

INITIAL STATEMENT OF REASONS:

The California Prison Industry Authority (CALPIA) and the California Prison Industry Board (PIB) propose the following regulatory action. Pursuant to the authority granted by the Legislature to the Prison Industry Board (PIB) and the California Prison Industry Authority (CALPIA), CALPIA and the PIB propose to amend Sections 8000, 8004.1 and 8004.2, in the California Code of Regulations (CCR), Title 15, concerning requirements for inmate educational achievements.

In Penal Code (PC) section 2808 the California Legislature provided the PIB with “*all powers to do all of the things that the board of directors of a private corporation would do . . .*” including approving CALPIA’s rulemaking proposals. Pursuant to Government Code section 11342.2, the proposed regulatory action is consistent and not in conflict with PC sections 2801 through 2808 (Prison Industry Authority) and is reasonably necessary to effectuate the purpose of PC sections 2801 through 2808.

The proposed regulatory action will be vetted through the PIB’s public process and promulgated through the regulatory process as specified in the Administrative Procedures Act (APA). The final rulemaking file will include the PIB Record of Vote on the proposed regulatory action. All rulemaking documents will be filed with the Office of Administrative Law (OAL) and are available to the public on CALPIA’s website.

Authority and Reference:

Penal Code Section 2800: In 1982, the California Legislature restructured the Department of Corrections’ industries and vocational training program for inmates abolishing the Correctional Industries Commission and replacing it with the newly created Prison Industry Authority (PIA) (subsequently renamed CALPIA) under the direction of the Prison Industry Board.

Penal Code Section 2807(a): Section 2807(a) provides that CALPIA is authorized and empowered to operate industrial, agricultural, and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. State agencies may purchase CALPIA products. The Legislature implicitly delegated to CALPIA the authority to adopt those rules and regulations necessary for the exercise of authority expressly granted to CALPIA. This delegation is evidenced by the fact that CALPIA and the PIB are granted these powers by statute for rulemaking authority.

Penal Code Section 2802: Section 2802 provides for the existence and powers of a Prison Industry Board (PIB).

Penal Code Section 2808: Section 2808 provides the PIB, in the exercise of its duties, all of the powers of and to do all of the things that the board of directors of a private corporation would do.

Problem Statement

The proposed regulatory action is necessary to provide revisions to inmate educational requirements for CALPIA inmate assignments. The identified need for this regulation is the following. The Prison Law Office believes that the educational focus on a High School

Diploma (HSD) or Graduate Equivalence Degree also known as General Education Diploma (GED), discriminates against DDP inmates who are unable to earn an HSD or GED. The proposed regulatory amendment is to accept a Certificate of Attendance and Participation (CAP), known as a Certificate of Participation, alternative for these individuals.

Purpose and Necessity of Regulations

The purpose and the necessity of this regulatory action are to eliminate potential discrimination against Developmentally Disabled Program (DDP) inmates with severe cognitive disabilities who have earned a Certificate of Attendance and Participation (CAP) referred to as a Certificate of Completion, from engaging in CALPIA assignments. The DDP is the California Department of Corrections and Rehabilitation's (CDCR) plan, policies, and procedures to ensure identification, an appropriate classification, housing, protection, and nondiscrimination of inmates with developmental disabilities. A developmental disability is a disability that originates before an individual attains the age of 18, continues or can be expected to continue indefinitely, and constitutes a substantial handicap for that individual.

Existing regulations require to participate in CALPIA assignments, within two years of the inmate's initial CALPIA assignment, an inmate must complete a General Education Diploma (GED) or high school diploma (HSD). This regulatory action permits a third option for DDP participants as they may earn a Certificate of Attendance and Participation (CAP) rather than obtaining a GED or HSD. The CAP validates that the inmate has satisfactorily completed a prescribed high school alternative course of study for employment applications, Department of Rehabilitation (DOR) services, and graduation participation. This option for students with severe cognitive disabilities is consistent with the practice in public education, and therefore, adding this option to CALPIA's regulations, affords nondiscriminatory access to CALPIA assignments. CDCR enters the CAP entered into the Certificates/Diplomas Awarded section in the Strategic Offender Management System (SOMS). The inmate is then eligible to participate in a CDCR graduation ceremony and, with this regulatory action, will meet the requirements for ongoing CALPIA assignments.

