

## TEXT OF PROPOSED REGULATIONS

In the following text:

**underline** indicates added or amended text

**~~strikeout~~** indicates deleted text

### Title 15. Crime Prevention and Corrections

#### DIVISION 8. CALIFORNIA PRISON INDUSTRY AUTHORITY

#### CHAPTER 1. RULES AND REGULATIONS OF CALIFORNIA PRISON INDUSTRY AUTHORITY

#### Article 1. Scope of Authority

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

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

“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 civil service. The term employee does not include inmates.

“Enterprises” means organized business practices ~~within CALPIA~~ that comprise manufacturing, agriculture and various other ~~services~~ 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 inmates to certain standards and then certify that the inmate 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 administrative officer of the CALPIA.

“Health or Safety Complaint” means any written allegation made by a CALPIA inmate worker regarding unhealthful or unsafe conditions or hazards at their place of employment.

“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.

“Inmate compensation“ means payment to the inmate worker with a graduated pay schedule based on the quality and quantity of work performed and the skill required of the inmate 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, products containing toluene, paint thinner, paint, fingernail polish, lacquer, gasoline, kerosene, and adhesives.

“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 PC 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 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.

“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 (PDA), 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.

NOTE: Authority cited: Sections 2801 and ~~2808~~ 2809, Penal Code. Reference: Sections 2800, 2801, 2803, 2805, 2806, 2807, 2808, 2809 and 2811, Penal Code; Sections 6303 and 6304.3, Labor Code

## **Article 6. Personnel**

**New sections 8100 through 8120 are adopted to read:**

### **8100. Executive Staff.**

(a) The General Manager is the chief officer for CALPIA and the appointing authority for all employees.

(b) The General Manager shall establish an Executive Staff for the CALPIA, which shall consist of Assistant General Managers, a General Counsel, a Chief Financial Officer, and a Chief of External Affairs.

(c) The General Manager shall appoint the Prison Industry Manager or the Prison Industry Administrator of an enterprise as the chief administrative officer of that enterprise. The chief administrative officer of an enterprise is responsible for the oversight, training, and discipline of all employees under his or her charge.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Section 2809, Penal Code.

### **8102. Identification Card.**

(a) Each employee shall be issued an identification card granting access to institutions and workplaces as required for the performance of his or her duties. While on duty, each employee shall carry his or her identification card and produce the card upon request. An employee shall promptly report the loss of his or her identification card to his or her supervisor who shall immediately do one of the following:

(1) When the employee is assigned to a workplace located at an institution, follow CDCR local rules and notify Human Resources at Central Office.

(2) When the employee is assigned to a workplace not located at an institution, notify Human Resources at Central Office.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801 and 2809, Penal Code.

**8104. Employee Conduct.**

(a) Employees shall be professional and courteous in their dealings with inmates, parolees, fellow employees, visitors, and members of the public. Inmates and parolees shall be addressed by their proper names. Inmates and parolees shall not be addressed by derogatory or slang reference.

(b) Allegations made by employees regarding the misconduct of a CDCR Peace Officer shall be made in accordance with CCR, Title 15, Division 3, Section 3391.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801 and 2809, Penal Code.

**8105. Reporting of Arrest, Conviction, or Change in Driving Status.**

(a) If an employee is arrested for or convicted of a violation of law, the employee shall notify his or her supervisor.

(b) Restrictions to an employee's driving privilege that interfere with his or her job duties shall be reported by the employee to his or her supervisor.

(c) Misconduct that impairs an employee's ability to do his or her job, causes discredit to, or affects or involves CALPIA may be cause for disciplinary action.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801 and 2809, Penal Code.

**8106. Drugs and Controlled Substances.**

(a) Employees shall not report for duty while under the influence.

(b) Employees shall report the presence of an employee on duty, or on standby for duty, who may be under the influence to the Prison Industries Administrator, Manager, or supervisor.

(c) Employees and visitors of CALPIA are prohibited from bringing the following items to workplaces or onto institution grounds:

(1) Alcoholic beverages;

(2) Drugs or substances deemed illegal by operation of the law; or

(3) Controlled substances or prescription drugs without a valid prescription.

