

## **NOTICE OF PROPOSED RULEMAKING ACTION**

### **SCHOLARSHARE INVESTMENT BOARD**

#### **Sections 31010 through 31018 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 Sections 69996 through 69996.9 of the Education Code, 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 April 4, 2022. 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 adopt Sections 31010, 31011, 31012, 31013, 31014, 31014, 31015, 31016, 31017, and 31018 of Title 5 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 69981, 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.

Regulations for the CalKIDS Program need to be created in order for SIB to administer this program. The Regulations include the addition of the sections briefly summarized below:

Section 31010. Definitions Applicable to CalKIDS Program. Defines the meaning of the words and phrases used in the article as applicable to the CalKIDS Program.

Section 31011. Eligibility. Outlines the eligibility criteria that must be met by those under consideration for a CalKIDS Account.

Section 31012. Deposits. Provides an overview of the amounts and types of financial incentives available to CalKIDS participants on behalf of the Program. Outlines criteria for the Executive Director to consider if the amount and types of financial incentives need to be modified.

Section 31013. Notifications. Outlines details on the information that will be included in notifications sent to parents of each child eligible for a CalKIDS account.

Section 31014. Opt-Out. Provides information on how CalKIDS participants may opt-out from the Program if they choose.

Section 31015. Access CalKIDS Account. Provides information on how CalKIDS participants may view and access their CalKIDS Accounts.

Section 31016. Claims and Withdrawals Process. Provides information on how CalKIDS participants may request a withdrawal of funds from their CalKIDS accounts for qualified expenses.

Section 31017. Forfeiture of Account Funds. Provides information on the forfeiture of CalKIDS account funds.

Section 31018. The Appeals Process. Provides information on the appeals process for CalKIDS beneficiaries requesting to withdraw CalKIDS account funds past the CalKIDS beneficiaries' 26<sup>th</sup> birthday deadline outlined in statute.

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, 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 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 may have a possible cost impact no greater than \$75 on a private person. The regulations will describe additional financial incentives presented to newborns 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 newborns born on or after July 1, 2022 the opportunity to receive the deposit amounts listed below. These regulations will enable a beneficiary to receive \$75 beyond the statutory requirement of \$25.

- \$25 when they register on the CalKIDS Program online portal.
- \$50 when they open and link an individual ScholarShare 529 Account to their CalKIDS Account.

The Board made the following participation and cost assumptions to determine this financial deposit structure for the newborn population.

**Incentive:** Universal Seed (statutory requirement)

**Amount:** \$25

**Annual Population Size:** 450,000

**Annual Cost:** \$11,250,000

**Incentive:** Registration

**Amount:** \$25

**Annual Population Size:** 90,000

**Annual Cost:** \$2,250,000

**Incentive:** Linked ScholarShare 529 Account

**Amount:** \$50

**Annual Population Size:** 45,000

**Annual Cost:** \$2,250,000

**Maximum Total Amount:** \$100

**Annual Cost:** \$15,750,000

The Board assumes that 20% of the total annually-enrolled birth population (90,000) will register their account within one year. The Board also assumes that 10% of the total annually enrolled newborn population (45,000)—or 50% of anticipated registrants—will open and link an individual ScholarShare 529 account.

Discounting the statutory requirement for a universal seed deposit of \$25, the total possible regulatory impact for one year will equal \$75 times the anticipated annual birth population of 450,000. As such, the possible cost impact of the regulations will be no greater than \$33,750,000.

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; or (3) affect 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  
915 Capitol Mall, Room 590

Sacramento, CA 95814  
[Noah.Lightman@treasurer.ca.gov](mailto:Noah.Lightman@treasurer.ca.gov)  
(916) 651-8376

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

Julio Martinez, Executive Director  
ScholarShare Investment Board  
915 Capitol Mall, Room 590  
Sacramento, CA 95814  
[Julio.Martinez@treasurer.ca.gov](mailto:Julio.Martinez@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 April 4, 2022. 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 915 Capitol Mall, 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](http://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.