

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date

January 6, 2025

2. Department

California Prison Industry Authority

3. Organizational Placement (Division/Branch/Office Name)

Legal Services

4. CEA Position Title

Chief Counsel

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

California Prison Industry Authority (CALPIA) is requesting to establish a new CEA over the Legal Services Division to replace the vacant "comma CEA" that CALPIA has used for several years. This position will continue in the same functional and administrative capacity as the previous classification to support the executive management and the Department, ensuring all legal issues are addressed appropriately, timely and directly connects to the CALPIA's mission.

6. Reports to: (Class Title/Level)

General Manager (exempt position)

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain):

8. Organizational Level (Select one)

- 1st
- 2nd
- 3rd
- 4th
- 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

The California Prison Industry Authority (CALPIA) delivers a comprehensive training program for eligible incarcerated individuals who meet a specifically outlined set of criteria, developed by both CALPIA and the California Department of Corrections and Rehabilitation (CDCR). The various training programs are intended to help reduce recidivism by providing training and job skills to incarcerated individuals which they can then apply to secure a private sector job once released.

The proposed CEA is a critical leadership role working directly with and for the General Manager leading CALPIA into the foreseeable future by maneuvering through the many and varied legal issues that CALPIA will confront in delivering our training program to all of the institutions. The success of CALPIA's various enterprises has been documented in a 2021 University of California (UC) Irvine study, which confirmed that CALPIA is reducing recidivism across the state of California. A follow-up study by UC Irvine has also produced indicators that this effort of recidivism reduction through job training and guidance is working.

Leading a legal program for a unique department like CALPIA requires tremendous leadership, communication, policy development participation, and oversight to ensure the best practices and safety measures are in place for not just the incarcerated individuals, CALPIA staff and CDCR staff, but also for the safety of the general public. The proposed CEA will advise the General Manager on all issues that have legal implications. And further, the proposed CEA will develop and advise on settlements for issues that impact CALPIA. If change is needed as a result of the settlement, the proposed CEA will advise on moving forward with change.

The proposed CEA also oversees the "Form 602" process, developed by CDCR in 2020 to help properly document all incarcerated individuals grievances regarding any aspect of their personal well-being. When these Form 602s indicate a concern with treatment by a CALPIA staff member, whether it is policy-related or harassment of any nature, these Form 602s are redirected to the proposed CEA for an investigation into the allegations. The proposed CEA will assess the allegations, look at any evidence available, and make a final determination on how to address the concern(s) if found to be true or issue a denial of complaint. Throughout this process, the proposed CEA has settlement authority to address the issue when necessary. Currently, CALPIA receives on average 100 complaints in this manner and of those, approximately 5% are found to have some legitimate issue that requires changes to better the lives of those who participate in CALPIA's training programs. Once this process is complete, if the incarcerated individual does not agree with the proposed CEA's determination, they can now file with the administrative courts; approximately 1% file with the courts for further resolution. In these instances, the proposed CEA will seek outside counsel to represent CALPIA and the proposed CEA will then act as an in-house expert for the outside counsel while continuing to address the incarcerated individual's complaint in the court system. The proposed CEA will also have settlement authority should that opportunity arise. Because of the severity of these potential issues, this process has a high-priority and further, requires a quick turn-around to ensure the negative issue involved is addressed or the incarcerated individual is educated on why the CALPIA-related complaint is not valid. Through better education and communication regarding their complaint, the incarcerated individual can return to the education and production associated with their assigned role in one of the various enterprises that CALPIA delivers.

Because of the sensitive nature of the work that CALPIA performs and the various products that are produced through the training and development of approximately 6000 incarcerated individuals, the proposed CEA has tremendous responsibility to ensure that CALPIA's regulations, opinions regarding lawsuits, settlement authority, and policy development are all fair and equitable for CALPIA, staff, and the incarcerated individuals.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: CALPIA is a self-funded, customer-focused organization that reduces recidivism and enhances prison and public safety by providing incarcerated individuals with life-changing training opportunities for successful re-entry into the community. Through CALPIA, incarcerated individuals receive industry-accredited certifications that both public and private sector employers value.

In addition, CALPIA's mission supports CDCR's public safety mission by providing incarcerated individuals with the necessary job skills, good work habits, basic education, and job support in the community so that upon release, they never return to prison.

