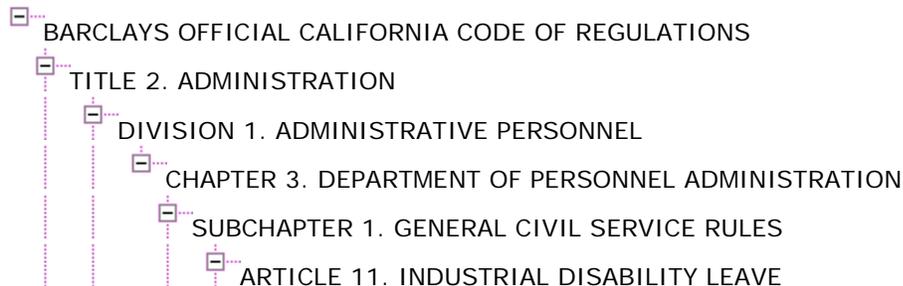


Note: text that will be deleted appears with a strikethrough and is bracketed by (begin strikethrough) and (end strikethrough) notations. Text that will be inserted is underlined and is bracketed by (begin insert) and (end insert) notations. These notations are not part of the proposed regulations but are provided as part of CalHR's commitment to accessibility.

California Code of Regulations



2 CCR § 599.755

Cal. Admin. Code tit. 2, § 599.755

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~~(begin strikethrough)~~§ 599.755. Eligibility.

~~State employees, as designated in Government Code Section 19869, who become disabled due to accident or illness arising out of or in the course of State employment, within the meaning of Government Code Section 19870, shall be eligible to receive Industrial Disability Leave benefits beginning January 1, 1975. Eligibility shall be contingent upon appropriate medical determination and the agreement of the employee to cooperate and participate in a reasonable vocational rehabilitation plan when furnished by the State.~~

~~Any eligible employee on that date who is receiving Workers' Compensation temporary disability benefits due to work-related injuries or illness occurring since July 1, 1974, shall have 30 calendar days to elect Industrial Disability Leave in place of Workers' Compensation. Employees who do not elect Industrial Disability Leave shall continue to receive Workers' Compensation benefits. Failure to respond shall be construed as rejection of the option.~~

~~Industrial Disability Leave benefits under this section shall not be retroactive. For qualifying disabilities occurring prior to January 1, 1975, the 52-week eligibility period for receipt of benefits shall begin on January 1, 1975, as if the disability had occurred on that date. Work-related disabilities occurring prior to July 1, 1974, shall not be covered by Industrial Disability Leaves.~~(end strikethrough)

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 19871, 19876 and 19877.1, Government Code.

HISTORY

1. New Article 11 (Sections 599.755-599.768, not consecutive) filed 9-6-83; effective thirtieth day thereafter (Register 83, No. 37).

CROSS REFERENCE: Title 2, Division 1, Chapter 1, Subchapter 1, Sections 410-418.

2 CCR § 599.755, 2 CA ADC § 599.755
This database is current through 6/4/10 Register 2010, No. 23
2 CA ADC § 599.755
2 CCR § 599.756

Cal. Admin. Code tit. 2, § 599.756

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➔§ 599.756. Computation of Benefit.

The employee's salary rate and the number of days and hours for which payment would have been made had the disability not occurred shall be used to compute Industrial Disability Leave payments in accordance with Sections 19870(b) and 19871 of the Government Code at the time of disability. Thereafter payments shall be adjusted to reflect any salary adjustment the employee would have received had the disability not occurred.

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 19870 and 19871, Government Code.

2 CCR § 599.756, 2 CA ADC § 599.756
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2 CA ADC § 599.756

2 CCR § 599.757

Cal. Admin. Code tit. 2, § 599.757

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➔§ 599.757. Eligibility Period.

(a) For the purpose of administering the Industrial Disability Leave benefit, the 52-week eligibility period shall be equivalent ~~(begin strikethrough) to 365 calendar days (end strikethrough)~~ to (begin insert) 080 hours for full time employees and prorated for employees on a different time base.

(b) For the purpose of administering the Industrial Disability Leave benefit, 22 working days of disability shall be equivalent to 176 hours for full time employees and prorated for employees on a different time base (end insert).

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 19871 and 19872, Government Code.

