrections

Division 8. California Prison Industry Authority

Chapter 1. Rules and Regulations of California Prison Industry Authority

Article 1. Scope of Authority

§ 8001

(a) The California Prison Industry Authority (CALPIA) has the authority to develop and operate, and assumes jurisdiction over industrial, agricultural, and service enterprises employing ~~prisoners under the jurisdiction of the California Department of Corrections and Rehabilitation (CDCR)~~ incarcerated individuals which may be located within an institution or elsewhere, as may be determined by CALPIA.

(b) CALPIA operates a work program for ~~inmates~~ incarcerated individuals which shall be self-supporting by generating sufficient funds from the sale of products and services to pay all program expenses, and provides goods and services which are or will be used by CDCR, thereby reducing the cost of CDCR's operation.

(c) Pursuant to PC sections 2804 and 2806 the Prison Industries Revolving Fund shall be used to meet the following list of operating expenses:

(1) Purchasing of materials and equipment,

(2) Salaries,

(3) Construction,

(4) Cost of administration of the prison industries program,

(5) Refund deposits, and

(6) The actual and necessary expenses of travel in the commission of PIB duties that shall be paid from the Prison Industries Revolving Fund.

(d) Pursuant to the Administrative Procedure Act, CALPIA shall create and maintain working conditions within the enterprises to assure employed ~~inmates~~ incarcerated individuals the opportunity to work productively, earn funds and acquire or improve effective work habits and occupational skills.

(e) CALPIA operates under a General Manager, who is appointed or contracted by the PIB to serve as the chief executive officer.

Authority: Section 2808, Penal Code.

Reference: Sections 2801, 2804, 2805, 2806, 2807 and 2808, Penal Code.

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Title 15. Crime Prevention and Corrections

Division 8. California Prison Industry Authority

Chapter 1. Rules and Regulations of California Prison Industry Authority

§ 8004

§ 8004. Participation.

(a) ~~Inmates~~Incarcerated individuals committed to the custody of the California Department of Corrections and Rehabilitation may apply to participate in CALPIA work and training programs. ~~Inmates~~Incarcerated individuals who have met the requirements in Section 8004.1 may be assigned to an appropriate work position allowing the inmate to earn funds and acquire or improve effective work habits and occupational skills. CALPIA does not discriminate on the basis of disability in employment or in the admission and access to its program or activities.

~~Inmates~~Incarcerated individuals with physical or developmental disabilities, or ~~inmates~~incarcerated individuals who participate in CDCR's Mental Health Services Delivery System, and who otherwise meet the hiring requirements, are not excluded from CALPIA job or training positions. CALPIA will afford ~~inmates~~incarcerated individuals reasonable accommodation to access programs as required by the American with Disabilities Act, the California Fair Employment and Housing Act, and applicable related non-discrimination laws.

(b) ~~Inmates~~Incarcerated individuals shall not be eligible for a CALPIA assignment under the following circumstances:

(1) ~~Inmates~~Incarcerated individuals serving life sentences without parole (LWOP); unless the inmate meets the exception found in 8004(d)(4).

(2) ~~Inmates~~Incarcerated individuals convicted of arson, elements of arson, or possession or use of explosive material, unless the arson conviction is more than 15 years prior to the date of application and all other eligibility requirements are met, then an exemption may be considered.

(3) ~~Inmates~~Incarcerated individuals found in violation of Section 3016 and/or 3290(d); unless the inmate subsequently meets the following minimum requirements:

(A) six (6) months of disciplinary/drug/alcohol-free conduct; and

(B) ninety (90) days of satisfactory work as written on an institutional Work Supervisor's Report, CDC 101 (1/92), which is incorporated by reference, from inmate's work supervisor; and

(C) Successfully graduates from a substance abuse program.

(c) ~~Inmates~~Incarcerated individuals who are otherwise eligible for a CALPIA assignment shall be restricted as follows:

(1) All ~~inmates~~incarcerated individuals assigned to a work/training position within CALPIA, pursuant to Penal Code (PC) Section 5071, shall not have access to personal information of private individuals.

(2) ~~Inmates~~Incarcerated individuals convicted of a PC Section 290 offense shall not be assigned to the CALPIA optical program.

(3) ~~Inmates~~Incarcerated individuals convicted of forgery, fraud, counterfeiting, or embezzlement shall not be assigned to the CALPIA Specialty Print Plants.

