

California Code of Regulations
Title 15. Crime Prevention and Corrections
Division 8. California Prison Industry Authority
Chapter 1. Rules and Regulations of California Prison Industry Authority
Article 5. Grievances, Appeals, and Allegations of Staff Misconduct

INITIAL STATEMENT OF REASONS

SUMMARY

Incarcerated individuals have the right to submit a written grievance to dispute a policy, decision, action, condition, or omission by the California Prison Industry Authority (CALPIA) or CALPIA staff, receive a written decision to the grievance, appeal the decision made, and receive a written decision to the appeal. Although CALPIA and the California Department of Corrections (CDCR) are separate departments, CDCR processed and responded to CALPIA's written grievances and appeals submitted by incarcerated individuals. However, in 2020 CDCR restructured their grievance and appeal regulations as well as the regulations that address allegations of staff misconduct. In the restructuring of their grievance, appeal, and staff misconduct regulations, CDCR included a provision for grievances and appeals to be processed by CALPIA when the facts and circumstances involve CALPIA staff and operations¹. Therefore, it is necessary for CALPIA to promulgate its own grievance, appeal, and staff misconduct regulations for incarcerated workers.

AUTHORITY & REFERENCE

Penal Code section 2801 authorizes CALPIA to develop and operate industrial, agricultural, and service enterprises employing incarcerated individuals in institutions under the jurisdiction of CDCR.

Penal Code section 2808 authorizes the Prison Industry Board, 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.

Penal Code section 2809 establishes CALPIA as a department with its own authority to recruit and employ civilian staff as well as authorizes the General Manager the appointing authority for all personnel of CALPIA.

¹ Title 15, section 3481(e)

This regulatory proposal implements Penal Code section 2805, which authorizes CALPIA to assume jurisdiction over CALPIA operations, by adopting a grievance and appeal process for the redress of incarcerated individual grievances.

BACKGROUND

CALPIA is a self-supporting, autonomous, and customer-focused business that provides productive work assignments for approximately 7,000 incarcerated individuals within CDCR institutions. CALPIA manages over 100 manufacturing, service, and consumable operations throughout the state. The goods and services produced by CALPIA are sold predominately to state departments as well as other governmental entities. The goal of CALPIA is to provide work opportunities to incarcerated individuals, and provide job skills training with the potential of earning industry-accredited certifications.

Since 1989 incarcerated individuals have had the right to submit a written grievance to dispute a policy, decision, action, condition, or omission by the department or department staff, receive a written decision to the grievance, appeal the decision made, and receive a written decision to the appeal. Although CALPIA and CDCR are separate departments, CDCR processed and responded to CALPIA's written grievances and appeals submitted by incarcerated individuals. However, in 2020 CDCR restructured their grievance and appeal regulations as well as the regulations that address allegations of staff misconduct.

POLICY STATEMENT OVERVIEW

Problem Statement: In the restructuring of their grievance, appeal, and staff misconduct regulations, CDCR included a provision for grievances and appeals to be processed by CALPIA when the facts and circumstances involve CALPIA staff and operations². Therefore, it is necessary for CALPIA to promulgate its own grievance, appeal, and staff misconduct regulations for incarcerated workers.

This regulatory proposal describes CALPIA's process to increase access, reduce processing times, process urgent matters expeditiously, and reduce bias and the appearance of bias in the processing of incarcerated individuals claims. Each step in the process is designed to lead to either resolution of the claim(s) or the next step in the process toward resolution of the claim(s) in a timely and efficient manner.

This proposal also adopts a process to address incarcerated individual allegations of staff misconduct. It proposes to eliminate time constraints for filing an allegation and conducting investigations into allegations of excessive, unnecessary, or unreported use of force incidents as well as allegations sexual abuse and sexual harassment as defined in the Prison Rape Elimination Act of 2003 (PREA).

CALPIA has made every effort, where possible, to align its grievance and appeal regulations with CDCR's grievance and appeal regulations. This will help ensure that

² Title 15, section 3481(e)

CALPIA staff and CDCR staff are held to a similar standard and that incarcerated workers have a similar process for filing grievances and appeals with both departments.

Objectives

- Align CALPIA grievance and appeal regulations with CDCR's grievance and appeal regulations, to the extent possible, to avoid confusion and streamline processes.
- Formalize CALPIA's incarcerated individual grievance and appeal processes.
- Clarify roles and responsibilities of CALPIA staff involved in the grievance and appeal processes.
- Formalize the process for addressing allegations of staff misconduct.
- Expedite the processing of incarcerated individual grievances which contain information concerning personal safety, institutional security, and sexual misconduct.