2 CCR § 599.757, 2 CA ADC § 599.757

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2 CA ADC § 599.757

2 CCR § 599.758

Cal. Admin. Code tit. 2, § 599.758

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➔ **§ 599.758. Medical Eligibility Determination.**

The State Compensation Insurance Fund shall make all temporary disability determinations based on medical evidence in accordance with its authority under Sections 11870 and 11871 of the Insurance Code. Eligibility for benefits shall be contingent upon the certification of disability by State Compensation Insurance Fund. Upon expiration of Industrial Disability Leave benefits, State Compensation Insurance Fund shall determine whether disability continues to exist and shall further determine the disabled employee's eligibility to receive Workers' Compensation temporary disability benefits.

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 11870 and 11872, Insurance Code; and Sections 19871, 19872, 19874, and 19876, Government Code.

2 CCR § 599.758, 2 CA ADC § 599.758

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2 CA ADC § 599.758

2 CCR § 599.759

Cal. Admin. Code tit. 2, § 599.759

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➔ **§ 599.759. ~~(begin strikethrough) Benefit Choice (end strikethrough)~~ (Begin insert)Supplementation ~~.(end insert)~~**

~~(begin strikethrough) For the first 22 working days of disability, all disabled employees shall receive Industrial Disability Leave (IDL) unless the gross amount of the IDL benefit is less than that which would be provided by Workers' Compensation Temporary Disability (WCTD) payments without supplementation, in which case the employee shall receive WCTD payments without supplementation rather than IDL payments. This initial benefit placement is subject to one opportunity to effect a~~

~~retroactive change in accordance with a subsequent employee benefit choice provided by this Section. Upon failure of the employee to make a selection of benefits, the employee shall remain on IDL or WCTD without supplementation as initially placed. If, at any time, the status of an employee on IDL changes such that the gross amount of IDL benefits becomes less than his/her WCTD benefits without supplementation, then the employee shall be automatically changed to WCTD without supplementation.~~

~~The following sets forth the disabled employee's benefit choices:~~

~~(1) Employees whose disabilities are resolved within 22 working days may elect that their initial benefit placement be changed to WCTD with supplementation retroactive to the first day of disability.~~

~~(12) All (end strikethrough) (a) Employees may (begin insert) choose to supplement their IDL benefits (end insert) (begin strikethrough) make an election of those benefits they will receive effective beginning with the 23d working day of disability should their disability last that long. Employees may elect to receive either IDL or WCTD with or without supplementation. At employee election, this same choice may also be retroactive to the first day of disability. Disabled employees shall not be placed on IDL for any period of time during which the gross amount of IDL payments is less than WCTD without supplementation.~~

~~The disabled employee shall notify the appointing power of his choice of benefits within 15 calendar days after the disability has been verified and departmental liability for the disability has been determined. Prior to the expiration of the 15-day period, the appointing power shall contact the disabled employee to determine the need for making a benefit choice and to explain the benefit options available. (end strikethrough)~~

(begin insert) (b) Within 15 days of notification that an injury or illness has been determined to be work related and workers' compensation benefits are approved, the appointing power shall notify the employee of the option to supplement IDL benefits and provide the employee with the means to choose to supplement their IDL benefits. The employee has 15 calendar days in which to choose to supplement their IDL payments. The 15 calendar day "election period" commences on the day the department informs the employee in writing that they are eligible and provides the means to choose to supplement the IDL benefits. Employees who fail to respond within 15 calendar days after notification shall be placed on IDL without supplementation, and forfeit the right to supplement IDL at any future time.

(c) Employees may elect to decrease the supplementation level on a prospective basis. The effective date of any change will be the first day of the following pay period.

(d) Leave credits needed for supplementation are drawn in the following order unless the employee requests a different order:

- (1) Sick Leave
- (2) Compensating Time Off (CTO)
- (3) Vacation/Annual Leave
- (4) Other leave credits (Personal Leave, Holiday Credit, etc.)

When an employee's leave credits fall below the selected supplementation amount, the supplementation will be reduced to the amount of available leave credits.

(e) Accounts receivables that the State has not already deducted from IDL pay or any other pay for the pay period will be taken from the supplementation pay, if there is a sufficient amount to do so. All established mandatory and voluntary deductions will be withheld from supplementation pay, if not already taken from another payment in the pay period and if there is sufficient gross pay. Partial deductions cannot be taken from supplementation. (end insert)

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 19870, 19871 and 19872, Government Code.