(4) ~~Inmates~~Incarcerated individuals who have any of the following history shall not be placed in assignments that provide access to a computer:

(A) Computer fraud or abuse, as defined in PC Section 502; or

(B) Telephone fraud or abuse, as defined in PC Section 502.7(b); or

(C) Any documented institutional disciplinary action, as described in sections 3000 and 3312 of Title 15, involving the use of a computer to conduct unauthorized activity not related to the intended work tasks of CDCR or CALPIA.

(d) The following factors shall be taken into consideration on a case-by-case basis when determining the assignment or re-assignment of an ~~inmate~~incarcerated individual to a CALPIA program:

(1) ~~Inmates~~Incarcerated individuals with prior history of disciplinary actions, or disciplinary measures that resulted in removal from a CALPIA program may be considered for a re-assignment based upon the ~~inmate's~~incarcerated individual's conduct of a minimum of six (6) months of disciplinary-free conduct.

(2) ~~Inmates~~Incarcerated individuals with Close Custody designation may be considered for a CALPIA assignment that conforms with the requirements identified in California Code of Regulations (CCR), Title 15, Division 3, Section 3377.1(a)(2)(B) through (a)(2)(D) or (a)(3)(B) through (a)(3)(D) on a case-by-case basis, with the approval of the Warden at the institution/facility.

(3) Institutions/facilities with a transient population resulting in ~~inmate~~incarcerated individual worker unavailability may utilize ~~inmates~~incarcerated individuals with Life sentences, but shall not exceed twenty-five percent of the workforce per institution/facility.

(4) Institutions/facilities with a population resulting in ~~inmate~~incarcerated individual worker unavailability may utilize ~~inmates~~incarcerated individuals with LWOP sentences with the approval of the Warden at the institution/facility on a case-by-case basis.

(e) ~~Inmates~~Incarcerated individuals placed on Immigration and Customs Enforcement (ICE) Hold status by CDCR shall not be assigned to a CALPIA job without an approved exemption in writing from the General Manager.

(1) ICE Hold worker ~~inmate~~incarcerated individual assigned to CALPIA will not be eligible to receive external accredited certificates unless ICE Hold status is removed in the following two steps:

(A) Through administrative proceedings; and

(B) Prior to the end of accredited certificate program.

Authority: Sections 2801 and 2808, Penal Code.

Reference: Sections 2702, 2801, 2805 and 5071, Penal Code; *Armstrong v. Davis*, 318 F.3d 965, 968-9 (9th Cir. 2003); *Armstrong v. Davis*, 275 F.3d 849, 879 (9th Cir. 2001), cert. denied 2002 U.S. LEXIS 5480 (U.S. Oct. 2002); *Armstrong v. Wilson*, 124 F.3d 1019, 1020-21 (9th Cir. 1997); *Pa. Dep't of Corr. v. Yeskey*, 524 U.S. 206 (1998); and *Hecker v. CDCR*, Docket 2:05-CV-02441-LKK-JFM (E.D. Cal.).

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Title 15. Crime Prevention and Corrections

Division 8. California Prison Industry Authority

Chapter 1. Rules and Regulations of California Prison Industry Authority

§ 8004.1. CALPIA ~~Inmates~~Incarcerated Individuals Worker Hiring Standards and Requirements.

(a) CALPIA shall fill vacant job/training positions based on the following standards:

(1) Skill level evidenced by the ~~inmate~~sincarcerated individual's technical expertise, ability, and knowledge.

(2) Behavior and relationships with others evidenced by the ~~inmate~~sincarcerated individual's ability to work with staff and other authority figures, work/training supervisors, and other ~~inmates~~sincarcerated individuals.

(3) Attitude and adaptability evidenced by the ~~inmate~~sincarcerated individual's willingness to learn, take directions, and orders.

(4) Work/training habits evidenced by the ~~inmate~~sincarcerated individual's punctuality, dependability, care of equipment, and safety practices.

(5) Formal education and training evidenced by the ~~inmate~~sincarcerated individual's preparation for the work/training assignment and the ability to read, write, and speak effectively.

(6) Ethnic Balance. Ethnic balance is achieved by assigning identified ethnicities for CALPIA work/training position in proportion to those represented within the inmate yards at the institution.

(b) ~~Inmates~~Incarcerated individuals shall meet a minimum intake requirement of two (2) years and a maximum of five (5) years from their earliest possible release date (EPRD), on the date of application for all CALPIA assignments or apprenticeship/training positions.

(c) ~~Inmates~~Incarcerated individuals assigned from the following locations, may utilize an alternate intake requirement of a minimum of two (2) months and a maximum of 60 months from their earliest EPRD, on the date of application:

(A) Reception Centers with a temporary or transient inmate population resulting in inmate worker unavailability.

(B) Institutions with a Level 1 inmate population.