Benefits

Formalizing the grievance and appeal process will:

- Provide incarcerated individuals with timely, well-reasoned responses to their grievances and appeals while resolving as many claims as possible at the lowest level possible.
- Help ensure safe and efficient work environments within each CalPIA enterprise.
- Improve CALPIA's transparency, integrity, and staff accountability.

CONSIDERATION OF ALTERNATIVES

CalPIA must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

ECONOMIC IMPACT ASSESSMENT

- | | |
|--|------|
| • Creation/Elimination of Jobs Within the State: | None |
| • Creation/Elimination of Business Within the State: | None |
| • Expansion of Business Within the State: | None |
| • Significant Adverse Impact on Business Within the State: | None |

Businesses are not affected by the internal management of CALPIA and the employment of incarcerated workers within CDCR institutions and CALPIA operations.

LOCAL MANDATE

CalPIA has determined that this regulatory action would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by part 7 (commencing with section 17500) of division 4 of the Government Code.

DOCUMENTS RELIED UPON

1. United States Department of Justice. *Prison Rape Elimination Act: Prison and Jail Standards Final Rule*, Docket No. OAG-131, p. 115.71 (2012).

DOCUMENTS INCORPORATED BY REFERENCE

1. CALPIA Grievance Form 602-1 (Rev. 10/23)
2. CALPIA Appeals Form 602-2 (Rev. 10/23)
3. CALPIA Request to Implement Remedies Form 602-3 (Rev. 10/23)

DISCUSSION OF EACH AMENDMENT

CALPIA proposes to:

Repeal Section 8007 and adopt new grievance and appeal regulations which will be included in proposed Article 5 of the Title 15, Division 8, Chapter 1 regulations. Section 8007 referred to the CDCR grievance and appeal regulations which CALPIA utilized to process incarcerated individual grievances and appeals. CDCR restructured their incarcerated individual grievance and appeals regulations which requires CALPIA to institute its own grievance and appeals processes for incarcerated workers.

Adopt Article 5 to establish the following sections in the California Code of Regulations:

- Definitions
- Incarcerated individual Right to Grieve and Appeal
- Submitting a Grievance
- Grievance Review
- Allegations of Staff Misconduct
- Submitting an Appeal
- Appeal Review
- Implementation of Remedy
- Rejection of a Claim

CALPIA proposes to adopt:

Section 8480. Definitions.

Subdivision (a) to make clear to the regulated community that all the provisions of Article 5 apply to all incarcerated individuals and parolees in relation to their grievances and appeals received by CALPIA. CALPIA and CDCR have entirely separate grievance and appeal processes now which is a substantial change to the previous process where CDCR did process CALPIA grievances and appeals.

Subdivision (b) to establish the meaning of words and define the terms used in this Article within the context of grievances, appeals, and staff misconduct. This provides for a common terminology enabling the reader to better understand their meaning and ensures consistent meanings throughout the regulatory text.

This section also incorporates three forms by reference:

- CALPIA Grievance Form 602-1 (10/23) to effectuate sections 8482, 8383, and 8484
- CALPIA Appeal Form 602-2 (10/23) to effectuate sections 8485 and 8486
- CALPIA Request to Implement Remedies Form 602-3 (10/23) to effectuate section 8487

Section 8481. Incarcerated Individual Right to Grieve and Appeal.

Subdivisions (a) and (b) to enable incarcerated individuals to submit one or more claims to express their dissatisfaction with CALPIA or CALPIA staff. These subdivisions establish what an incarcerated individual may grieve and that they may file an appeal if dissatisfied with a grievance decision. These subdivisions establish a Grievance Coordinator at each institution to review incarcerated individual grievances at the first level, and a single Appeals Coordinator to review incarcerated individual appeals at the second level. These subdivisions also establish that the incarcerated individual will receive a written response to each claim submitted at both the grievance and appeal levels to ensure due consideration and provide transparency to the incarcerated individual.

Subdivisions (a)(1) and (b)(1) to establish the authority responsible for rendering a decision on each claim within a grievance or an appeal. The staff designated to render grievance decisions are among the highest ranking positions within a CALPIA enterprise. The staff designated to render appeal decisions is a staff attorney. This conveys the importance given to each and every claim within a grievance or appeal. This also makes certain those responsible for ensuring compliance with the regulations are aware of the claims received at their enterprise. This is necessary to improve independence and reduce the potential for bias in the handling of incarcerated individual grievances and appeals.

Subdivision (c) to establish that an incarcerated individual may choose to informally resolve a claim, as this can often provide a more timely resolution; however, any attempt to informally resolve a claim does not extend the 60-day timeframe for submitting a grievance or appeal. The respective regulatory timeframe allotted to submit a grievance and appeal should enable an incarcerated individual to both attempt an informal resolution, should they so choose, and still meet the filing timeframes.