It is because of this mission and the symbiotic relationship between CALPIA and CDCR that the Agency requires the proposed CEA's leadership and oversight. While existing positions are focused on mission accomplishment, the day-to-day enterprise operations in more than 30 different institutions, with varying leaderships at each site, the proposed CEA's role as the Chief Counsel is relied upon daily. Both executive management throughout CALPIA as well as the General Manager and Chief AGM must be able to rely on the proposed CEA's legal recommendations without concern for the safety of staff and the Department's standing.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

Since 1970, the population of incarcerated individuals has increased by 700% while prison housing capabilities has not kept up. Between 1984 and 2005, California built an additional 21 prisons for a total of 35 prisons at the height of construction. While this increase in housing was significant, it was not enough to keep up with the numbers of incarcerated individuals being sentenced through the State's legal system. In 2009, the Supreme Court ruled that overcrowding within California's prison system required immediate action. This overcrowding is the accumulation of many factors including the ever-changing legal system of California. However, the biggest influx of incarcerated individuals occurred as a result of California's 3-Strikes law (AB 971) that went into effect on March 7, 1994.

In 2006, the court case of Plata and Coleman vs. California created court-ordered mandates for CDCR to reduce overcrowding due to the health and safety of incarcerated individuals. As of April 2020, 32 of the 35 prisons were still over design capacities with 10 of those prisons over the court-set standard of 137.5% capacity. CALPIA is working in conjunction with CDCR to reduce overcrowding by focusing on rehabilitation. Statistics show that individuals released from incarceration who participated in CALPIA programs and obtain the necessary work experience to perform effectively in coveted jobs outside of the prison system, are 84.6% less likely to return to the prison system after three years and are able to make a living for themselves and their families. Those incarcerated individuals released who never obtained the training and experience offered by participation in CALPIA programs are 29.2% more likely to return to prison after three years and continue to tax the already-taxed prison system. This figure is nearly twice as many as those who are CALPIA trained. The CALPIA figure also represents a 7% reduction in recidivism since the last time the CALPIA enterprises were studied. When this figure is compared to CDCR's recidivism rate of 44.6% (2014-15) there is no doubt the CALPIA system of training and providing an opportunity for a career upon release is critical to the efforts of CDCR to reduce the population of incarcerated individuals. In November 2021, UC Irvine validated these figures when they published their study to assess the success of these programs in reducing recidivism.

This validation further adds pressure on CALPIA and CDCR to continue this trend and to keep finding enterprises that will help rehabilitate incarcerated individuals and/or expand existing enterprises to safely include more incarcerated individuals and new emerging technological skills. The proposed CEA will be critical to this effort through its oversight and leadership. As stated earlier, the court mandate to reduce prison overcrowding is a major focus for CDCR, and by virtue, for CALPIA; any reduction in recidivism has a direct reflection on overcrowding and a reduction in overhead costs. Since the UC Irvine report confirms there is a benefit, CALPIA's continued focus on providing valuable training opportunities is proven to benefit CDCR's overcrowding mandate.

The consequence of the error in delivering this training program to the over 6,000 incarcerated individuals located within all CDCR institutions is by definition a public safety issue. The incarcerated individuals' exposure to dangerous tools, the various levels of security, and the locations of the training programs all have the potential for injury as well as death, whether by accident or intentionally given the nature of working within a correctional institution. Therefore, oversight and training through the setting of policy are critical to CDCR staff, the public, and CALPIA's over 1,000 staff who oversee the programs daily. Any mistake that results in injury or death is always going to bring negative attention and liability. The best way to prevent this is to monitor policies on transport, equipment, and supervision; all of which require the proposed CEA to ensure existing policies are effective and further, recommend changes to those policies or establish new ones as business changes and trends emerge.

While a mandate does not exist directly for CALPIA, there is symmetry in that CALPIA supports CDCR in meeting its court ordered mandate to reduce overcrowding. In turn, this raises the profile of CALPIA and places further responsibility on the proposed CEA to help CALPIA maneuver through the legal issues that arise as a result of this increase.

Please note that while CDCR recently announced the closure of two prisons as well as several facility de-activations, these closures do not reduce CALPIA's responsibility to produce consumables. The needs of the products CALPIA manufactures continue and the number of incarcerated workers needed to accomplish the production requirements remain; only the assessment by CALPIA on whether to relocate the existing infrastructure and customer orders and how to continue to meet these production needs are impacted by institution closures. The remaining incarcerated individuals still require food and clothing as well as the need to learn a job skill to attain stability in the community upon release. None of CALPIA's responsibilities go away when an institution is closed; in fact, more work is placed upon CALPIA as a result.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

There are many high-profile work programs within the CALPIA curriculum, each brings with it a level of public scrutiny and will require the proposed CEA to monitor the success and further, public outcry in the event of a legal filing.

The proposed CEA, as part of the department's executive management team, will provide recommendations on legal aspects of drafted policies to protect CALPIA. The proposed CEA will stay abreast of the legal horizon to monitor whether legal "trends" may impact CALPIA and make recommendations to the General Manager and/or Chief Assistant General Manager to help them lead the department through those legal waters. As the industry expert on all legal aspects associated with running a training program in concert with CDCR, it is imperative the proposed CEA maintain productive and educational relationships with both CDCR and CALPIA executive management but also the Prison Board, Governor's Office, legislature, county governments and any public figure who has interest in the success and/or inner workings of CDCR and/or CALPIA.