(d) ~~Inmates~~Incarcerated individuals shall meet the minimum qualifications to perform the essential job functions.

(e) ~~Inmates~~Incarcerated individuals with qualified learning disabilities under the Americans with Disabilities Act of 1990 (ADA), as defined in Section 8000, and who have complied with CCR, Title 15, Division 3, Section 3085, may be accommodated with an exemption to 8004.1(d) unless the accommodation would result in financial or administrative burden, or unsafe working conditions for CALPIA.

(f) Prior to utilizing any of the above alternate intake requirements, a written waiver of authorization shall be obtained annually from the CALPIA General Manager by the Warden at each institution/facility in coordination with the CALPIA Administrator/Lead Manager at each specific enterprise.

(g) Within two years of initial CALPIA assignment, CALPIA inmate workers shall complete a General Education Diploma (GED) or high school diploma, unless that is not feasible due to disabling conditions documented in the ~~inmate~~incarcerated individual's C-File, in which case the inmate worker must be concurrently enrolled in classes to obtain a GED or high school diploma while in a work assignment with CALPIA. CALPIA inmate workers shall remain in their current skill level, as specified in Section 8006(d)(1), while completing a GED or high school diploma and shall not be allowed to promote to a higher pay skill level until this educational requirement is satisfied.

Authority: Sections 2801 and 2808, Penal Code.

Reference: Sections 2801 and 2805, Penal Code; Americans With Disabilities Act, Public Law 101-336, July 26, 1990, 104 Stat. 327; and Section 35.130, Title 28, Code of Federal Regulations.

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Title 15. Crime Prevention and Corrections

Division 8. California Prison Industry Authority

Chapter 1. Rules and Regulations of California Prison Industry Authority

§ 8004.2

§ 8004.2. Recruitment and Appointment Process.

- (a) The CALPIA Prison Industries Administrator/Lead Manager at each facility shall be responsible for coordinating the recruitment of inmate incarcerated individuals with the institution/facility's correctional counseling staff or the classification services staff.
- (b) Inmate incarcerated individuals shall obtain and complete the Worker Application and Intake IEP-F002/IEP-F003, 12/24/2015 Rev. H Form, which is incorporated by reference, to apply for a CALPIA work/training position. This form is made available by CALPIA staff to the inmate population throughout institutions with CALPIA enterprises.
- (c) Inmate incarcerated individuals shall submit completed forms referenced in subsection (b) to the correctional counselor staff at the ~~inmate's~~ inmate's incarcerated individual's institution to begin initial screening process.
- (d) The Prison Industries Administrator/Lead Manager shall, in coordination with the correctional counselor staff, conduct a central file review, ensuring eligibility standards and requirements, in sections 8004 and 8004.1 are met.
- (e) Upon confirmation of program eligibility, inmates incarcerated individuals who have applied for a CALPIA position and have been placed into CALPIA's Inmate Candidate Pool (ICP) may be assigned to an appropriate work program in accordance with California Code of Regulations (CCR), Title 15, Division 3, Section 3040(c).
- (f) Upon the availability of a vacant CALPIA position, CALPIA enterprise staff shall:
- (1) Request a list of eligible inmates incarcerated individuals from the ICP from the institution/facility Assignment Lieutenant responsible for maintaining the ICP list.
 - (2) Interview inmates incarcerated individuals from the ICP list.
 - (3) Make the final selection of inmates incarcerated individuals based on priority of the following educational achievements:
 - (A) High School Diploma or GED
 - (B) Enrolled in GED program
 - (C) No Diploma/GED and not enrolled in an education program
 - (4) Submit a final list of successful inmate applicants on the Offender Job Change Request Form (CALPIA FORM SOMS F001 (3/26/2016)), hereby incorporated by reference to the institution/facility's Assignment Lieutenant.
- (g) In addition to the priorities set forth in subsection (f)(3)(A) through (C), CALPIA will also give consideration to part time CALPIA inmates incarcerated individuals who graduate from a substance abuse program or complete any other CDCR rehabilitating programs when filling full time assignments.

(h) A urinalysis test shall be requested on all ~~inmates~~incarcerated individuals newly assigned to CALPIA within 30 days of their start date. See subsection 8004.3(a) for requesting guidelines.

(i) As part of the appointment process, the ~~inmate's~~incarcerated individual's supervisor will provide to the inmate acknowledgement(s) of policies, procedures, and appointment documents for review and signature on the Acknowledgement form (CALPIA FORM IEP F029 (8/1/2020)), hereby incorporated by reference. Failure or refusal to sign an acknowledgement of receipt of these documents shall result in immediate removal and being unassigned from the CALPIA work program.