Subdivision (d) to allow incarcerated individuals the option to withdraw a claim that is not related to staff misconduct. The incarcerated individual may wish to withdraw a claim because it has been informally resolved or for another reason. This is necessary to minimize unnecessary claims while still addressing all allegations of staff misconduct. CALPIA considers allegations of staff misconduct serious in nature and wants to ensure that staff misconduct claims are reviewed, carefully considered, and that transparency in all matters related to staff misconduct is maintained.

Subdivision (e) to establish that staff retaliation against incarcerated individuals for filing claims or for attempting to informally resolve a claim is prohibited by CALPIA. This is necessary to ensure an open and accessible process so incarcerated individuals can address issues and resolve claims. Maintaining open communication to resolve issues and concerns in a respectful manner is conducive to a safer environment that will ultimately enhance CDCR's rehabilitative goals and lead to a more transparent and accountable work environment.

Subdivision (f) to inform the reader that incarcerated individuals are not allowed to submit CALPIA grievances and appeals that are not related to CALPIA or CALPIA staff. This is necessary because it would be inappropriate for CALPIA staff to attempt to render a grievance decision on an issue that lacks jurisdiction. This is also necessary to assist incarcerated individuals in understanding that not all issues that affect them are caused by CALPIA or CALPIA staff. The grievance may be toward another entity such as CDCR. This subdivision also establishes that CALPIA's grievance and appeal process does not prevent them from filing a claim with an outside entity.

Subdivision (g) to establish that CALPIA Grievance Form 602-1, CALPIA Appeal Form 602-2, and CALPIA Request to Implement Remedies Form 602-3 must be made available to incarcerated individuals at all CALPIA operations, factories, enterprises, and locations. Not all CALPIA locations have the same layout at each institution. For example, some enterprises have common areas where each 602 form is available. Other locations do not have common areas, and in those instances the incarcerated individuals need to request the 602 forms.

Subdivision (h) to ensure that all incarcerated individuals, with or without a disability, have access to and are able to participate in the grievance and appeal process. This subdivision informs Grievance Coordinators that they must provide reasonable accommodations that have been granted to the incarcerated individual and that any granted accommodations can be located on the Strategic Offender Management

System. This regulation helps ensure CALPIA is compliant with the American with Disabilities Act of 1990.

8482. Submitting a Grievance.

Subdivisions (a) through (b)(4) to establish a written grievance submission process and a reasonable deadline for filing a grievance within 60 calendar days. Establishing a written grievance process ensures that an incarcerated individual's grievance is on record and can be tracked as it progresses through the review process and potentially the appeal process.

CALPIA believes 60 calendar days allows time for an incarcerated individual to obtain the grievance form, prepare it, and collect supporting documentation while simultaneously working a full-time job and, in many cases, participating in rehabilitation programs in the evenings. A 60 calendar-day deadline helps ensure that grievances are filed as close to the event or incident as possible and that witnesses and records are available.

Subdivisions (b)(1)-(b)(4) provide several exceptions to the 60 calendar-day deadline for the purpose of not limiting an incarcerated individual's access to the grievance process due to circumstances beyond their control.

Subdivisions (c) through (c)(5) to establish rules for an incarcerated individual to follow when submitting a CALPIA Grievance Form 602-1. The six criteria listed will assist the CALPIA Grievance Coordinators in understanding who is filing the claim, why the claim is being filed, and the facts and supporting documents concerning the claim. Compliance with these rules will reduce the potential for staff misunderstanding the circumstances that led to the filing of the grievance and will result in a more efficient process.

Subdivisions (d) and (d)(1) to provide additional direction to the incarcerated individual when submitting a grievance and to any CALPIA employee who may receive a grievance form from an incarcerated individual. Submitting a grievance to the incarcerated individual's immediate supervisor or lead person helps ensure the grievance is routed to the CALPIA Grievance Coordinator and that a timely, non-biased review of the grievance may occur. Also, there are instances when incarcerated individuals submit grievances to a CALPIA staff person other than their immediate supervisor or lead person. CALPIA is addressing this issue by directing the CALPIA employee to immediately notify their direct supervisor or lead person, further ensuring that the grievance is routed to the CALPIA Grievance Coordinator.

Subdivision (e) to provide direction to paroled individuals on where they can mail their grievance. Paroled individuals may have a grievance concern while incarcerated but are released from incarceration prior to submitting the grievance. In this situation, the paroled individual has the opportunity to submit a grievance within 60 calendar days of discovery just as incarcerated individuals have the opportunity. This is necessary to

ensure all individuals under the jurisdiction of CDCR have the opportunity to submit a grievance for review. This is also necessary to avoid confusion since paroled individuals are not incarcerated, are not in a CALPIA work position, and therefore do not have the option to submit their grievance to a supervisor.