(d) Obtaining for or delivering to an inmate or parolee any one of the following is prohibited:

(1) Drugs or controlled substances of any kind;

(2) Substances deemed illegal by operation of the law; or

(3) Preparations or paraphernalia associated with drugs, controlled substances, or substances deemed illegal by operation of the law.

(e) An employee who violates subdivisions (a), (b), (c), or (d) shall be subject to disciplinary action under the authority of the General Manager.

(f) Any person, including a visitor, who violates subdivision (c) or (d) shall be subject to criminal prosecution pursuant to Penal Code Sections 4573.5 through 4573.9.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801, 2809, and 4573.5, 4573.6, 4573.8 and 4573.9, Penal Code.

**8107. Intoxicants.**

(a) Employees of CALPIA are prohibited from delivering the following items to an inmate or parolee if not considered necessary for the execution of assigned job duties:

(1) Intoxicants; or

(2) Preparations or paraphernalia associated with intoxicants.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801 and 2809, Penal Code.

**8108. Unauthorized Electronic Communication Devices.**

(a) The possession or use of an unauthorized electronic communication device by an employee or visitor inside a workplace or within the secure perimeter of an institution is prohibited.

(b) Employees and visitors shall maintain and lock their unauthorized electronic communication devices in their personal or state vehicles while on institution grounds or in workplaces.

(c) Unauthorized electronic communication devices shall be subject to confiscation.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Section 2809, Penal Code.

**8110. Employee Work Schedules.**

Each immediate supervisor, with the approval of the General Manager or the General Manager's designee, shall determine the work schedules for all employees under his or her authority.

Employee work schedules will be in accordance with state civil service rules.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801 and 2809, Penal Code.

**8111. Light Duty Assignments and Reasonable Accommodations.**

(a) Light Duty Assignment. For the purposes of this section and Section 8112, “light duty assignment” means a temporary work assignment for an employee with documented medical restrictions arising out of a work-related injury or illness or a non-industrial injury or illness, who cannot perform the essential functions(s) of his or her job, for a limited duration.

(b) Reasonable Accommodation. For the purposes of this section, “reasonable accommodation” means any modifications or adjustments to a job or work environment that will enable a qualified applicant or employee with a disability to perform the essential functions of the job. Essential functions cannot be waived as a form of reasonable accommodation.

(c) All light duty assignments or reasonable accommodations shall be determined by the General Manager or the General Manager’s designee.

(d) Employees shall submit requests for light duty assignment or reasonable accommodations to their supervisor.

(e) Upon receipt of an employee’s request, the supervisor shall immediately contact the Return-to-Work Coordinator (RTWC) at Central Office regarding the employee’s request. The supervisor and the RTWC shall work cooperatively to immediately begin the interactive process with the employee regarding light duty assignment or reasonable accommodation.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801 and 2809, Penal Code.

**8112. Limited-Term Light Duty Assignments.**

(a) The General Manager may utilize limited-term light duty assignments to allow an employee with documented medical limitations to work. The General Manager may place the employee in

a vacant budgeted position within the employee's bargaining unit or the employee may be permitted to work in his or her current position, while temporarily waiving the essential functions of his or her job.

(b) Positions will not be permanently identified as "light duty." Limited-term light duty for one employee shall not exceed 60 calendar days in a 6-month period for medical condition(s).

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801 and 2809, Penal Code.

#### **8114. Legal Matters.**

(a) An employee who is subpoenaed to testify before a court or other tribunal in connection with a matter, event, or transaction of which he or she gained knowledge during the course of his or her duties shall notify CALPIA's General Counsel, Legal Services in writing within one business day. The written notification shall include all relevant information concerning the contact, copy of any subpoena, and a summary of his or her anticipated testimony.

(b) No employee shall consult or testify as a specialist or an expert witness, based on expertise gained in the course of his or her duties, in an administrative, civil, or criminal action without giving reasonable notice, as defined in subdivision (a), to the CALPIA General Counsel.

(1) An employee who is contacted for the purpose of eliciting expert testimony, as defined in Evidence Code Section 720, shall notify CALPIA's General Counsel, Legal Services in writing within one business day. The written notification shall include all relevant information concerning the contact, copy of any subpoena, and a summary of his or her anticipated testimony.