2 CCR § 599.759, 2 CA ADC § 599.759
This database is current through 6/4/10 Register 2010, No. 23
2 CA ADC § 599.759

2 CCR § 599.760

Cal. Admin. Code tit. 2, § 599.760

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➔ ~~(begin strikethrough) § 599.760. Change of Benefits.(end strikethrough)~~

~~(begin strikethrough) At any time during the first 90 calendar days of absence, the disabled employee may notify the appointing power regarding a change in the choice of benefits from Industrial Disability Leave to workers' compensation disability benefits with or without the option of supplementation of leave credits or from workers' compensation temporary disability benefits to Industrial Disability Leave. Such change in benefits shall be a one-time opportunity and shall be effective on the 90th calendar day of absence. The amount of benefit shall be that which the employee would have received on the 90th calendar day had the benefit been initially elected. A failure of the employee to exercise the option by that date shall result in no further opportunity for an employee to change benefits.(end strikethrough)~~

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 19871 and 19872, Government Code.

2 CCR § 599.760, 2 CA ADC § 599.760
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2 CA ADC § 599.760

2 CCR § 599.761

Cal. Admin. Code tit. 2, § 599.761

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➔ **§ 599.761. Return to Work Coordinator.**

A return to work coordinator shall be designated in each State department. The duties and responsibilities of the coordinator shall include, but not be limited to, ~~(begin strikethrough)~~ insuring~~(end strikethrough)~~ ~~(begin insert)~~ ensuring ~~(end insert)~~ that the disabled employee is

informed of ~~(begin strikethrough) the (end strikethrough)~~ (begin insert) available (end insert) benefits ~~(begin strikethrough) which are provided (end strikethrough)~~ and to facilitate his/her early return to work.

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 19871.1 and 19876, Government Code.

HISTORY

1. New section filed 2-9-84 (corrected copy refiled 2-27-84); effective thirtieth day thereafter (Register 84, No. 8).

2. Editorial correction of HISTORY NOTES printed in error in Register 84, Nos. 8 and 12 (Register 84, No. 15).

2 CCR § 599.761, 2 CA ADC § 599.761

This database is current through 6/4/10 Register 2010, No. 23

2 CA ADC § 599.761

2 CCR § 599.762

Cal. Admin. Code tit. 2, § 599.762

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➔ ~~(begin strikethrough) § 599.762. Offset to Other Payments. (end strikethrough)~~

~~(begin strikethrough) In accordance with Government Code Section 19871, Industrial Disability Leave benefit payments shall be adjusted to offset disability benefits, excluding those disability benefits payable from the State Teachers' Retirement System, the employee may receive from other employer subsidized programs. A disabled employee shall be required to inform the appointing power in writing that such benefits are being received. Failure to do so shall result in termination of Industrial Disability Leave benefits. (end strikethrough)~~

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Section 19871, Government Code.

2 CCR § 599.762, 2 CA ADC § 599.762

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2 CA ADC § 599.762

2 CCR § 599.763

Cal. Admin. Code tit. 2, § 599.763

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➔ **§ 599.763. Guardian or Trustee for Industrial Disability Leave.**

If a disabled employee is incapable of making decisions, the appointing power or the disabled employee's spouse or representative shall request through the State Compensation Insurance Fund that the Worker's Compensation Appeals Board appoint a guardian or trustee in accordance with Section 5408 of the Labor Code. In such cases, the time limitations on the benefit choice provisions of Section 599.759 shall be waived.

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Section 5408, Labor Code; and Sections 19870, 19871 and 19872, Government Code.

2 CCR § 599.763, 2 CA ADC § 599.763
This database is current through 6/4/10 Register 2010, No. 23
2 CA ADC § 599.763

2 CCR § 599.764

Cal. Admin. Code tit. 2, § 599.764

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➔ ~~(begin strikethrough) § 599.764. Vocational Rehabilitation.~~

~~Vocational rehabilitation means a system for providing necessary and appropriate services to a disabled employee leading to a vocational goal. (end strikethrough)~~

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 19871.1 and 19876, Government Code.