Subdivision (f) to provide direction to the incarcerated individual's supervisor who received the grievance. To address grievances in a timely manner, the supervisor must route the grievance to the CALPIA Grievance Coordinator within 24 hours of receipt. This is necessary to avoid delays and apply consistency in addressing incarcerated individual grievances.

Subdivisions (g)(1) through (g)(3) to establish reasonable guidelines when incarcerated individuals complete the CALPIA Grievance 602-1 form. If the incarcerated individual uses prohibited language, makes false claims, or contaminates the grievance, it will be rejected, and the incarcerated individual will need to resubmit the grievance. These guidelines are necessary to protect staff from a hostile or hazardous work environment.

Subdivision (h) to establish that an incarcerated individual will not be penalized when the grievance is submitted to non-CALPIA staff. There may be instances beyond the incarcerated individual's control when they are unable to submit the grievance to CALPIA staff. To address this issue, CALPIA recognizes that there could be significant delays in routing time when non-CALPIA staff routes a grievance to the appropriate CALPIA staff. As a result, the 60-day timeframe for CALPIA to respond to an incarcerated individual grievance begins when CALPIA receives the grievance, not when the grievance was initially submitted to non-CALPIA staff.

8483. Grievance Review.

Subdivisions (a) through (a)(4) to establish a process for Grievance Coordinators to assess each written grievance within one business day of receipt to determine if it contains information regarding urgent issues and ensure that the Grievance Coordinator takes action quickly and as required by federal and state laws. These provisions are necessary to protect incarcerated individuals as well as anyone else who may be involved in a matter related to subdivisions (a)(1)-(a)(4).

Subdivisions (b) and (c) to direct Grievance Coordinators to forward claims contained in a grievance to the appropriate authority for processing when applicable. In many instances, the grievance and appeal process is not the best method available to effectively address a particular request or concern. These subdivisions detail these instances, including when and to whom such a claim will be forwarded. This is necessary to ensure that claims that can be handled outside the grievance and appeal processes are routed to the appropriate entities for review and resolution.

Subdivision (c)(1) to notify a Grievance Coordinator who has received a redirected grievance from another Grievance Coordinator that the grievance will be considered

received on the date the grievance was originally received by the sending Grievance Coordinator. The receiving Grievance Coordinator must still respond to the grievance within 60 calendar days pursuant to subdivision (h). This is necessary to avoid penalizing the incarcerated individual for inadvertently submitting the grievance to the incorrect Grievance Coordinator.

Subdivision (d) to direct Grievance Coordinators to redirect all claims contained in a grievance that allege staff misconduct to General Counsel. Claims alleging staff misconduct will be reviewed by General Counsel and a decision made by General Counsel or redirected to the CDCR Office of Internal Affairs (OIA) for an investigation. Allegations of staff misconduct are a violation of law, policy, regulation, or procedure, and are taken very seriously at CALPIA, and therefore require a legal review.

Subdivision (e) to establish the responsibility of the Grievance Coordinator to provide the incarcerated individual with an acknowledgment of receipt of a grievance package within 14 calendar days. The 14 calendar days provide enough time for staff to review the grievance and complete all necessary intake and administrative functions. This provision is necessary to assure the incarcerated individual that their grievance has been received and to communicate the status of each claim contained in the grievance.

Subdivisions (f) through (f)(2) to establish when and how an interview will occur, including the expectation for privacy to the extent possible. The interview process is an important information-gathering step, as incarcerated individuals may have difficulty expressing themselves in writing. These subdivisions also establish that staff must document when an incarcerated individual is unable to be interviewed or refuses to be interviewed, as this is necessary to maintain a record of the efforts made to resolve a claim.

Effective communication is communication assistance provided to an incarcerated individual who is not fluent in English, has low literacy levels, or has a disability, which allows them to understand and participate in programs, services, and activities. The requirement in subdivision (f)(2) for the Grievance Coordinator to document that effective communication was achieved and how it was achieved for every grievance helps ensure that CALPIA staff has done what is necessary to assist the incarcerated individual in communicating and understanding all important information in relation to each claim.

Subdivisions (g) through (g)(2) to maintain a grievance review process that is done objectively and without an actual or perceived conflict of interest by excluding individuals from participation in the grievance process when a potential conflict of interest exists.

Subdivision (h) to establish a reasonable deadline for a Grievance Coordinator to complete a written decision for each claim contained in a grievance and provide the incarcerated individual with a clear understanding of each decision. Each claim has the potential for an interview with the grieving incarcerated individual, other incarcerated

individuals, and staff, as well as other fact-gathering activities that can take time. Once all the facts have been gathered, the Grievance Coordinator must make a decision, draft a response to each claim in the grievance, and finalize the grieving process. CALPIA believes that 60 calendar days is a reasonable amount of time to complete these tasks.

