

NOTICE OF PROPOSED RULEMAKING ACTION

SCHOLARSHARE INVESTMENT BOARD

Title 5, Division 4.5, Chapter 3 California Code of Regulations

NOTICE IS HEREBY GIVEN that the ScholarShare Investment Board (SIB), organized and operating pursuant to Cal. Educ. Code tit. 3, D. 5, Pt. 42, Ch. 2, art. 19, proposes to adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action. Any person interested may present statement or arguments relevant to the proposed action to the attention of the Contact Person as listed in this Notice no later than December 18, 2023. SIB, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person(s) designated in this notice as Contact Person and will be mailed to those persons who submit statements related to this proposal or who have required notification of any changes to the proposal.

Proposed Regulatory Action

SIB proposes to amend Sections 31010, 31012, 31014, 31015, 31016, and 31017 of Title 5, Division 4.5, Chapter 3 of the California Code of Regulations (Regulations). The Regulations implement SIB's responsibilities and other details related to the California Kids Investment and Development Savings Program (CalKIDS or Program).

Authority and Reference

Authority: Sections 69996.4, Education Code. Sections 69996.4 provides SIB with the authority to carry out the duties and obligations of the Program pursuant to this article and have all other powers as may be necessary for the effectuation of the purposes, objectives, and provisions of this article. Subsection 69996.4(n) of the Education Code provides SIB the authority to adopt regulations for the implementation and administration of the Program.

Reference: Sections 69996 – 69996.9 of the Education Code. These Regulations implement the CalKIDS Program and include a number of the requirements of that program contained in the reference code provisions and their implementing Regulations.

Informative Digest/Policy Statement Overview

SIB was created in 1997 under the Golden State ScholarShare Trust Act with the passage of federal legislation allowing states to create and administer their own qualified tuition program as articulated in section 529 of the Internal Revenue Tax Code. SIB is responsible for the

administration of the Golden State Scholarshare College Savings Trust (Education Code section 69980, et seq.).

In 2019, Governor Newsom signed into law Senate Bill 77, which initially created the CalKIDS Program. This bill, along with subsequent legislation, established the CalKIDS Program, with the intent of providing college savings account funds for each child born in California and eligible California public school students. SIB is responsible for maintaining designated beneficiary account deposits and information within the CalKIDS Account for the purpose of funding qualified higher education expenses. These accounts shall be funded by any grants, gifts, appropriations, and other moneys from any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit. In 2022, SIB formally launched the CalKIDS program by making accounts accessible to participants and performing all duties associated with the program.

This regulatory action is a first reading of proposed revisions to title 5 of the California Code of Regulations governing the California Kids Investment and Development Savings Program (CalKIDS). The ScholarShare Investment Board (SIB) has identified multiple regulatory barriers to the program that are addressed in this proposal and described below.

First, the proposed regulatory action will clarify how and when SIB may utilize its existing budget to provide financial incentives into CalKIDS accounts. Existing law currently lists specific financial incentives offered by the program. We understand that this regulatory change will eliminate a burden to participants if funds are no longer available. Similarly, this change will instruct SIB on how to communicate in the event it chooses to make changes.

Secondly, the proposed regulatory action will clarify who is eligible to receive an enhanced deposit based on information provided by the California Department of Education (CDE). Current law requires CDE to annually transmit data for eligible participants to automatically enroll and create CalKIDS accounts. Education Code Section 69996.9(a)(3) also requires a beneficiary to only have one enhanced deposit in their CalKIDS account. Existing law does not address situations where a student may be held back in their grade, and is therefore included in multiple data transfers year-over-year. The proposed regulation will clarify this situation to be compliant with Education Code Section 69996.9(a)(3).

Thirdly, the proposed regulatory action will require additional information for a beneficiary to complete when making a withdrawal request. As the program has evolved, additional requirements of the beneficiary in this process have become necessary to make sure withdrawals are processed correctly. Existing law does not include the needed requirements for the withdrawal process to be completed.

Lastly, the proposed regulatory action will incorporate optional forms into the program if a participant or beneficiary requires a change to their CalKIDS account. These forms are not currently incorporated into existing law.

The broad objective of the regulations is to provide details about the CalKIDS Program and to ensure CalKIDS beneficiaries and participants have opportunities to engage with the

Program. The specific benefits anticipated from the regulations are increased participation in the Program, more families saving for college by opening and contributing to a ScholarShare 529 account, and greater emphasis on saving for higher education.

Evaluation of Inconsistency / Incompatibility with Existing State Regulations

The Department has conducted an evaluation of this proposed regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

Other Matters Prescribed by Statutes Applicable To the Specific State Agency or to any Specific Regulation or Class of Regulations

No other matters prescribed by statute are applicable to SIB or to any specific Regulation or class of Regulations pursuant to Section 11346.5(a)(4) of the California Government Code pertaining to the proposed Regulations or SIB.