The proposed CEA oversees CALPIA's role in the Form 602 process; a process that allows incarcerated individual's to file a grievance for any "complaint" that impacts the staff and/or training enterprises under the oversight of CALPIA. As the decision-maker of incarcerated individual's grievances, the proposed CEA must remain objective, ensure equity and fairness are at the foundation of each decision, and when necessary, settle cases quickly and efficiently to allow business to continue. The proposed CEA will work with the appropriate program and divisional executive management should failures be identified in existing processes and/or policies as well as staff performance failures to eliminate the settled issue being repeated in the future. Not all recommended changes will be the result of settlements; the proposed CEA will continuously monitor trends that emerge due to the Form 602 incarcerated individuals' grievance process. By staying ahead of emerging trends, the proposed CEA can further protect CALPIA by identifying these trends to their peers and partner on policy changes necessary to address the emerging trend, should it potentially impact CALPIA's future success.

As the Chief Counsel, the proposed CEA will monitor and provide executive level recommendations on all issues that have a potential legal component. As the industry leader on penal code, legal issues, and running a training program intended to reduce recidivism within the confines of a prison institution, the proposed CEA will have a direct impact on the future of CALPIA and its continued focus on attaining its mission to rehabilitate incarcerated individuals through leadership. Because of this impact and through the development of partnerships, the proposed CEA will lead CALPIA into the future while business and training practices change via the continuous review of policy and processes impacted by change.

Every year, the proposed CEA will also oversee regulation development that validates and consequently, regulates all of the changes necessary as addressed above throughout the year. This annual process must be thorough, consistent, and fair so regulations are not created that cause unnecessary confusion to all parties involved in the CDCR/CALPIA partnership and delegation of roles.

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

The scope and decision making authority of the proposed CEA will be broad and sensitive and will impact CDCR. The proposed CEA will work closely with CALPIA's executive management as well as CDCR's executive management when necessary, in developing policies and procedures, as well as proposing settlement solutions and regulation changes as needed to improve the working conditions for both the CALPIA staff as well as the incarcerated individuals participating in CALPIA training programs.

In 2020, CDCR developed a Form 602 process, designed to provide incarcerated individuals a process to file grievances regarding many aspects of life within a prison setting. Because CALPIA provides the various enterprise training programs, CALPIA can be subject to this filing. If after CDCR's investigation and conclusion, the incarcerated individual does not agree with the results, the incarcerated individual may file an appeal. The appeal is forwarded to the proposed CEA who has full authority regarding the review and decision regarding the filed grievance/appeal. This allows for consistency and further, allows the proposed CEA the opportunity to consider legal changes necessary to avoid such filings in the future should they uncover during their review a potential "failure". A failure typically involves a regulation, policy, or other process that requires updating to meet the current business needs and/or trends in order to protect CALPIA and CDCR in the future. In some cases, the proposed CEA may propose a settlement to close the appeal. The proposed CEA has full settlement authority regarding these cases. Should the grievance/appeal uncover staff misconduct, the proposed CEA will complete the investigation and make recommendations regarding staff action, working with Human Resources to resolve the incident quickly, safely, and efficiently.

Approximately 60% of incarcerated individuals have a release date. If CALPIA can provide an opportunity for future employment upon release with employable skills that allow the newly released individual to provide for their family and stay out of prison, CALPIA has helped to reduce CDCR's overhead expenses by approximately \$120,000 per released individual, per year. The more the newly released individual thrives in the community, the more the community also benefits. Keeping the enterprises successful and increasing the number of participants who attain the specialized skills and certification necessary to remain employed in both public and private sectors, will be the primary focus of the proposed CEA through the development of effective regulations and management of all legal issues. Helping to keep legal issues at bay is critical to this success.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

The proposed CEA will develop and implement new policies for both CALPIA and its subsidiaries throughout all CDCR institutions. In addition, since CALPIA's relationship with CDCR is more in the realm of collaboration on a common goal, the proposed CEA will work with CDCR representatives to recommend improvements in existing policy which would be mutually beneficial to both departments. Further, each existing CEA over their respective programs will recommend and develop and/or amend existing policies to ensure the most efficient method to creating products is in place. The proposed CEA will oversee this policy development and implementation because of the impact on not just CALPIA staff, but to CDCR staff and in some cases, the incarcerated individuals as well. Further, as the Chief Counsel for CALPIA, the proposed CEA will monitor all legal aspects of recommended policies to ensure CALPIA's future is legally sound.