Subdivision (i) to establish that one of the decisions in subdivisions (h)(1) through (h)(5) must be provided for each claim contained in a grievance. No other decision may be provided other than those described, and the decision(s) must be made in writing. This also emphasizes that if there are multiple claims contained in a grievance, then multiple decisions must be made. This is necessary to address every concern that an incarcerated individual may have.

Subdivision (i)(1) to describe the meaning of a Grievance Coordinator's decision of 'denied.' This provides an incarcerated individual with a clear understanding that, by a preponderance of the evidence, all policies were followed, and that CALPIA or CALPIA staff did not make inappropriate decisions, take inappropriate action, or allow inappropriate conditions.

Subdivision (i)(2) to describe the meaning of a Grievance Coordinator's decision of 'granted.' This provides an incarcerated individual with a clear understanding that, by a preponderance of the evidence, at least one policy was not followed, or that CALPIA or CALPIA staff did make at least one inappropriate decision, took at least one inappropriate action, or allowed at least one inappropriate condition. In this situation, the Grievance Coordinator will order an appropriate remedy to correct the claim that has been 'granted.'

Subdivision (i)(3) to cross-reference the meaning of a Grievance Coordinator's decision of 'withdrawn' to subdivision 8481(d).

Subdivision (i)(4) to provide the incarcerated individual with a response to a claim within the required 60 calendar days, although the Grievance Coordinator was not able to fully evaluate the claim in that timeframe. Claims cannot always be evaluated within the required timeframe due to incarcerated individuals or staff not being able to be interviewed in a timely manner due to medical issues, vacations, or other issues. This provision is necessary to keep the incarcerated individual informed of the status of their claim and to ensure that a full review is conducted for each claim.

Subdivision (i)(5) to inform the incarcerated individual that their claim is classified as an allegation of staff misconduct. Since staff misconduct allegations are taken seriously by CALPIA, the Grievance Coordinator will automatically refer the claim to CALPIA General Counsel. General Counsel will review the claim as described in section 8484 and render a decision or forward the claim to CDCR OIA. This is necessary to keep the incarcerated individual informed of the status of their claim and to ensure that allegations of staff misconduct are reviewed by CALPIA's legal team.

Subdivision (j) to establish that each and every claim contained in a grievance must be responded to in writing and that the Grievance Coordinator has the option to provide the response(s) to an incarcerated individual through institutional mail or hand delivery. Institutional mail can take up to two weeks; therefore, CALPIA is providing an alternate method of providing the response(s) to the incarcerated individuals. This is necessary to ensure the claimant receives the decision regarding their claim and for record-keeping purposes.

8484. Allegations of Staff Misconduct.

Subdivision (a) to ensure that a claim identified as an allegation of staff misconduct by a Grievance Coordinator is forwarded to General Counsel. This is necessary to ensure an objective review of the claim without the appearance of reviewer bias or an actual or perceived conflict of interest. CALPIA believes 14 calendar days is a reasonable amount of time for a Grievance Coordinator to review a grievance and determine if it is an allegation of staff misconduct that requires being forwarded to General Counsel.

Subdivision (b) to direct General Counsel to ensure that a claim identified as an allegation of staff misconduct by a Grievance Coordinator is in fact an allegation of staff misconduct, as defined in section 8480. Staff misconduct claims are considered serious in nature and are processed in a different manner than claims that are not allegations of staff misconduct. This subdivision ensures staff misconduct claims are addressed according to this section and claims that do not allege staff misconduct are addressed according to section 8483.

Subdivisions (c) through (c)(5) to establish the responsibility of General Counsel to provide the incarcerated individual with an acknowledgment of receipt of an allegation of staff misconduct within 14 calendar days. Fourteen calendar days provides enough time for General Counsel to review the allegation, complete all necessary intake and administrative functions, and respond to the incarcerated individual. These provisions are necessary to assure the incarcerated individual that their grievance has been received by General Counsel and to communicate if an allegation of staff misconduct exists, as well as the status of the claim(s).

Subdivision (d) to establish the responsibility of General Counsel to analyze an allegation of staff misconduct claim and determine if it requires interviews and specialized fact-gathering. When a claim does require specialized fact-gathering, General Counsel will route the claim to the CDCR OIA to conduct an investigation. When a claim does not require interviews and specialized fact-gathering, General Counsel will make a determination pursuant to subdivision (f). This provision is necessary to ensure that each allegation of staff misconduct is processed at the lowest possible level.

Subdivision (e) to establish the responsibility of General Counsel to refer specific allegations to law enforcement or to the CDCR OIA for investigation. All allegations of sexual abuse and sexual harassment are required to be investigated to maintain

compliance with the Prison Rape Elimination Act of 2003³. Use of force allegations are required to be investigated and will be routed to the appropriate entity based on the circumstances and severity of the allegation to maintain safety in the institutions as well as assist in preventing future incidents.

