

## **INITIAL STATEMENT OF REASONS**

### **SCHOLARSHARE INVESTMENT BOARD**

#### **CALIFORNIA CODE OF REGULATIONS (CCR) Title 5, Sections 31010, 31016, 31018 REGARDING THE CALIFORNIA KIDS INVESTMENT AND DEVELOPMENT SAVINGS PROGRAM**

### **INTRODUCTION**

The Scholarshare Investment Board (SIB) is organized and operated pursuant to sections 69980-69994 of the California Education Code. In 2022, the California Kids Investment and Development Savings Program (CalKIDS) was launched. This program provides each child born in California and eligible public-school students with college scholarship accounts developed and managed by SIB. As the program transitioned from development to implementation, numerous issues surrounding distribution processing and appeals for Beneficiaries over age 26 were realized. The proposed regulations address multiple barriers to program implementation not addressed in current regulations or existing state statute.

CCR Section 31010(a)(6)

#### *Problem Statement*

Existing law does not introduce the terms “register,” or “claim,” These terms have been used for program implementation purposes to communicate with how individuals can engage with their CalKIDS Account. For example, this term is used on notification materials, marketing collateral, presentations, and the program’s online portal.

#### *Purpose*

The purpose of this section is to inscribe program terminology into state law. The terms “register” and “claim” have been used interchangeably to describe an individual’s first accessing of the CalKIDS Account created on their behalf. Including these terms in state law is intended to provide clarity on program terminology, as these terms may be used in other documents available to the public.

#### *Necessity*

Adding a definition provides clarity to the public on program terminology, not currently enshrined in state law.

#### *Benefits*

This definition will benefit program administrators and the public by clarifying important terminology used in the ongoing administration of the program.

CCR Section 31016, Subsections (a), (b), (c), (d), (e), (f), and (g)

#### *Problem Statement*

Existing regulations refers to a Beneficiary's use of their CalKIDS funds as a "withdrawal claim." This phrase is not currently used in program administration. As such, SIB proposes replacing this term with "distribution," which has been used by SIB since CalKIDS launched.

#### *Purpose*

The purpose of this section is to correct a term used in program administration. SIB regularly communicates with Beneficiaries about making "distribution" requests. As such, it is appropriate to change the existing terminology for this process in regulations.

#### *Necessity*

Eliminating the existing term and replacing it with the term more frequently used in the implementation of the program will align state law with program administration.

#### *Benefits*

This definition will benefit program administrators and the public by clarifying important terminology used in the ongoing administration of the program.

CCR Section 31016, Subsections (c)(5)

#### *Problem Statement*

Existing regulations do not provide information about the requirement for a participant to include a memo on the check. This becomes a problem if an institution of higher education is unable to identify a particular student. For example, a student may request CalKIDS funds be sent to a particular institution, for which the institution has identified multiple individuals with that same name. As such, the institution is unable to properly designate funds to the correct individual.

#### *Purpose*

The purpose of adding this information into the regulations is to make clear the requirements needed for the check distribution process, which includes writing a short memo on the check, encouraging the Beneficiary to include their email address and phone number.

#### *Necessity*

This information is critical for the completion of the distribution process. Adding this information will align state law with the program administration.

#### *Benefits*

This added information will benefit both institutions of higher education and students. As contact information will now be on the check used for the distribution, institutions of higher education will be able to reach out to the students directly if there is any issue in identifying that issue.

CCR Section 31016, Subsections (h)(1) and (2)

### *Problem Statement*

Existing law does not provide enough clarity on what it means for a student to be enrolled at an institution of higher education. Similarly, each campus may have their own unique definition. Education Code 69996.3(g) describes when SIB shall make a payment to the institution on the student's behalf, upon the student self-certifying that they are enrolled at the institution. However, neither statute nor regulations provide any details about a student's academic status or the number of courses they must take to utilize their funds. As a consequence, SIB receives various inquiries from institutions of higher education asking if students can use their designated CalKIDS funds if their academic performance is inadequate or if they are not enrolled in a minimum number of units.

### *Purpose*

The purpose of these sections is to provide clarity for both students and institutions of higher education in helping CalKIDS Beneficiaries utilize their CalKIDS funds. This section is intended to better clarify the meaning of enrollment within the context of a student being able to use their CalKIDS funds at the particular institution.

### *Necessity*

Adding these sections is necessary to address questions posed by students and institutions of higher education about academic and enrollment status when using their CalKIDS funds.

### *Benefits*

These sections will benefit program administrators and the public by directly addressing important questions about academic and enrollment status at an institution of higher education when using CalKIDS funds.

## CCR Section 31016(h)(3)

### *Problem Statement*

Existing law allows for Beneficiaries to use their CalKIDS funds to pay for qualified higher education expenses, as defined in Education Code 69996.2(l). Neither statute nor regulations specify if and how CalKIDS Beneficiaries must report how they use their CalKIDS funds. SIB has received questions from Beneficiaries and institutions of higher education asking about reporting requirements. In the absence of clear guidance, SIB anticipates the public to continue inquiring about this issue.