Authority: Sections 2801 and 2808, Penal Code.

Reference: Sections 2801 and 2805, Penal Code.

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Division 8. California Prison Industry Authority
Chapter 1. Rules and Regulations of California Prison Industry Authority

§ 8004.3.

Inmate Worker Controlled Substances/Alcohol Use.

(a) To request testing for the presence of controlled substances or for the use of alcohol by an inmate assigned to CALPIA, Administrator/Lead Manager shall contact the institution's Investigative Services Unit (ISU) Lieutenant in the following circumstances:

- (1) new hires pursuant to Section 8004.2(h); or
- (2) random drug testing for the duration of ~~inmate's~~ sincarcerated individual's work assignment; or
- (3) When there is reasonable suspicion to believe that an inmate is under the influence of a controlled substance or alcohol;
- (4) in the event of an industrial accident involving the inmate.

(b) The following circumstances shall determine if an inmate is un-assigned from CALPIA when testing under subdivision (a):

- (1) If a laboratory test is conducted, the suspected inmate shall leave CALPIA until test results are complete. The laboratory test results will determine if the inmate may return to CALPIA.
- (2) If an on-site testing of urine sample is conducted and the results are positive, the inmate shall leave CALPIA until further laboratory testing determines the following:
 - (A) Confirms the results of a positive, on-site, urine sample. Inmate shall be unassigned from CALPIA.
 - (B) Indicates on-site, urine sample is negative. The inmate may return to work at CALPIA.
- (3) Any inmate refusing to submit to testing for controlled substance or alcohol pursuant to a direction by CALPIA or CDCR shall be immediately unassigned from the CALPIA work/training program and treated as though a positive test was determined.
- (c) Any CALPIA inmate found in violation of Title 15, CCR, Section 3016 and/or 3290(d) shall be immediately removed from the CALPIA work/training program and required to meet minimum requirements pursuant to subsection 8004(b)(3) prior to reapplying for a CALPIA position. Any inmate found to be in violation of Title 15, CCR, Section 3016 and/or 3290(d) shall be immediately removed from the CALPIA work/training program, and may be subject to the provisions of Title 15, CCR, Section 3315, Serious Rule Violations.

Authority: Sections 2801 and 2808, Penal Code.

Reference: Sections 2801, 2805 and 2808, Penal Code.

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Title 15. Crime Prevention and Corrections

Division 8. California Prison Industry Authority

Chapter 1. Rules and Regulations of California Prison Industry Authority

§ 8004.4. Inmate Workforce Allocation.

(a) Prison Industries Administrators/Lead Managers at each facility shall be responsible to determine the inmate workforce allocation for each enterprise within their scope of authority.

(b) To maintain adequate production levels that support the volume of sales orders and service contracts, inmate positions shall be staffed in accordance with inmate worker hiring standards in Section 8004.1.

(c) A workforce allocation plan shall be submitted each fiscal year through the CALPIA budget process.

(d) The establishment of new or the revising of existing CALPIA ~~inmate~~incarcerated individual workforce allocations shall be accomplished as follows:

(1) New Enterprises. Prior to the activation of a new enterprise the Prison Industries Administrator/Lead Manager shall submit an inmate workforce allocation plan to the CALPIA Assistant General Manager, Operations Division via their CALPIA Enterprise Branch Manager for approval. The plan shall be jointly approved by the institution/facility's Warden or designee, and the CALPIA Assistant General Manager, Operations Division. The plan shall include:

(A) The projected total allocation of ~~inmate~~incarcerated individual workers required for each shift;

(B) A listing of positions designating no more than 25 percent of the total allocation of ~~inmates~~incarcerated individuals in each of the skill level categories as specified in Section 8006(d)(1); and

(C) The job description based on the Federal Bureau of Labor Statistics' Standard Occupational Classification (SOC) for each position.

(2) Existing Enterprises with changes of 15 percent or more. Prior to any changes of an existing ~~inmate~~incarcerated individual workforce allocation plan of 15 percent or more, the Prison Industries Administrator/Lead Manager shall submit changes to the CALPIA Enterprise Branch Manager for approval. The plan shall include:

(A) The allocation of ~~inmate~~incarcerated individual workers required for each shift;

(B) The SOC job description for each position; and

(C) The justification for revising an existing ~~inmate~~ allocation.

(3) Existing Enterprises with changes of less than 15 percent. Prior to any changes of an existing ~~inmate~~incarcerated individual workforce allocation plan of less than 15 percent, the Prison Industries Administrator/Lead Manager shall submit an informational copy of the changes justifying the revision in the ~~inmate~~incarcerated individual workforce allocation plan to their CALPIA Enterprise Branch Manager.