Subdivision (f) to establish that one of the decisions in subdivisions (f)(1) through (f)(3) must be provided for each allegation of staff misconduct. No other decision may be provided other than those described, and the decision(s) must be made in writing. The final decision made for an allegation of staff misconduct will be based on CDCR OIA's investigation or General Counsel's review, according to subdivisions (d) and (e). This is necessary to address every allegation that an incarcerated individual has made.

Subdivision (f)(1) to describe the meaning of a decision of 'unfounded.' This provides an incarcerated individual with a clear understanding that, by a preponderance of the evidence, the facts which provided the basis for the allegation do not prove the allegation.

Subdivision (f)(2) to describe the meaning of a decision of 'sustained.' This provides an incarcerated individual with a clear understanding that, by a preponderance of the evidence, the facts which provided the basis for the allegation prove the allegation.

Subdivision (f)(3) to describe the meaning of a decision of 'no finding.' This provides an incarcerated individual with a clear understanding that the incarcerated individual is being referred to the agency that is involved or associated with the allegation or that the incarcerated individual is no longer available to provide additional information that would be helpful to this claim.

8485. Submitting an Appeal.

Subdivision (a) to establish a process for an incarcerated individual to appeal a grievance decision made by a Grievance Coordinator. This subdivision also establishes a 60 calendar-day deadline to submit an appeal to enable an incarcerated individual to obtain the appeal form, prepare the appeal, collect supporting documentation while simultaneously working a full-time job and, in many cases, participating in rehabilitation programs in the evenings. A 60 calendar-day deadline helps ensure appeals are filed as close to the event or incident as possible while still providing the incarcerated individual with the time needed to submit the appeal.

Subdivisions (b)(1) through (b)(4) to provide several exceptions to the 60 calendar-day deadline for the purpose of not limiting an incarcerated individual's access to the appeal process due to circumstances beyond their control.

³ United States Department of Justice. *Prison Rape Elimination Act: Prison and Jail Standards Final Rule*, Docket No. OAG-131, p. 115.71 (2012).

Subdivisions (c) through (c)(5) to establish rules for an incarcerated individual to follow when submitting a CALPIA Appeal Form 602-2. The seven criteria listed will assist the CALPIA Appeals Coordinator in understanding who is filing the appeal and why the incarcerated individual is dissatisfied with the grievance decision. Compliance with these rules will reduce the potential for staff to misunderstand the circumstances that led to the filing of the appeal and will result in a more efficient process. These subdivisions also provide direction to the incarcerated individual on where to mail the appeal to ensure it is sent to the CALPIA Appeals Coordinator which will assist in ensuring an impartial review.

Subdivisions (d) through (d)(3) to establish reasonable guidelines when an incarcerated individual completes the CALPIA Appeals 602-2 form. If the incarcerated individual uses prohibited language, makes false claims, or contaminates the appeal, it will be rejected, and the incarcerated individual will need to resubmit the appeal. These guidelines are necessary to protect staff from a hostile or hazardous work environment.

8486. Appeal Review.

Subdivisions (a) through (a)(4) to establish the responsibility of the Appeals Coordinator to provide the incarcerated individual with an acknowledgment of receipt of an appeal package within 14 calendar days. Fourteen calendar days provide enough time for the Appeals Coordinator to review the grievance and complete all necessary intake and administrative functions. These provisions are necessary to assure the incarcerated individual that their appeal has been received and to communicate the status of each claim contained in the appeal.

Subdivisions (b) through (b)(7) to ensure the Appeals Coordinator is able to conduct a thorough review of the appeal and reach a decision based on all available facts related to the claim. This can only be achieved when the full record is made available to the Appeals Coordinator. These provisions also notify CALPIA staff of their responsibility to ensure the documents described in (b)(1)-(b)(7) are made available to the Appeals Coordinator.

Subdivision (c) to establish that any new information contained in an appeal that was otherwise not made available to the Grievance Coordinator for their review will not be considered part of the record. This process is intended for an incarcerated individual to appeal a grievance decision that was reached as a result of a thorough review of all available facts related to the claim; therefore, including new information originally unavailable for consideration by a Grievance Coordinator would undermine the process.

Subdivision (d) to establish a reasonable deadline for the Appeals Coordinator to complete a written decision for an appeal. Resolving appeals has the potential for interviews with the appealing incarcerated individual, other incarcerated individuals, and staff, as well as other fact-gathering activities that can take time. Once all the facts have been gathered, the Appeals Coordinator must make a decision, draft a response, and

finalize the appeal process. CALPIA believes that 60 calendar days is a reasonable amount of time to complete these tasks.