### *Purpose*

The purpose of this section is to specify that CalKIDS Beneficiaries are not required to submit to the Board receipts of how they used their CalKIDS funds.

### *Necessity*

It is necessary to clearly state in state law that receipts of how funds are expended are not required to be submitted to the board.

### *Benefits*

This will benefit the public by limiting requirements on Beneficiaries and institutions of higher education in processing CalKIDS funds. Similarly, this will provide clear guidance to the public who may have questions about using their CalKIDS funds.

CCR Section 31016, Subsections (h)(4) and (5)

*Problem Statement*

While existing in Education Code 69996.3(g) authorizes an institution to distribute funds directly to the Beneficiary if the Beneficiary does not have an account balance at the institution, the state law does not provide clarity on other use-cases. For example, a Beneficiary may wish to apply their funds to a future educational expense. Similarly, state law does not address issues where there is no balance, and the student is no longer enrolled in the term. In these cases, the institution will contact SIB for guidance.

*Purpose*

The purpose of these sections is to provide guidance for institutions of higher education. It will clarify that Beneficiaries can use their funds for current or future educational expenses, including balances previously incurred. This section will also authorize the institution to return the CalKIDS funds back to the program if the Beneficiary is no longer a student at the institution and does not have an acceptable use for the funds.

*Necessity*

These sections are necessary to clarify situations when a Beneficiary can use their CalKIDS funds or when an institution of higher education should return funds back to the program.

*Benefits*

These sections will likely benefit Beneficiaries and institutions of higher education by providing more clear guidance on how to apply funds if a student has an existing, or will soon have a future, balance at the institution, as well as if they no longer attend the institution.

CCR Section 31016, Subsections (h)(6) and (7)

*Problem Statement*

Existing law does not provide enough guidance to institutions of higher education on how to apply CalKIDS funds in the situation of a student reducing their enrollment to zero units before or after the institution's add / drop deadline. Institution's have contacted the SIB asking for guidance on whether or not to allow the Beneficiary to use the CalKIDS monies in these situations.

*Purpose*

The purpose of these sections is to provide guidance to institutions of higher education and Beneficiaries on how CalKIDS funds shall be treated in the event a student reduces their enrollment to zero units. The regulations will specify when the money may be

applied to an existing student balance or be sent back to the CalKIDS Program to be returned to the Beneficiary's account.

*Necessity*

These sections are necessary to provide clear instructions to institutions of higher education as these scenarios occur. In the absence of written instructions, institutions of higher education are recommended to follow their own institutional guidelines, which may differ from campus to campus. Therefore, these regulations provide uniformity for these situations.

*Benefits*

These sections will likely benefit Beneficiaries and institutions of higher education by providing more clear guidance on how to apply funds if a student chooses to reduce their enrollment to zero units.

CCR Section 31016, Subsections (h)(8), (9), (10), and (11)

*Problem Statement*

Existing law does not provide guidance on how institutions should factor how the CalKIDS monies should be considered with unmet need, instances where the student has not registered for a course or is waitlisted, instances where the student obtains a withdrawal from the institution, and the possibility of using monies for retroactive payments to the institution of higher education. In the absence of clear rules, SIB has been unable to direct institutions of higher education on how to proceed for processing CalKIDS monies under these scenarios.

*Purpose*

The purpose of these subsections is to clarify situations where CalKIDS funds can be used by the student or returned back to the Program to be deposited into their CalKIDS Account for a future use.

*Necessity*

These sections are necessary to assist financial aid staff members with uniform rules around how CalKIDS monies may be applied in these instances.

*Benefits*

These sections will benefit both institutions of higher education and CalKIDS Beneficiaries with clear guidelines for navigating these situations.

CCR Section 31016, Subsection (h)(12)

*Problem Statement*

While existing law notes that CalKIDS funds can only be used for higher education expenses, it does not explicitly prohibit the use of funds for admissions fees. As such, SIB often receives requests from high school students requesting to use CalKIDS funds

for admissions fees during the application process. Since CalKIDS is a newer program launched in 2022, institutions of higher education are still learning the qualified expenses.

*Purpose*

The purpose of this section is to explicitly state that CalKIDS funds cannot be used in the admissions process. This will ensure that funds are used for higher education expenses upon enrollment.

*Necessity*

This section is necessary to more expressly state prohibited uses. In the absence of this expressed statement, institutions of higher education and Beneficiaries may argue that they can use CalKIDS funds for this purpose, despite statute requiring the student to be enrolled at the institution.

*Benefits*

This section will benefit both institutions of higher education and CalKIDS Beneficiaries to more clearly identify a prohibited use of CalKIDS funds.

CCR Section 31016, Subsections (h)(13) and (14)

*Problem Statement*

Existing law does not specify the definition of enrollment at an institution of higher education. This has created confusion for program administration around how long an institution may hold onto CalKIDS funds if they anticipate a student is soon to attend the institution.

*Purpose*

The purpose of these sections is to clarify how long the institution may hold onto CalKIDS funds and to explicitly state that students may be enrolled at both a high school and institution of higher education for CalKIDS funds to be utilized.

*Necessity*

These sections are necessary to clarify gaps in the current state law.