(4) For existing enterprises, changes to the inmate workforce allocation plan shall be jointly approved by the institution/facility's Warden or their designee, and the Prison Industries Administrator/Lead Manager.

(e) Exceptions to the workforce staffing allocation include:

(1) Increase or decrease in the volume of sales orders or service contracts;

(2) Emergency facility lockdowns which prevent inmates incarcerated individuals from an entire skill level or security level from working at a specific enterprise; or

(3) Any security situations deemed as unsafe working conditions by CALPIA staff, including the facility Prison Industries Administrators/Lead Managers, Branch Managers, Assistant General Manager, Operations Division, General Manager, or the institution/facility staff including the Warden/Chief Deputy Warden or their designee.

Authority: Sections 2801 and 2808, Penal Code.

Reference: Sections 2801 and 2805, Penal Code.

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§ 8005

§ 8005. Part-time Work.

(a) Part-time positions may be established to accommodate inmates incarcerated individuals who are enrolled and participating in a substance abuse program or any other CDCR rehabilitating program.

(b) ~~Inmates~~Incarcerated individuals will not be eligible for part-time work if they are no longer enrolled and actively participating in a substance abuse program or any other CDCR rehabilitating program.

(c) Part-time work assignments in CALPIA are exempt from subsection 8004.1(h).

Authority: Sections 2801 and 2808, Penal Code.

Reference: Sections 2801, 2805 and 2808, Penal Code.

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§ 8006

§ 8006. ~~Inmates~~Incarcerated individuals Pay Rates, Schedule and Movement.

(a) ~~Inmates~~Incarcerated individuals assigned to work programs within CALPIA shall receive compensation as determined by the General Manager and reviewed by the Prison Industry Board (PIB). Compensation shall be paid from the Prison Industries Revolving Fund, and shall be in accord with the graduated pay schedule, and based on quality and quantity of work performed, and technical skills and abilities required for its performance.

(b) Any proposed changes to the ~~Inmate~~Incarcerated Individual Pay Schedule shall be submitted by the General Manager to the PIB for review.

(c) Final determination of any disputes or interpretations of the ~~Inmate~~Incarcerated Individual Pay Schedule shall be made by the General Manager.

(d) CALPIA ~~inmate~~incarcerated individual pay rates shall be in accord with the following skill and step levels:

(1) ~~Inmate~~Incarcerated Individual Pay Schedule:

Skill Level	Step I	Step II	step III
Level 1 Leadperson (AA)	\$.80	\$.90	\$1.00
Level 2 Special Skills (A)	.70	.75	.80
Level 3 Technician (B)	.60	.65	.70
Level 4 Semi-Skill (C)	.50	.55	.60
Level 5 Laborer/Entry Trainee (D)	.35	.40	.45

(e) The Prison Industries Administrator/Lead Manager at each facility shall be responsible for the administration of the CALPIA ~~inmate~~incarcerated individual pay program, ensuring pay positions are properly classified and allocated.

(f) Movement between one pay rate to another pay rate shall be based upon the following:

(1) Pay increases. Increases shall not be automatic or solely based on the ~~inmate~~incarcerated individual's longevity in an assignment. Increases in the pay rate shall be based on the

inmate incarcerated individual's productivity (quantity and quality of work performed), the supervisor's recommendation, the inmate's work/training performance report, and shall be subject to the review and approval of the Prison Industries Administrator/Lead Manager.

(A) Inmates Incarcerated individuals may receive a pay increase for satisfactory performance after they complete three months of work in each step level, as described in subsection (d)(1) above.

(B) Inmates Incarcerated individuals pay increases from Step I to Step II and finally Step III shall be effective upon the Prison Industries Administrator/Lead Manager approval on the first day of the following month after the pay increase is administratively processed.

(2) Pay decreases. Reduction in pay shall be based on the immediate supervisor's recommendation, inmate incarcerated individual's less than satisfactory work performance, or inmate incarcerated individual misconduct as described in Title 15, California Code of Regulations (CCR), Division 3, Sections 3312, 3314, or 3315.

(A) Inmate Incarcerated individual pay decreases shall be effective upon the Prison Industries Administrator/Lead Manager review and approval on the first day of the following month after the pay decrease is administratively processed.

(3) Advancement. Inmates incarcerated individuals may advance to a higher skill level, as described in subsection (d)(1), with the immediate supervisor's recommendation and based upon the inmate's-incarcerated individual's demonstration of increased skill level, their work/training performance report, and shall be subject to the review and approval of the Prison Industries Administrator/Lead Manager.