(2) CALPIA's General Counsel or his or her designee retains the discretion to seek to quash the subpoena on substantive or procedural grounds before the judicial body through whose authority the subpoena was issued.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Section 720, Evidence Code; Sections 2801 and 2809, Penal Code.

### **8118. Sexual Misconduct with Inmate or Parolee.**

(a) Sexual Misconduct. For the purposes of this section, "sexual misconduct" means sexual behavior by a non-incarcerated individual who is on prison grounds on behalf of CALPIA that involves or is directed toward an inmate or parolee.

(b) All sexual behavior between an employee and inmate or parolee constitutes sexual misconduct and shall subject the employee to disciplinary action.

(c) Any person engaging in sexual misconduct may be subject to possible prosecution under the law.

(d) Sexual misconduct includes, but is not limited to:

(1) Influencing or offering to influence an inmate's or parolee's safety, custody, housing, privileges, work detail, parole conditions or programming, or offering goods or services, in exchange for sexual favors;

(2) Threatening an inmate's or parolee's safety, custody, housing, privileges, work detail, parole conditions or programming because the inmate or parolee has refused to engage in sexual behavior;

(3) Invading privacy beyond that reasonably necessary to maintain safety and security;

(4) Disrespectful, unduly familiar, or sexually threatening comments directed to, or within the hearing of, an inmate or parolee; or

(5) Engaging in sexual act(s) or contact, including:

(A) Sexual intercourse;

(B) Sodomy;

(C) Oral copulation;

(D) Penetration of genital or anal openings by a foreign object, substance, instrument or device for the purpose of sexual arousal, gratification, or manipulation; and

(E) Rubbing or touching of the breasts or sexual organs of another or of oneself, in the presence of and with the knowledge of another, for the purpose of sexual arousal, gratification, or manipulation.

(e) Penalties. All allegations of sexual misconduct shall be subject to investigation.

(f) Reporting Requirements. An employee who observes or receives information concerning sexual misconduct shall immediately report the information or incident directly to the Prison Industries Administrator, Manager, supervisor, or the highest-ranking official on duty at CALPIA Central Office, who shall then immediately report to the CDCR Office of Internal Affairs. An employee who fails to accurately and promptly report an incident, information, or facts that lead a reasonable person to believe sexual misconduct has occurred may be subject to disciplinary action.

(g) Confidentiality. An alleged victim who reports criminal sexual misconduct shall be advised that his or her identity may be kept confidential from the public as described in Government Code Section 6254(f)(2). The alleged victim may request his or her identity to be kept confidential in court proceedings as described in Penal Code Section 293.5.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 289.6, 293.5 2801 and 2809, Penal Code; and Section 6254 Government Code.

**8119. Hiring of Ex-Offenders at CALPIA.**

(a) The General Manager's written approval is required to offer employment at CALPIA to an ex-offender.

(b) Ex-offenders employed at CALPIA shall not, without the General Manager's written approval, be assigned to areas that enable them to access:

(1) Employee records.

(2) Inmate personal or medical information.

(c) An ex-offender shall not be appointed to any position until his or her background clearance is received.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801 and 2809, Penal Code.

**8119.1 Approval of Ex-Offender Employee Transactions.**

Relationships involving business or financial transactions between employees and persons previously incarcerated under the jurisdiction of CDCR shall require the advance approval of the General Manager.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801 and 2809, Penal Code.

**8120. Personal Information Record Access and Amendment.**

(a) Persons for whom CALPIA maintains a record containing personal information have the right to inspect their record, or authorize someone to inspect their records on their behalf, and to request amendment to correct outdated, inaccurate, or incomplete information.

(1) Requests to inspect a record shall be submitted in writing to CALPIA Human Resources.

(2) Requests to amend a record shall be submitted in writing to CALPIA Human Resources and include documentary evidence to support the requested amendment.

(b) The denial of a request to amend a record may be appealed in writing to the Assistant General Manager of the subject employee's reporting chain of command. The Assistant General Manager's determination can be appealed to the General Manager, and shall include all relevant documentation.

(c) If an individual's appeal is denied, he or she may submit a statement of disagreement to CALPIA Human Resources for placement in the record. The statement shall remain part of the record for as long as the disputed information is retained.

NOTE: Authority cited: Sections 2801 and 2809, Penal Code. Reference: Sections 2801 and 2809, Penal Code.