

**State of California
Office of Administrative Law**

In re:
California Prison Industry Authority

Regulatory Action:

Title 15, California Code of Regulations

Amend sections: 8000, 8004.1, 8004.2

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2021-0816-01

OAL Matter Type: Regular (S)

This action by the California Prison Industry Authority (CalPIA) amends inmate educational requirements for CalPIA inmate assignments. The proposed amendments permit a Developmentally Disabled Program inmate to submit a Certificate of Attendance and Participation in lieu of a high school diploma or general education diploma.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on January 1, 2022.

Date: November 18, 2021



**Nicole C. Carrillo
Attorney**

**For: Kenneth J. Pogue
Director**

**Original: Charles Pattillo, General
Manager**

Copy: Moira Doherty

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2021-0430-01	REGULATORY ACTION NUMBER 2021-0816-01S	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

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NOV 15 2021

STATE OF CALIFORNIA
OFFICE OF
ADMINISTRATIVE LAW

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

NOV 18 2021

2:07 PM

NOTICE

AGENCY WITH RULEMAKING AUTHORITY
California Prison Industry Authority

AGENCY FILE NUMBER (if any)

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		
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 Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE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) Inmate Worker Hiring Standards and Requirements (CAP)	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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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 8000, 8004.1, 8004.2
	REPEAL 15

3. TYPE OF FILING

<input checked="" 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"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<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"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

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 checked="" 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 type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
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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) moira.doherty@calpia
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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 William Davidson	DATE 11/4/2021
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TYPED NAME AND TITLE OF SIGNATORY
William Davidson, General Manager (A) and Delegate for Chair of the Prison Industry Board

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

NOV 18 2021

Office of Administrative Law

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

(See instructions on reverse)

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NOTICE	REGULATIONS
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OFFICE OF ADMIN. LAW
2021 AUG 16 PM2:12

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SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	AMEND
TITLE(S)	REPEAL
15	8000, 8004.1, 8004.2

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<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

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<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON M. Doherty	TELEPHONE NUMBER 916-358-1612	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional) piaregs@calpia.ca.gov
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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 DocuSigned by: William Davidson	DATE 8/5/2021
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TYPED NAME AND TITLE OF SIGNATORY
William Davidson, General Manager and Delegate for Chair of the Prison Industry Board

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Proposed Text

In the following text:

Single ~~strikeout~~ indicates deleted text.

Single underline indicates added text.

Title 15	Crime Prevention and Corrections
Division 8.0	California Prison Industry Authority
Section	8000

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 incarcerated individuals. Assorted programs within CALPIA are designed to teach incarcerated individuals various trades and necessary skill sets including education and life application skills.

“Certificate of Attendance and Participation” (CAP) means certificate of educational completion. This certificate issued by the California Department of Corrections and Rehabilitation (CDCR) Developmentally Disabled Program (DDP) for inmate students with severe cognitive disability to document completion of a prescribed high school alternative course of study for employment applications, Department of Rehabilitation (DOR) services, and graduation participation. The CAP is issued by CDCR through its Office of Correctional Education (OCE).

“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 incarcerated individuals.

"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 incarcerated individuals to certain standards and then certify that the 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~~ incarcerated individual worker regarding unhealthful or unsafe conditions or hazards at their place of employment.

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

"Incarcerated Individual Candidate Pool" means a pool of 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.

"Incarcerated individual compensation" means payment to the incarcerated individual worker with a graduated pay schedule based on the quality and quantity of work performed and the skill required of the incarcerated 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 Section 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 incarcerated individuals who are at an institution for a brief period of time such as at a reception center or incarcerated 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.

In the following text:

Single ~~strikeout~~ indicates deleted text.

Single underline indicates added text.

Title 15 Crime Prevention and Corrections
Division 8.0 California Prison Industry Authority
Section 8004.1

§ 8004.1. CALPIA 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 incarcerated individual's technical expertise, ability, and knowledge.

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

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

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

(5) Formal education and training evidenced by the incarcerated 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~~ incarcerated individual yards at the institution.

(b) 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) 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~~ incarcerated individual population resulting in ~~inmate~~ incarcerated individual worker unavailability.

(B) Institutions with a Level 1 ~~inmate~~ incarcerated individual population.

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

(e) 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~~ incarcerated individual workers shall complete a General Education Diploma (GED), ~~or~~ high school diploma, or Certificate of Attendance and Participation (CAP) unless that is not feasible due to disabling conditions documented in the incarcerated individual's C-File, in which case the ~~inmate~~ incarcerated individual worker must be concurrently enrolled in classes to obtain a GED, ~~or~~ high school diploma, or CAP while in a work assignment with CALPIA.

(h) CALPIA incarcerated individual ~~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.

In the following text:

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Single underline indicates added text.

Title 15 Crime Prevention and Corrections
Division 8.0 California Prison Industry Authority
Section 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 incarcerated individuals with the institution/facility's correctional counseling staff or the classification services staff.

(b) 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 incarcerated individual ~~inmate~~ population throughout institutions with CALPIA enterprises.

(c) Incarcerated individuals shall submit completed forms referenced in subsection (b) to the correctional counselor staff at the 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, incarcerated individuals who have applied for a CALPIA position and have been placed into CALPIA's ~~Inmate~~ Incarcerated Individual 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 incarcerated individuals from the ICP from the institution/facility Assignment Lieutenant responsible for maintaining the ICP list.

(2) Interview incarcerated individuals from the ICP list.

(3) Make the final selection of incarcerated individuals based on priority of the following educational achievements:

(A) High School Diploma, high school equivalency (HSE) or GED or Certificate of Attendance and Participation (CAP).

(B) Enrolled in GED program or prescribed high school alternative course of study.

(C) No Diploma/GED/HSE or CAP and not enrolled in an education program or prescribed high school alternative course of study.

(4) Submit a final list of successful ~~inmate~~ incarcerated individual applicants on the Offender Job Change Request Form (CALPIA ~~FORM~~ Form SOMS F001 (3/26/2016)), hereby incorporated by reference to the institution/facility's Assignment Lieutenant.

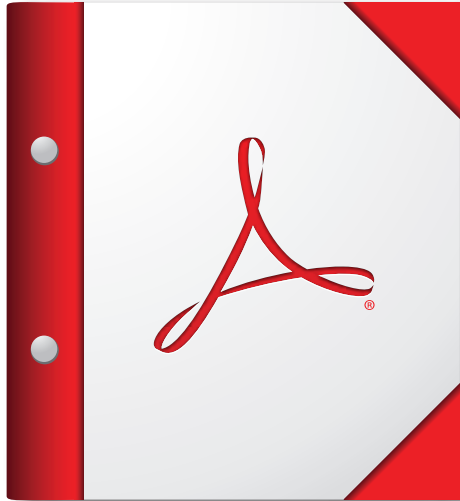
(g) In addition to the priorities set forth in subsection (f)(3)(A) through (C), CALPIA will also give consideration to part time CALPIA incarcerated individuals who graduate from a substance abuse program or complete any other CDCR rehabilitating programs when filling full time assignments.

(h) A urinalysis test shall be requested on all 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 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 cited: Sections 2801 and 2808, Penal Code.

Reference: Sections 2801 and 2805, Penal Code.



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