(A) Inmates Incarcerated individuals may advance from one skill level to the next, after they complete one month of work in their current skill level, as described in subsection (d)(1) above.

(B) Inmates Incarcerated individual's advancement shall be effective upon the Prison Administrator/Lead Manager approval on the first day of the following month after the pay increase is administratively processed.

(C) An inmates incarcerated individual's longevity shall not be used as criteria for the purpose of upgrading skill level.

(4) Removal beyond an inmates incarcerated individual's control. Inmates Incarcerated individuals removed from their work assignment for reasons beyond their control, including, but not limited to out-to-court or lengthy hospital stay, may return to a CALPIA assignment at the same or closest level of pay to their former position, if a position is available, via the institution classification committee process, CCR, Title 15, Division 3, Section 3040.

Authority: Sections 2801, 2808 and 2811, Penal Code.

Reference: Sections 2806 and 2811, Penal Code.

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§ 8007. CALPIA ~~Inmate~~ Incarcerated Individual Appeals.

Unless otherwise stated in these regulations, CALPIA ~~inmate~~incarcerated individual workers are to utilize the regular appeal process which provides a remedy for ~~inmates~~incarcerated individuals with identified grievances, in accordance with Title 15, Division 3, Chapter 1, Article 8 of the California Code of Regulations (CCR).

Authority: Sections 2801 and 2808, Penal Code.

Reference: Section 2801, Penal Code.

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§ 8008. CALPIA Health or Safety Complaints.

(a) A health or safety complaint, as defined in Section 8000, shall not be submitted using the regular appeal process, Title 15, Division 3, Chapter 1, Article 8 of the CCR.

(b) Any urgent health or safety situation requiring immediate response should be reported to any CALPIA staff upon the ~~inmate~~incarcerated individual's initial discovery of the situation. A written health or safety complaint should not be used by ~~inmates~~incarcerated individuals as a substitute for verbally or otherwise informing staff of any urgent situation.

(c) A CALPIA ~~inmates~~incarcerated individuals alleging a health or safety hazard exists in a prison industry operation shall submit a written complaint, pursuant to Labor Code (LC) 6304.3(b). The written complaint shall be deposited in a readily accessible complaint box or by the complainant personally presenting the written complaint to any CALPIA staff member.

(d) Any CALPIA staff member receiving a written health or safety complaint shall personally present the complaint to a member of the local CALPIA Safety Committee.

(e) The CALPIA Safety Committee shall review and respond to the complaint within 15 calendar days of its filing. Any action taken by the Committee shall be in accordance with Title 8, CCR, Section 344.42.

(f) If the ~~inmate~~incarcerated individual complainant is not satisfied with the CALPIA Safety Committee response, the complainant may request the complaint be forwarded to the Division of Occupational Safety and Health, pursuant to LC 6304.3(b).

Authority: Sections 2801 and 2808, Penal Code.

Reference: Sections 2801, 2805 and 2807, Penal Code; and Section 6304.3, Labor Code.

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§ 8104. Employee Conduct.

(a) Employees shall be professional and courteous in their dealings with ~~inmates~~incarcerated individuals, ~~parolees~~individuals, fellow employees, visitors, and members of the public.

~~Inmates~~Incarcerated individuals and ~~parolees~~individuals shall be addressed by their proper names. ~~Inmates and parolees~~Incarcerated and paroled individuals shall not be addressed by derogatory or slang reference.

(b) Allegations made by employees regarding the misconduct of a CDCR Peace Officer shall be made in accordance with CCR, Title 15, Section 3391.

Authority: Sections 2801 and 2809, Penal Code.

Reference: Sections 2801 and 2809, Penal Code.

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§ 8107. Intoxicants.

(a) Employees of CALPIA are prohibited from delivering the following items to an ~~inmate~~incarcerated individual or parolees individual if not considered necessary for the execution of assigned job duties:

- (1) Intoxicants; or
- (2) Preparations or paraphernalia associated with intoxicants.

Authority: Sections 2801 and 2809, Penal Code.

Reference: Sections 2801 and 2809, Penal Code.

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§ 8115. Familiarity.

(a) For the purposes of this section, “familiarity” means engaging in conversation or any type of communication that includes personal topics.

(b) With exception to Section 8116, no employee shall engage in familiarity with inmates incarcerated individuals or parolees individual who are under the jurisdiction of CDCR.

(c) For work related purposes, an employee may converse with inmates incarcerated individuals or parolees individuals; conversations shall be limited to work related topics only.