*Benefits.*

These sections will benefit both institutions of higher education and CalKIDS Beneficiaries to ensure CalKIDS funds are applied accordingly by the institution if requested by the student as they approach enrollment at the institution.

CCR Section 31016, Subsection (h)(15)

*Problem Statement*

Institutions of higher education have asked the SIB if they could use CalKIDS funds to repay financial aid obligations owed by the institution to financial aid sources (such as the federal government) on behalf of the Beneficiary. This is not a qualified use of the

funds and would benefit the institution in meeting their financial obligations rather than supporting the expenses of the students.

*Purpose*

The purpose of this subsection is to explicitly prohibit institutions of higher education from using the CalKIDS funds for a Beneficiary for this purpose of meeting the institution's own financial obligation.

*Necessity*

This section will explicitly address information not currently written in state law.

*Benefits*

This section will benefit Beneficiaries of the CalKIDS Program by ensuring that their funds are used for their higher education expenses, rather than being used by the institution for an indirect purpose.

CCR Section 31018, Subsection (a)

*Problem Statement*

Existing law does not specify conditions for which a CalKIDS participant may appeal for their CalKIDS funds if they reach the age of 26 years old. As such, a participant could wait to claim their CalKIDS funds after the age of and submit an appeal to use their funds. The purpose of initiating an age-based limit was to redirect unused funds back into the program. A successful appeal in this case would limit SIB's ability to redirect funds back into the program for a new participant. Additionally, existing law also does not incorporate into the California Code of Regulations the official CalKIDS Age-Based Appeal Form but instead states that the Beneficiary shall submit a signed and dated letter.

*Purpose*

The purpose of amending this section is to ensure appeals are only utilized by participants who have already engaged with the program by registering, or claiming, their account. This section is also amended to formalize the appeal process by incorporating a form and removing the subjective direction to submit a letter.

*Necessity*

This section is necessary to provide further instructions in state law for how an age-based appeal may be processed.

*Benefits*

This section will benefit CalKIDS Beneficiaries who claim their account prior to the age of 26. This section will benefit the SIB by framing more clear rules around who may and who may not submit an age-based appeal.

**STUDIES, REPORTS, OR DOCUMENTS RELIED UPON**

SIB relied on the question and answer document entitled “CalKIDS Financial Aid Office Program Guide” to determine rules around processing of CalKIDS funds. This question and answer document was reviewed by financial aid administrators at multiple institutions of higher education.

## **REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY REASONS FOR REJECTING THOSE ALTERNATIVES**

SIB considered allowing institutions of higher education to determine their own guidelines for how CalKIDS funds could be processed. However, SIB determined that this situation is unsustainable for the Program. In the absence of clear guidelines, institutions would treat CalKIDS funds differently, creating advantages or disadvantages for students to use their designated funds.

SIB considered keeping existing law to allow a CalKIDS Beneficiary to appeal for their aged-out funds if they did not claim their account prior to the age of 26. However, SIB determined that this situation does not align with the intent of the program to ensure participants engage with their funds as early as possible.

## **DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

SIB has not identified any adverse impacts on business nor have any adverse impacts been identified and brought to the attention of SIB. The only businesses in the State of California known to be directly impacted by the CalKIDS Program are the vendors SIB utilizes for the administration of the program. These include vendors in financial services, marketing, recordkeeping, translations, and printing and mailing. Since the program has launched, SIB has maintained direct communication with these individual stakeholders through frequent meetings and emails. SIB has not been informed by any of the proposed stakeholders that these activities would cause an adverse economic impact to their business. The regulations do not require businesses in the State of California to take any actions. Similarly, the proposed regulations do not prohibit businesses from performing duties, as they do not create new constraints or limitations to businesses. Therefore, it is unlikely that the proposed regulations could cause an adverse impact on businesses.

## **ECONOMIC IMPACT ASSESSMENT**

### *The Creation or Elimination of Jobs Within the State*

SIB does not believe that the proposed regulations will create or eliminate jobs within the State of California. The proposed regulations do not direct businesses to perform certain duties or limit their abilities to perform current operations. As such, there would be no requirement for businesses to increase or reduce their current resources.

### *The Creation of New Businesses or the Elimination of Existing Businesses Within the State*



SIB does not believe that the proposed regulations create new businesses or eliminate existing business within the state. The proposed regulations do not direct businesses to perform certain duties or limit their abilities to perform current operations. Additionally, there is not a requirement for the creation of a competitive market place to create or eliminate businesses.

*The Expansion of Businesses Currently Doing Business Within the State*

SIB does not believe the proposed regulations will expand businesses currently doing business within the state.

*The Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment*

The proposed regulations do not impose requirements or prohibitions on California residents, the state's workforce, or on current environmental regulations. In the absence of such requirements or prohibitions, SIB does not believe that the adoption of these regulations will provide benefits or adverse impacts to these areas.

**DESCRIPTION OF EFFORTS TO AVOID CONFLICT WITH AND  
DUPLICATION OF FEDERAL REGULATIONS**

SIB has not identified any conflict or duplication with any federal regulations.