2 CCR § 599.764, 2 CA ADC § 599.764
This database is current through 6/4/10 Register 2010, No. 23
2 CA ADC § 599.764

2 CCR § 599.765

Cal. Admin. Code tit. 2, § 599.765

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➔ ~~(begin strikethrough) § 599.765. Participation in Vocational Rehabilitation.~~

~~In order to continue receiving Industrial Disability Leave, the disabled employee shall be required to participate in a vocational rehabilitation plan when offered by the State, provided that the requirements for participation are met as set forth in Labor Code Section 139.5 and the regulations of the Division of Industrial Accidents.~~

~~Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Section 139.5, Labor Code; and Sections 19871.1 and 19876, Government Code. (end strikethrough)~~

2 CCR § 599.765, 2 CA ADC § 599.765
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2 CA ADC § 599.765

2 CCR § 599.766

Cal. Admin. Code tit. 2, § 599.766

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➔ ~~(begin strikethrough) § 599.766. Placement.~~

~~The appointing power shall take at least one of the following actions at such time as the employee has successfully completed the vocational rehabilitation program initiated while under Industrial Disability Leave:~~

~~(a) Restore the employee to the former position;~~

~~(b) Demote or transfer to another position, if the employee is able to perform such duties;~~

~~(c) Request the State Personnel Board to assist in placing the employee in another position in State service;~~

~~(d) Place the employee on a training and development assignment in another line of work with intent to transfer at a later date;~~

~~(e) Place the name of the employee on all appropriate reemployment lists as determined by the State Personnel Board at such time as no immediate placement is available.~~

~~If the employee is medically unable to undergo or successfully complete the vocational rehabilitation program, or if the employee has successfully completed vocational rehabilitation but suitable employment is not available with the State, the appointing power may medically terminate the employee or request a disability retirement from the position to which the employee holds a permanent appointment. Such actions shall be effective after expiration of Industrial Disability Leave benefits and leave credits the employee may have, and shall be consistent with the provisions of the Worker's Compensation Act under the Labor Code and Government Code Section 19253.5. (end strikethrough)~~

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 19253.5, 19871.1 and 19876, Government Code.

2 CCR § 599.766, 2 CA ADC § 599.766
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2 CA ADC § 599.766

2 CCR § 599.767

Cal. Admin. Code tit. 2, § 599.767

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➔ ~~(begin strikethrough)~~ **§ 599.767. Medical Officer's Responsibilities.**

~~Where there is disagreement concerning the medical suitability of placement of the disabled employee who has completed the vocational rehabilitation program, the State Personnel Board Medical Officer shall determine the appropriateness of the placement based upon the medical evidence submitted.~~
~~(end strikethrough)~~

Note: Authority cited: Sections 19815.4(d) and 19877, Government Code. Reference: Sections 19253.5 and 19876, Government Code.

2 CCR § 599.767, 2 CA ADC § 599.767
This database is current through 6/4/10 Register 2010, No. 23
2 CA ADC § 599.767

2 CCR § 599.768

Cal. Admin. Code tit. 2, § 599.768

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➔ **§ 599.768. Appeals.**

The employee shall first seek departmental administrative remedy for complaints arising out of Industrial Disability Leave. Thereafter, the employee shall have the right of appeal to:
(a) The Division of ~~(begin strikethrough)~~ Industrial Accidents ~~(end strikethrough)~~ (begin insert) Workers' Compensation (end insert) on matters within the jurisdiction of the Worker's Compensation Act of the Labor Code. ~~(begin strikethrough)~~ Such matters include but are not limited to determination of liability for provision of medical care, temporary disability payments, vocational rehabilitation, and related items. ~~(end strikethrough)~~

(b) The Department of Human Resources on employee benefit matters as provided by the Government Code (begin insert) or applicable bargaining unit contracts (end insert). ~~(begin strikethrough)~~ Such matters include, but are not limited to, issues involving Industrial Disability Leave payments, leave administration, and related matters.

~~(c) The Department of Rehabilitation on matters within the rehabilitation provisions of the Welfare and Institutions Code. Such matters include, but are not limited to, issues relating to the provision of services by the Department of Rehabilitation. (end strikethrough)~~

Note: Authority cited: Sections 19815.4(d) and 19816, Government Code. Reference: Section 19877, Government Code.

2 CCR § 599.768, 2 CA ADC § 599.768
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2 CA ADC § 599.768

2 CCR § 599.769

Cal. Admin. Code tit. 2, § 599.769

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➔ § 599.769. Enhanced Industrial Disability Leave -Excluded Employees.

(begin insert) (a) An excluded employee, as defined in Government Code section 3527, subdivision (b), who is temporarily disabled as the result of an injury which was incurred in the official performance of his/her duties may be eligible for an Enhanced Industrial Disability Leave benefit if the excluded employee is in a classification having responsibility for the supervision of represented employees who are eligible for Enhanced Industrial Disability Leave benefits.