Authority: Sections 2801 and 2809, Penal Code.

Reference: Sections 2801 and 2809, Penal Code.

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§ 8116. Employee Relations with Family Members under CDCR Jurisdiction.

(a) "Family member" as defined in Section 8000, applies to this section.

(b) An employee may conduct a relationship with an ~~inmate~~incarcerated individual ~~or who is under the jurisdiction of CDCR~~ if all of the following exist:

(1) the ~~inmate~~incarcerated individual or parolees individual is the employee's family member;

(2) interactions are conducted during employee's off-duty hours and away from the workplace;
and

(3) pursuant to disclosure set forth in subdivision (c) of this section.

(c) An employee shall notify his or her supervisor in writing of relationships described in subdivision (b). The supervisor shall provide the written notice to the General Manager, who will ensure notice is forwarded to the warden at the employee's assigned workplace and the appropriate CDCR Director.

Authority: Sections 2801 and 2809, Penal Code.

Reference: Sections 2801 and 2809, Penal Code.

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§ 8116.1. Disclosure of Persons Known under CDCR Jurisdiction, Incarcerated individual or Paroled Individuals.

(a) For the purpose of this section, "any person known by an employee" includes:

(1) Family members as defined in Section 8000;

(2) Current or past co-workers, clients, business partners, or anyone an employee works with or has worked with in a business setting; or

(3) Current or past neighbors, friends, associates, or companions.

(b) If an employee is aware of any person described in subsection 8116.1(a) who was previously or is currently committed to the jurisdiction of CDCR, an incarcerated individual, or a paroled individual, the employee shall make a disclosure as described in subdivision (c) of this section.

(c) An employee shall notify his or her supervisor in writing of anyone described in subdivisions (a) and (b). The supervisor shall provide the written notice to the General Manager who will ensure notice is forwarded to the warden at the employee's assigned workplace and the appropriate CDCR Director.

Authority: Sections 2801 and 2809, Penal Code.

Reference: Sections 2801 and 2809, Penal Code.

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§ 8117. Employee Transactions with ~~Inmates~~Incarcerated Individuals and ~~Parolees~~Individuals.

(a) Except as provided in Sections 8116, 8119, subdivisions (a) and (c), and 8119.1, no employee shall engage in any of the following transactions with an ~~inmate~~incarcerated individual or ~~parolees~~individual ~~who is under the jurisdiction of CDCR~~:

(1) directly or indirectly trade, barter, lend, give, promise to give or otherwise engage in transactions;

(2) convey or transmit any type of messages;

(3) take or deliver any unauthorized items.

(b) If an employee is contacted, asked, or coerced, other than under circumstances specified in subdivision (a) of this section, to engage in transactions described in subdivisions (a)(1), (2), and

(3) of this section, the employee shall immediately notify his or her supervisor, the Prison Industries Administrator, Manager, or Branch Manager verbally and in writing.

(c) Exceptions to subdivision (a) above are as follows:

(1) In the execution of their assigned duties, employees may interact with ~~inmate~~incarcerated individuals and ~~parolees~~individuals as necessary and deliver authorized items and messages according to institution policy and local procedures.

Authority: Sections 2801 and 2809, Penal Code.

Reference: Sections 2801 and 2809, Penal Code.

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§ 8118. Sexual Misconduct with ~~Inmate~~Incarcerated Individual or Paroleed Individual.

(a) Sexual Misconduct. For the purposes of this section, "sexual misconduct" means sexual behavior by a non-incarcerated individual who is on prison grounds on behalf of CALPIA that involves or is directed toward an ~~inmate~~incarcerated individual or parolees d individual.

(b) All sexual behavior between an employee and an incarcerated individual or parolees d individual constitutes sexual misconduct and shall subject the employee to disciplinary action.

(c) Any person engaging in sexual misconduct may be subject to possible prosecution under the law.

(d) Sexual misconduct includes, but is not limited to:

(1) Influencing or offering to influence an ~~inmate~~incarcerated individual or parolees d individual's safety, custody, housing, privileges, work detail, parole conditions or programming, or offering goods or services, in exchange for sexual favors;

(2) Threatening an ~~inmate~~incarcerated individual or parolees d individual's safety, custody, housing, privileges, work detail, parole conditions or programming because the ~~inmate~~incarcerated individual or parolees d individual has refused to engage in sexual behavior;

(3) Invading privacy beyond that reasonably necessary to maintain safety and security;

(4) Disrespectful or sexually threatening comments directed to, or within the hearing of, an ~~inmate~~incarcerated individual or parolees d individual or

(5) Engaging in sexual act(s) or contact, including:

(A) Sexual intercourse;

(B) Sodomy;

(C) Oral copulation;

(D) Penetration of genital or anal openings by a foreign object, substance, instrument or device for the purpose of sexual arousal, gratification, or manipulation; and

(E) Rubbing or touching of the breasts or sexual organs of another or of oneself, in the presence of and with the knowledge of another, for the purpose of sexual arousal, gratification, or manipulation.