Subdivision (e) to establish that one of the decisions in subdivisions (e)(1) through (e)(6) must be provided for each claim contained in an appeal. No other decision may be provided other than those described, and the decision(s) must be communicated in writing. This emphasizes that if there are multiple claims contained in an appeal, then multiple decisions must be made and communicated to the incarcerated individual. This is necessary to address every concern that an incarcerated individual may have.

Subdivision (e)(1) to describe the meaning of an Appeals Coordinator's decision of 'denied.' This provides an incarcerated individual with a clear understanding that, by a preponderance of the evidence, the decision the Grievance Coordinator made was correct. This means that all policies were followed and that CALPIA or CALPIA staff did not make inappropriate decisions, take inappropriate action, or allow inappropriate conditions.

Subdivision (e)(2) to describe the meaning of an Appeals Coordinator's decision of 'granted.' This provides an incarcerated individual with a clear understanding that, by a preponderance of the evidence, the decision made by the Grievance Coordinator was not correct. This means that at least one policy was not followed and that CALPIA or CALPIA staff did make at least one inappropriate decision, took at least one inappropriate action, or allowed at least one inappropriate condition. In this situation, the Appeals Coordinator will order an appropriate remedy to correct the claim that has been 'granted.'

Subdivision (e)(3) to cross-reference the meaning of an Appeals Coordinator's decision of 'rejected' to subdivision 8488(a).

Subdivision (e)(4) to cross-reference the meaning of an Appeals Coordinator's decision of 'withdrawn' to subdivision 8481(d).

Subdivision (e)(5) to provide the incarcerated individual with a response to an appeal within the required 60 calendar days, although the Appeals Coordinator was not able to fully evaluate the claim in that timeframe. Claims cannot always be evaluated within the required timeframe due to incarcerated individuals or staff not being able to be interviewed in a timely manner due to medical issues, vacations, or other issues. This provision is necessary to keep the incarcerated individual informed of the status of their appeal and to ensure that a full review is conducted for each claim.

Subdivision (e)(6) to describe the meaning of an Appeals Coordinator's decision of 'under investigation'. This provides the incarcerated individual with a clear understanding that their appeal concerns an allegation of staff misconduct and has been referred to the appropriate authority for further review and investigation as defined in section 8480.

Subdivision (f) to establish that the Appeals Coordinator must mail a copy of the written appeal decision to the Grievance Coordinator who provided the original grievance decision. This communicates the decision and any remedy granted by the Appeals Coordinator to the Grievance Coordinator to ensure timely implementation pursuant to section 3487. This is necessary to ensure the granted remedy is implemented and not overlooked.

8487. Implementation of Remedy.

Subdivision (a) to establish a timeframe of 30 calendar days for implementing a remedy and to notify an incarcerated individual of when they can reasonably expect to receive a granted remedy. CALPIA believes that 30 calendar days provides a practical amount of time for the grievance or appeal decision to be implemented. Also, when the granted remedy requires budgetary authority that would generally not be available to CALPIA until the following fiscal year, the regulation provides a one-year timeframe. In the state's budget process, requested changes are normally only accepted from CALPIA during a specified period occurring once each year. For granted remedies requiring budgetary changes, a one-year timeframe is needed to ensure compliance with this process.

Subdivision (b) to provide the incarcerated individual with the option to petition the issue directly with executive-level management, General Counsel, if a granted remedy has not been implemented pursuant to subdivision (a). There are a variety of possible reasons why a remedy may not have been implemented in 30 calendar days. The CALPIA Request to Implement Remedies Form 602-3 provides an incarcerated individual with the ability to submit a request for assistance in obtaining a remedy that was granted but not provided in a timely manner.

Subdivision (b)(1) to establish that an incarcerated individual will not be penalized when a CALPIA Request to Implement Remedies Form 602-3 is submitted to CDCR staff. There may be instances beyond the incarcerated individual's control when they are unable to submit the form to CALPIA staff. There could be significant delays in routing time when CDCR staff routes the form to the appropriate CALPIA staff. To address this issue, the form will be considered submitted on the day it was received by CALPIA, not when it was initially submitted to CDCR.

Subdivision (b)(2) to notify incarcerated individuals that they are not permitted to submit the form prior to the 30 calendar day implementation date to avoid unnecessary paperwork.

Subdivisions (c) through (c)(4) to provide directions for an incarcerated individual to follow when completing a CALPIA Request to Implement Remedies Form 602-3. Incarcerated individual compliance with these directions will reduce the potential for staff misunderstanding the request, help ensure that 30 calendar days have passed, and reduce delays by directing the incarcerated individual to mail the form to General Counsel instead of handing it in to the CALPIA Grievance Coordinator.

Subdivisions (d) through (e)(3) to direct General Counsel to route the form to the Grievance Coordinator for the purpose of informing the Grievance Coordinator that a granted remedy has not been implemented and to notify the Grievance Coordinator what they must do in response. Subdivisions (e)(1) through (e)(3) provide specific steps that must be taken by the Grievance Coordinator to ensure the remedy is implemented and the incarcerated individual's concern has been properly addressed.

