

NOTICE OF PROPOSED RULEMAKING
California Code of Regulations
Title 15. Crime Prevention and Corrections
Division 8. California Prison Industry Authority
Notice Published: February 2, 2024

Notice is hereby given that the California Prison Industry Authority (CalPIA) and the Prison Industry Board (PIB) propose the regulation amendment described below. This notice of proposed rulemaking (Notice) commences a rulemaking to make the regulations permanent after considering all comments, objections, contentions, and recommendations regarding the regulation.

PUBLIC PROCEEDINGS

CalPIA is conducting a 45-day written public proceeding during which time any interested person may represent statements or arguments (hereinafter referred to as 'comments') relevant to the action described in the Informative Digest portion of this Notice.

Please direct any inquiries regarding this action or questions of substance of the proposed regulatory action, or for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to the below-referenced persons:

Primary Contact

Kelly Mortenson, Regulations Manager
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Kelly.mortenson@calpia.ca.gov

Secondary Contact

Christine Pesce, Executive Assistant
California Prison Industry Authority
560 East Natoma Street, Folsom, CA 95630
Christine.pesce@calpia.ca.gov

PUBLIC COMMENT PERIOD

Written comments pertaining to this regulatory proposal, regardless of the method of transmittal, must be received by the Legal Services Unit at CalPIA by 5:00pm on **March 19, 2024**, which is designated as the close of the written comment period. Comments received after this date will not be considered timely. To submit comments regarding the proposed regulation, any interested person may use one of the following methods:

MAIL/HAND DELIVER

Regulatory Manager
CALPIA/Legal Services Unit
560 East Natoma Street
Folsom, CA 95630

FAX

(916) 358-2709

E-MAIL

PIAregs@calpia.ca.gov

Due to technological limitations, emails larger than 15 megabytes (MB) may be rejected and will not be delivered and received by CalPIA. Emails larger than 15 MB should be submitted in separate emails or another form of delivery should be used.

CalPIA requests, but does not require, that reports or articles in excess of 25 pages submitted with comments include a summary of the report or article. This summary should include a concise overview of the report or article, describe the reason for submitting the report or article and describe the relevance of the report or article to the proposed regulation. Please note that under the California Public Records Act (Gov. Code Section 6250, *et. seq.*) your written and oral comments, attachments, and associated contact information (*e.g.*, your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

PUBLIC HEARING

At this time, no public hearing has been scheduled concerning the proposed regulatory action. Any interested person may request a public hearing by contacting Kelly Mortenson at Kelly.mortenson@calpia.ca.gov. Requests for public hearings must be made no later than **March 4, 2024**.

ASSISTIVE SERVICES

For individuals with disabilities, CalPIA will provide assistive services which include an interpreter, documents made available in an alternate format, or another disability-related reasonable accommodation. To request assistive services, please contact the Reasonable Accommodation Coordinator at reasonableaccommodation@calpia.ca.gov as soon as possible, but no later than 10 business days before a scheduled hearing.

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.

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.

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.

DISCLOSURES

Fiscal Impact

Cost or savings to any state agency: None
Cost to any local agency or school district None
Other nondiscretionary cost or savings imposed on local agencies None
Cost or savings in federal funding to the State: None

Statement of Results of the Economic Impact Assessment

CalPIA has determined that this regulatory proposal will have no impact on the creation or elimination of existing jobs within the State of California. Businesses are not affected by the internal management of CalPIA.

CalPIA has determined that this regulatory proposal will have no impact on the creation, elimination, or expansion of businesses within the State of California as well as no significant adverse impact on business because businesses are not affected by the internal management of CalPIA.

The proposed regulations are expected to affect incarcerated worker safety by ensuring that incarcerated individuals have access to proper grievance and appeal processes that address work safety, among other issues. The proposed regulations are not expected to affect the health and safety of the California public or the state’s environment.

Housing Costs

CALPIA has determined that the proposed action will not have a significant effect of housing costs.

Significant Statewide Adverse Economic Impact on Business

CalPIA has initially determined that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because they are not affected by the internal management of CalPIA.

Mandated by Federal Law or Regulation

The proposed regulations are not federally mandated.

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.

Cost Impacts on Representative Person or Business

The agency is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Small Business

CalPIA has initially determined that the proposed action will not have an effect on small businesses because they are not affected by the internal management of CalPIA.

Mandated Use of Specific Technologies, Equipment, Actions or Procedures

The proposed regulatory action does not mandate the use of specific technologies, equipment, actions, or procedures.

Other Statutory Requirements

Not Applicable

AVAILABILITY

Rulemaking Record

CalPIA will have the rulemaking record available for inspection and photocopying throughout the rulemaking process. The Proposed Text, Initial Statement of Reasons, *and all information upon which this proposal is based* have been placed in the rulemaking record, which is available to the public upon request directed to the CalPIA contact person referenced above or by visiting the [CalPIA regulations webpage](#). Following its preparation, the Final Statement of Reasons may be obtained by contacting the CalPIA contact person referenced above or by visiting the [CalPIA regulations webpage](#).

Changes to Proposed Regulation Text:

After considering all timely and relevant comments received, the PIB may approve the proposed regulations as described in this Notice. If CalPIA makes modifications which are sufficiently related to the originally proposed text, it will make the modified text available to the public for at least 15 days before the PIB reviews and approves the regulations as revised. CalPIA will accept written comments on the modified regulations for 15 days after the date on which they are made available. Requests for copies of any modified regulation text should be directed to the contact person indicated above or can be viewed by visiting the [CalPIA regulations webpage](#).

INFORMATIVE DIGEST

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.

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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.

¹ Title 15, section 3481(e)

² Title 15, section 3481(e)

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 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.

EVALUATION OF INCONSISTENCY OR INCOMPATIBILITY WITH EXISTING STATE AND FEDERAL REGULATIONS

CALPIA evaluated whether the proposed regulations are inconsistent or incompatible with existing state regulations. This evaluation included a review of CDCR and CalPIA laws, as well as those statutes and regulations related to this subject. CalPIA has determined that no other state regulation addresses the same subject matter, and there are no existing state or federal regulations with which the proposed regulations conflict or with which they are incompatible.

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)

MANDATED BY FEDERAL LAW OR REGULATIONS

Not Applicable