

15-Day Renotice Text

TEXT OF PROPOSED REGULATIONS

In the following text underlining indicates adopted text.

CHAPTER 1. RULES AND REGULATIONS OF CALIFORNIA PRISON INDUSTRY AUTHORITY

Article 1. Scope of Authority

Section 8000 is amended to adopt the definitions below and merge them alphabetically with those that exist in the regulations.

8000. Definitions

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

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

Inmate Candidate Pool means a pool of inmate 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.

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.

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 inmates who are at an institution for a brief period of time such as at a reception center or inmates whose sentences are shorter in duration.

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

Article 3. CALPIA Inmate Work/Training and Education

New Sections 8004 through 8004.4 are adopted to read:

8004. Participation.

(a) Inmates committed to the custody of the California Department of Corrections and Rehabilitation may apply to participate in CALPIA work and training programs. Inmates who have met the requirements in Section 8004.1 may be assigned to an appropriate work position allowing the inmate to earn funds and acquire or improve effective work habits and occupational skills.

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

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

(2) Inmates with a history of escape; including, but not limited to an actual escape, an attempted escape, correspondence or any documentation describing an escape plan or escape contraband found in their living quarters including digging, cutting or other objects that could be used for escape;

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

(c) Inmates convicted of crimes specified below, who are otherwise eligible for a CALPIA assignment shall be restricted as follows:

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

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

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

(4) Inmates convicted of computer related crimes shall not be assigned to CALPIA clerical positions.

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

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

(2) Inmates with Close B Custody designation may be considered for a CALPIA assignment that conforms with the requirements identified in California Code of Regulations (CCR), Title 15, Division 3, Section 3377.1(a)(4) on a case-by-case basis, with the approval of the Warden at the institution/facility.

(3) Institutions/facilities with a transient population resulting in inmate worker unavailability may utilize inmates with Life sentences, but shall not exceed twenty-five (25%) of the workforce per institution/facility.

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

(e) Inmates placed on Immigration and Customs Enforcement (ICE) Hold status by CDCR shall not be issued a CALPIA external accredited certificate.

NOTE: Authority cited: Sections 2801 and 2808 Penal Code. Reference: Sections 290, 2702, 2801, 2805, and 5071 Penal Code.

8004.1 CALPIA Inmate Worker Hiring Standards and Requirements.

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

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

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

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

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

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

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

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

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

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

(B) Institutions with a Level 1 inmate population.

(d) Inmates shall meet a minimum education requirement of a Test of Adult Basic Education (TABE) score of 9.0 prior to assignment.

(e) Institutions with inmate populations whose educational levels do not meet the above minimum education level and are unable to meet CALPIA workforce needs may utilize the alternate intake requirement of a TABE score of 7.0 prior to assignment to a CALPIA position.

(f) Inmates 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) or (e), unless the accommodation would result in financial or administrative burden, or unsafe working conditions for CALPIA.

(g) 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.

(h) Within two years of initial CALPIA assignment, CALPIA inmate workers, regardless of their TABE score, shall be required to complete a General Education Diploma (GED) or high school diploma. CALPIA inmate workers shall remain in their current skill level, as specified in Section 8006(d)(1), while completing a GED or high school diploma and shall not be allowed to promote to a higher pay skill level until this educational requirement is satisfied.

NOTE: Authority cited: 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.

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 inmates with the institution/facility's correctional counseling staff or the classification services staff.

(b) The CALPIA Inmate Worker Application Form IEP-F002, which is incorporated by reference, shall be made available by CALPIA staff to the inmate population throughout facilities with CALPIA enterprises.

(c) Inmates applying for a CALPIA work/training position shall complete CALPIA Form IEP-F002 and shall submit it to the correctional counselor staff at the inmate's facility.

(d) The Prison Industries Administrator/Lead Manager shall, in coordination with the correctional counselor staff, conduct a central file review, ensuring eligibility standards and requirements, in sections 8004 and 8004.1 are met.

(e) Upon confirmation of program eligibility, inmates who have applied for a CALPIA position and have been placed into CALPIA's Inmate Candidate Pool (ICP) may be assigned to an appropriate work program in accordance with California Code of Regulations (CCR), Title 15, Division 3, Section 3040(c).

(f) Upon the availability of a vacant CALPIA position, CALPIA enterprise staff shall:

(1) Request a list of eligible inmates from the ICP from the institution/facility Assignment Lieutenant responsible for maintaining the ICP list.

(2) Interview inmates from the ICP and make the final selection of inmates.

(A) ICP shall be prioritized by the following educational achievements:

1. High School Diploma or GED

2. Enrolled in GED program

3. No Diploma/GED and not enrolled in an education program

(3) Submit a final list of successful inmate applicants in writing to the institution/facility's Assignment Lieutenant.

NOTE: Authority cited: Sections 2801 and 2808 Penal Code. Reference: Sections 2801 and 2805 Penal Code.

8004.3. Controlled Substances/Alcohol Use

(a) When there is reasonable suspicion to believe that a CALPIA inmate is under the influence of a controlled substance or alcohol, CALPIA shall contact the ISU Lieutenant for the purpose of testing for the presence of controlled substances or for the use of alcohol.

(b) Any inmate found to be in violation of CCR, Title 15, Division 3, Section 3016 shall be immediately removed from the CALPIA work/training program, and may be subject to the provisions of CCR, Title 15, Division 3, Section 3315, Serious Rule Violations.

(c) Any CALPIA inmate found in violation of Section 3016 shall have a minimum of six (6) months of disciplinary/drug/alcohol-free conduct and a minimum of 90 days of satisfactory work as reported on an institutional Work Supervisor's Report, CDC 101 (1/92) prior to reapplying for a CALPIA position.

NOTE: Authority cited: Sections 2801 and 2808 Penal Code. Reference: Sections 2053, 2801, 2805, and 2808 Penal Code.

8004.4. Inmate Workforce Allocation

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

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

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

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

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

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

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

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

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

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

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

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

(3) Existing Enterprises with changes of less than 15 percent. Prior to any changes of an existing inmate workforce allocation plan of less than 15 percent, the Prison Industries

Administrator/Lead Manager shall submit an informational copy of the changes justifying the revision in the inmate workforce allocation plan to their CALPIA Enterprise Branch Manager.

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

(e) Exceptions to the workforce staffing allocation include:

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

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

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

NOTE: Authority cited: Sections 2801 and 2808 Penal Code. Reference: Sections 2801 and 2805 Penal Code.