Subdivisions (f) through (f)(3)(A) to direct General Counsel to notify the incarcerated individual when the granted remedy has been implemented. This is necessary to keep the incarcerated individual informed of the status of the granted remedy, properly address the incarcerated individual's concern, and set clear expectations for the incarcerated individual as to what can be expected in terms of communication and documentation.

8488. Rejection of a Claim

Subdivision (a) to establish uniform criteria for the rejection of grievance and appeal claims.

Subdivision (a)(1) to establish that a grievance or appeal claim will be rejected if it is not submitted within 60 calendar days unless the claim concerns an allegation of staff misconduct. This provision ensures an incarcerated individual is in compliance with subdivisions 8482(a) and 8485(a), and places a reasonable timeframe on the submission of claims. Also, allegations of staff misconduct are considered serious in nature; therefore, all allegation claims must be reviewed regardless of when discovery occurred.

Subdivision (a)(2) to establish that a grievance or appeal claim will be rejected if it is not submitted on the prescribed forms. Using the prescribed forms provides an incarcerated individual with guidance on the type of information that is needed to accurately review the claim, communicates to CALPIA staff that the incarcerated individual intends to file a claim, and allows CALPIA staff to document significant information directly on the form related to the claim. This provision also ensures an incarcerated individual is in compliance with subdivisions 8482(c)(1) and 8485(c)(1).

Subdivision (a)(3) to establish that a grievance or appeal claim will be rejected if it is not readable by the Grievance or Appeal Coordinators. Adequate communication of the issue is essential for the Grievance and Appeal Coordinators to properly address the claim. This provision ensures an incarcerated individual is in compliance with subdivisions 8482(c)(1) and 8485(c)(1).

Subdivision (a)(4) to establish that an appeal claim will be rejected if it has not been reviewed under the grievance review process. An appeal is the process of asking General Counsel to review the decision of a Grievance Coordinator. General Counsel cannot review a decision that has not been made. Also, the grievance process ensures facts regarding the claim are developed at the institution level where staff and

incarcerated individuals are frequently the most knowledgeable about the issue. It provides an opportunity for staff and the incarcerated individual to collaboratively determine an appropriate remedy.

Subdivision (a)(5) to establish that a claim will be rejected if it concerns an entity other than CALPIA or CALPIA staff. Although CALPIA enterprises operate within CDCR institutions, CALPIA staff and CDCR staff are separate hiring authorities. This provision makes clear to an incarcerated individual that CALPIA only reviews claims that concern CALPIA and also ensures an incarcerated individual is in compliance with subdivisions 8482(a) and 8485(a).

Subdivision (a)(6) to establish that a claim will be rejected if it is substantially similar to a prior claim made by the same incarcerated individual. When a grievance or appeal decision has been made, there is no need for the Grievance or Appeal Coordinator to review a claim and make a decision that has already been made.

Subdivision (a)(7) to establish that a claim will be rejected if it concerns harm to a person other than the person who signed the grievance or appeal form. This is necessary to avoid frivolous claims. The exception made in this provision is when the claim is an allegation of staff misconduct. Allegations of staff misconduct are considered serious in nature and these types of claims will be reviewed according to section 8484 regardless of who signed the form.

Subdivision (a)(8) to establish that a grievance or appeal claim will be rejected if it is contaminated. This is necessary to protect the safety and security of staff. This provision also ensures an incarcerated individual is in compliance with subdivisions 8482(g)(3) and 8485(d)(3).

Subdivisions (a)(9) to establish that a claim will be rejected if it concerns the grievance and appeal processes as described in this regulatory proposal. The public, including incarcerated individuals, have the opportunity to provide comments on the proposed regulations as they are being promulgated under the Administrative Procedures Act. Once the regulations have been published, the grievance and appeal processes cannot be disputed using the grievance process.

Subdivisions (b) through (b)(2) to establish how a decision is reached when rejecting a claim as untimely, including the dates that were used to reject the claim. This information helps an incarcerated individual understand why the claim was rejected and provide them with the option to dispute a rejection when they believe factual inconsistencies exist.

Subdivisions (c) through (c)(4) to establish the specific instances in which a rejected grievance claim may be appealed. These provisions give an incarcerated individual the opportunity to have a grievance decision reviewed for appropriateness and provide clarifying information. This is necessary to enable CALPIA to remedy an error made by a Grievance Coordinator.

Subdivisions (d) through (e) to establish the specific instances in which a rejected claim may not be appealed. These provisions provide clarity and direction in relation to when a grievance must be resubmitted for review and maintains consistency with subdivision (a).