CALPIA does not discriminate employment or the admission and access to its programs or activities. Inmates with physical or developmental disabilities, or inmates 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 affords inmates reasonable accommodation to access programs as required by the Americans with Disabilities Act (ADA), the California Fair Employment and Housing Act (FEHA), and applicable nondiscrimination laws.

Consideration of Alternatives

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made more specific.

ECONOMIC IMPACT ASSESSMENT:

In accordance with Government Code Section 11346.3(b), CALPIA has made the following assessments regarding the proposed regulations:

Significant Statewide Adverse Economic Impact on Business:

CALPIA has determined that the proposed regulatory action will not have a significant adverse economic impact directly affecting businesses as they are not affected by the internal management of CALPIA. As a result, there will be no significant statewide adverse economic impact on businesses.

Creation or Elimination of Jobs within the State of California:

CALPIA has determined that the proposed regulatory action will have no impact on the creation or elimination of existing jobs or businesses within California because those jobs or businesses are not affected by the internal management of CALPIA. There is no actual change expected to operations. As a result, there will be no creation or elimination of jobs within the State of California as a result of this regulatory action.

Creation of New Businesses or Elimination of Existing Businesses within the State of California:

CALPIA has determined the proposed regulatory action will have no effect on the creation of new or elimination of existing businesses within the State of California because those businesses are not affected by the internal management of CALPIA. In addition, no actual change is expected to existing business operations within the State of California. As a result, there will be no creation or elimination of existing businesses within the State of California as a result of this regulatory action.

Expansion of Businesses Currently Doing Business within the State of California:

CALPIA has determined the proposed regulatory action will have no effect on the expansion of businesses currently doing business within the State of California because they are not affected by the internal management of CALPIA. As a result, there will be no anticipated expansion of businesses currently doing business within the State of California as a result of this regulatory action.

Benefits of the Regulations:

The proposed regulatory action will provide the following benefits:

- Eliminates the appearance of the possibility of disability discrimination in CALPIA inmate assignments.
- Provide revisions to inmate educational requirements for CALPIA inmate assignments.
- Meet the concerns of the Prison Law Office, which represents CDCR inmates on issues of discrimination.
- Supports CALPIA's goal that inmates with physical or developmental disabilities, or inmates 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.

Statement of Purpose and Issues Being Addressed:

Specific Purpose and Rationale, Per Government Code 11346.2(b)(1):

As noted above, the specific purpose and rationale for this regulatory action are to eliminate the possibility of disability discrimination in CALPIA inmate assignments by adding another option for educational accomplishments for DDP inmates.

Specific Regulatory Actions and Reasons:

Amend Section: 8000:

Section 8000 is amended to include a definition of the Certificate of Attendance and Participation (CAP) issued by CDCR's Office of Correctional Education (OCE).

Amend Section: 8004.1:

Section 8004.1 is amended to add the Certificate of Attendance and Participation (CAP) to the options available for meeting the educational accomplishments required to be completed within two years of the inmate's initial assignment with CALPIA to remain assigned and move down existing language to a new subsection (h).

Amend Section: 8004.2:

Section 8004.2 is amended to expand the means by which an inmate may comply with requirements to reach educational accomplishments within two (2) years of their initial CALPIA assignment to include a high school diploma, high school equivalency, a general education diploma, or a certificate of attendance and participation (CAP). Section 8004.2 is also amended to include the phrase "or prescribed high school alternative course of study" to provide for the option of enrollment in the CAP as meeting the requirements for ongoing CALPIA assignment.

Forms Incorporated by Reference: None.

Duplication or Conflicts with Federal Regulations:

The proposed regulatory action does not conflict with any federal standards.

Technical, Theoretical, and/or Empirical Studies, Reports and Documents Relied Upon:

None.