Mandate on Local Agencies or School Districts

SIB has determined that the Regulations do not impose a mandate on local agencies or school districts.

Fiscal Impact

SIB has determined that the Regulations do not impose any additional cost or savings to any state agency, any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other non-discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

Initial Determination Regarding any Significant Statewide Adverse Economic Impact Directly Affecting Business

SIB has made an initial determination that the Regulations will not have any significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Effect on Small Businesses

SIB has determined that the adoption of the Regulations will not affect small businesses. Small businesses will not be enrolled in the program. As such, they will not be impacted by the proposed Regulations.

Cost Impacts

SIB has determined that the regulations will have a negligible cost impact on a private person depending on the financial incentives offered. The regulations describe additional financial incentives presented to participants not listed in current law. Education Code 69996.3 authorizes the Board to provide additional financial incentives to this enrolled population.

The Board will provide participants the opportunity to receive the deposit amounts if funds are available. As part of a competitive process in SIB's selection for a ScholarShare 529 Plan Manager, the selected vendor committed \$450,000 annually to support CalKIDS with financial incentive offers. As such, SIB will primarily base its abilities to provide financial incentives on this amount, in addition to allowable funds in its General Fund resources. An assumption of the regulations impact on a private person is provided below.

Approximately 200,000 participants registered for the program in its first year. The Board assumes that twenty percent (5%) of the registered population will complete the actions required for all incentives which may be offered for an incentive. This means that 10,000 participants will be eligible for an incentive. If \$450,000 is offered annually for incentives, the potential impact on a participant could be \$45, equaling the budget divided by the potential number of participants. This amount is based on participant assumptions and available budget, which could change year-over-year. The regulations stipulate that the Executive Director of the Board may establish or modify the criteria based on participation levels, available funding, and other monies deposited to the fund.

SIB is not aware of any cost impacts a business would necessarily incur in reasonable compliance with the proposed action.

Assessment of Effect on Jobs and Business Expansion, Elimination or Creation

Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California. Adoption of these regulations will have a limited effect on the expansion of businesses currently doing business within California.

Assessment of Benefits on Health and Welfare of California Residents, Worker Safety, and the State's Environment

Adoption of these regulations will not provide benefits or impact on the health and welfare of California residents, worker safety, or the state's environment.

Cost Impact on Housing

The Regulations will not have any effect on housing costs.

Reasonable Alternatives

In accordance with Government Code Section 11346.5(a)(13), SIB must determine that no reasonable alternative to the Regulations considered by SIB or that has otherwise been identified and brought to the attention of SIB would be more effective in carrying out the purpose for which the Regulations are proposed, or would be as effective and less burdensome to affected private persons than the Regulations, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

SIB invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

Agency Contact Person(s)

Written comments, inquiries, and any questions regarding the substance of the Regulations shall be submitted or directed to:

Noah Lightman, Manager, Children's Savings Account Initiatives
ScholarShare Investment Board
901 P Street, Room 313-B
Sacramento, CA 95814
ScholarShare@treasurer.ca.gov
(916) 651-6380

The following person is designated as a backup contact person for inquiries only regarding the Regulations:

Stanley Zeto, Deputy Director
ScholarShare Investment Board
901 P Street, Room 313-B
Sacramento, CA 95814
Stanley.Zeto@treasurer.ca.gov
(916) 651-6380

Written Comment Period

Any interested person, or his or her authorized representative, may submit written comments relevant to the Regulations to SIB. The written comment period on the Regulations will end on December 18, 2023. All comments to be considered by SIB must be submitted in writing to the Agency Contact Person identified in this Notice by that time. In the event that changes are made to the Regulations during the written comment period, SIB will also accept additional written comments limited to any changed or modified Regulations for 15 calendar days after the date on which such Regulations, as changed or modified are made available to the public pursuant to title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

Availability of Initial Statement of Reasons, Final Statement of Reasons, Rulemaking File and Express Terms of Proposed Regulations

Pursuant to the California Government Code, SIB has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at SIB's office at 901 P Street, Room 313-B, Sacramento, California, during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, the Final Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. The Sacramento address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons, the Final Statement of Reasons, and the proposed text, may be viewed on SIB's Web site at www.treasurer.ca.gov/scholarshare.

Public Hearing

No public hearing regarding the Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to SIB at least 15 days before the end of the written comment period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the hearing is being requested.

15-Day Availability of Changed or Modified Text

After the written comment period ends and following a public hearing, if any is requested, SIB may adopt the Regulations substantially as described in this Notice, without further notice. If SIB makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through SIB's Web site described above) for at least fifteen (15) calendar days before SIB adopts the proposed Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.