(b) In order for an excluded employee to qualify for Enhanced Industrial Disability Leave his or her injury must meet the criteria for Enhanced Industrial Disability Leave specified in the Memorandum of Understanding for the represented employees that the excluded employee supervises.

(c) Except as otherwise provided in this section, the regulations governing the administration of Industrial Disability Leave shall also apply to the administration of Enhanced Industrial Disability Leave. (end insert)

~~(begin strikethrough) (a) An excluded employee who is temporarily disabled as the result of an injury which was incurred in the official performance of his/her duties shall be eligible for an enhanced industrial disability leave benefit as provided in section 19871.2 of the Government Code~~

~~(1) (b) Definition of Injury. Such injury must be a physical injury which has been directly and specifically caused by:~~

~~(1) — An assault by an inmate, ward, or parolee under the jurisdiction of the California Department of Corrections or the Department of Youth Authority; or~~

~~(2) — Responding to, returning from, or fighting an "active fire" as defined in sections 4103, 4104, 4170 and 4170.5 of the Public Resources Code; or~~

~~(3) — A "criminal act of violence" against a peace officer who was performing in the line of duty. For purposes of this Article, "criminal act of violence" means an act which would constitute a misdemeanor or felony if pursued to conviction; or~~

~~(4) — An assault by a resident, inmate, patient or client under the jurisdiction of the Department of Developmental Services or the Department of Mental Health or the Department of Veterans Affairs.~~

~~(c) Exclusion. Enhanced Industrial Disability Leave benefits will only apply to physical injuries and any medical complications directly related medically and attributable to the circumstances enumerated in subsection (a 1), above, as determined by the appointing power or his/her designee. The enhanced benefit shall not be applied to either presumptive, stress related disabilities or a physical disability having mental origins.~~

~~(d) Eligibility. An excluded employee shall be eligible for enhanced Industrial Disability Leave benefits if:~~

~~(1) The excluded employee's temporary disability arises from one of the circumstances enumerated in subsection (b) above; and~~

~~(2) The excluded employee is in a classification having responsibility for the supervision of represented employees who are eligible for such enhanced benefits as provided in the Memoranda of Understanding for Unit 3 (Institutional Education), Unit 4 (Office and Allied), Unit 6 (Corrections), Unit 7 (Protective Services and Public Safety), Unit 8 (Firefighters), Unit 15 (Custodial Services), Unit 17 (Registered Nurse), Unit 18 (Psychiatric Technician), and Unit 20 (Medical and Social Services Support).~~

~~(e) Administration. Except as otherwise provided in this section and section 19871.2, the existing regulations governing the administration of Industrial Disability Leave shall also apply to the administration of Enhanced Industrial Disability Leave. (end strikethrough)~~

Note: Authority cited: Sections 3539.5, 19815.4(d) and 19877, Government Code. Reference: Sections 19870(c) and 19871.2, Government Code.

HISTORY

1. New section filed by the Department of Personnel Administration with the Secretary of State on 11-21-84; effective upon filing. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 85, No. 18).

2. Amendment filed by Department of Personnel Administration with the Secretary of State on 9-20-85; effective upon filing. Submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 85, No. 41).

3. Change without regulatory effect amending section heading, section, and Note filed 6-29-92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 27).

4. Editorial correction of History 2 (Register 95, No. 40).

2 CCR § 599.769, 2 CA ADC § 599.769

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2 CA ADC § 599.769

→ **(begin insert) § 599.755.1 Time Lost on Date of Injury.**

Any time lost by the employee on the date of the injury shall be treated as paid Administrative Time Off (ATO) and shall not be considered a day of disability. The date of injury shall not be included in the waiting period nor is it deducted from the employee's eligible hours of IDL. (end insert)

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 19870, 19871, 19875, and 19876, Government Code.

➔ **(begin insert) § 599.760.1 Inter-agency Transfers.**

The employee's appointing authority on the date the employee is disabled and entitled to IDL is responsible for the payment of the IDL. If the employee transfers to a new appointing authority and is or may be entitled to additional IDL, the prior appointing authority will provide the new appointing authority with documentation of IDL paid. (end insert)

Note: Authority cited: Sections 19815.4(d), 19816 and 19877, Government Code. Reference: Sections 19870, and 19871, Government Code.