(e) Penalties. All allegations of sexual misconduct shall be subject to investigation.

(f) Reporting Requirements. An employee who observes or receives information concerning sexual misconduct shall immediately report the information or incident directly to the Prison Industries Administrator, Manager, supervisor, or the highest-ranking official on duty at CALPIA Central Office, who shall then immediately report to the CDCR Office of Internal Affairs. An employee who fails to accurately and promptly report an incident, information, or facts that would lead a reasonable person to believe sexual misconduct has occurred may be subject to disciplinary action.

(g) Confidentiality. An alleged victim who reports criminal sexual misconduct shall be advised that his or her identity may be kept confidential from the public as described in Government Code Section 6254(f)(2). The alleged victim may request his or her identity to be kept confidential in court proceedings as described in Penal Code Section 293.5.

Authority: Sections 2801 and 2809, Penal Code.

Reference: Sections 289.6, 293.5, 2801 and 2809, Penal Code; and Section 6254, Government Code.

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§ 8119. Hiring of ~~Ex-Offenders~~ Previously Incarcerated or Paroled Individuals at CALPIA.

(a) The General Manager's written approval is required to offer employment at CALPIA to ~~an ex-offender~~ a previously incarcerated or paroled individual.

(b) ~~Ex-offenders~~ Previously incarcerated or paroled individuals employed at CALPIA shall not, without the General Manager's written approval, be assigned to areas that enable them to access:

(1) Employee records.

(2) ~~Inmate~~ Incarcerated individual personal or medical information.

(c) ~~An ex-offender~~ previously incarcerated or paroled individual shall not be appointed to any position until his or her background clearance is received.

Authority: Sections 2801 and 2809, Penal Code.

Reference: Sections 2801 and 2809, Penal Code.

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§ 8119.1. Approval of ~~Ex-Offender~~ Previously Incarcerated or Paroled Individual Employee Transactions.

Relationships involving business or financial transactions between employees and persons previously incarcerated or paroled ~~or under the jurisdiction of CDCR~~ shall require the advance approval of the General Manager.

Authority: Sections 2801 and 2809, Penal Code.

Reference: Sections 2801 and 2809, Penal Code.

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§ 8201. Personnel Testing and Prohibitions.

(a) Employees in designated sensitive positions are subject to drug, alcohol and substance use testing. CALPIA explicitly prohibits the use, possession, solicitation for, or sale of narcotics or other illegal drugs, alcohol, prescription medication and prohibited substances and substances adversely affecting work performance and workplace safety, on CALPIA property or worksite, including California Department of Corrections and Rehabilitation (CDCR) properties, facilities, locations and worksites or while performing an assignment, on duty or during assigned work hours.

(b) Employees shall not report for duty while under the influence.

(c) Employees shall report the presence of an employee who may be under the influence to the CALPIA Administrator, manager or supervisor.

(d) Employees and visitors of CALPIA are prohibited from bringing the following items to workplaces or onto institution grounds:

(1) Alcoholic beverages;

(2) Drugs or substances deemed illegal by operation of the law; or

(3) Controlled substances or prescription drugs without a valid prescription.

(e) Obtaining for or delivering to an ~~inmate~~incarcerated individual or parolee individual any one of the following is prohibited:

(1) Drugs or controlled substances of any kind;

(2) Substances deemed illegal by operation of the law; or

(3) Preparations or paraphernalia associated with drugs, controlled substances, or substances deemed illegal by operation of the law.

(f) An employee who violates subdivision (a), (b), (c), (d), or (e) may be subject to disciplinary action under the authority of the General Manager.

(g) Any person, including a visitor, is subject to this section, and upon violation of subdivision (a), (b), (c), (d), or (e) may be subject to criminal prosecution pursuant to Penal Code Sections 4573.5 through 4573.9.

(h) CALPIA shall pay the costs associated with performing confirmatory testing by a laboratory other than the one which performed the original test at the request of the employee.

Authority: Sections 2801 and 2809, Penal Code; and Sections 11349(e) and 19572, Government Code.

References: Sections 2801, 2809, 4573.5, 4573.6, 4573.8 and 4573.9, Penal Code.