

TITLE 2. CALIFORNIA VICTIM COMPENSATION BOARD
ARTICLE 5. INDEMNIFICATION OF VICTIMS OF CRIME
Title 2, §§ 649.4, 649.7, 649.15, 649.16, 649.18, 649.19, 649.24, 649.28, 649.50

[Notice Published September 29, 2023]

The California Victim Compensation Board (CaIVCB) proposes to adopt the regulations described below after considering all comments, objections and recommendations regarding the proposed action.

PUBLIC HEARING

CaIVCB has not scheduled a public hearing on this proposed action; however, the Board will schedule and hold a hearing if it receives a written request for a public hearing from any interested person, or their authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested individual, or their authorized representative, may submit written comments relevant to the proposed regulatory action. To be considered, written comments must be received by November 13, 2023. CaIVCB will consider only comments received at its office by this deadline. Written comments may be mailed to:

Neil Ennes, Legislative Coordinator
California Victim Compensation Board
P.O. Box 48
Sacramento, CA 95812-0048

Written comments may also be submitted by facsimile (FAX) at (916) 491-6441 or by e-mail to regulations@victims.ca.gov.

AUTHORITY AND REFERENCE

Government Code section 13920 authorizes CalVCB to adopt these proposed regulations. The proposed regulations are intended to implement, interpret, and make specific Government Code sections 13950 through 13963.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

CalVCB was the first established and remains one of the largest victim compensation programs in the nation. A person is eligible for victim compensation if, as a direct result of a qualifying crime, they suffered a pecuniary loss. (Gov. Code, §§ 13955, 13957.) “Crime” is defined as a crime or public offense that would constitute a misdemeanor or felony offense. (Gov. Code, § 13951, subd. (b).) A crime is a “qualifying crime” for purposes of the California Victim Compensation Board (CalVCB), if the victim sustained a physical injury or an emotional injury and a threat of physical injury. (Gov. Code, § 13955, subd. (f)(1) & (2).) Victims of sexual assault, human trafficking, child molestation, or child abuse are only required to show they sustained an emotional injury. (Gov. Code, § 13955, subd. (f)(3).) An application for compensation must be filed within seven years of the qualifying crime, seven years after the victim attains 21 years of age, or seven years of the time the victim or derivative victim knew or in the exercise of ordinary diligence could have discovered that an injury or death had been sustained, whichever is later. (Gov. Code, § 13953, subd. (a).) The Board may for good cause grant an extension of the time period to file an application. (Gov. Code, § 13953, subd. (b).) An applicant may be found to be ineligible for compensation if they failed to reasonably cooperate with a law enforcement agency in the apprehension and conviction of the person who committed the qualifying crime or were involved in the events leading to the qualifying crime. (Gov. Code, § 13956.)

If CalVCB determines a qualifying crime occurred, CalVCB can help pay certain bills and expenses, as authorized by the Legislature, that are a direct result of the crime the application was based on. (Gov. Code, §13957.) Eligible services include medical and dental care, mental health services, income loss, funeral and burial expenses, relocation, and residential security, among others enumerated in statute. (Gov. Code, § 13957.) However, CalVCB is a payor of last resort, meaning that, if a person is eligible for compensation, CalVCB provides compensation for costs that are not covered by other sources. (Gov. Code, §§ 13951 and 13954.)

The regulations governing victim compensation (Cal. Code Regs., tit. 2, §§ 601 et seq.) have not been significantly revised since 2012. As a result, several modifications are needed to provide clarity, transparency, and consistency. The revision of Section 649.4 clarifies when a felon is eligible for compensation. The revision of Section 649.7 clarifies the requirements for a complete application. The revision of Section 649.15 provides additional factors that may be considered as good cause for filing applications beyond the statutory deadline. The revision of Section 649.16 clarifies who qualifies as a derivative victim. The revision of Section 649.18 identifies ineligible funeral and burial expenses and clarifies the order of payment when there are multiple applications related to a single decedent. The revision of Section 649.19 clarifies the evidence that will be considered and payments that may be made to improve or restore residential security. The revision of Section 649.24 clarifies and expands on the circumstances that may render service providers ineligible for reimbursement. The revision of Section 649.28 clarifies and expands on CalVCB’s ability to oversee medical, medical-related, and mental health providers who seek reimbursement from CalVCB for services provided. The revision of Section 649.50 clarifies when a person is eligible or ineligible for compensation due to their involvement in a vehicle-related qualifying crime.

Anticipated Benefits of the Proposed Regulation:

The proposed regulations comply with the current law governing victim compensation, clarify existing policies and practices, and provide the public with the specificity needed for applicants to successfully obtain compensation. The regulations also interpret and implement general aspects of the law, to ensure their consistent application in specific circumstances. By doing so, they will provide clear guidance to the public and enable the Board to decide these claims in a more uniform and efficient manner.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations:

The proposed regulations are not inconsistent or incompatible with existing state regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative, private individual, or business: The Board is not aware of any cost impacts that a representative, private person, or business would necessarily incur in reasonable compliance with the proposed action.

Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: None.

Significant effect on housing costs: None

RESULTS OF THE ECONOMIC IMPACT ANALYSIS/ASSESSMENT

The purpose of the proposed regulations is to interpret and implement the current law governing victim compensation. The proposed regulations comply with the current law governing victim compensation, clarify existing policies and practices, and provide the public with the specificity needed for applicants to successfully obtain compensation. The regulations also interpret and implement general aspects of the law, to ensure their consistent application in specific circumstances. By doing so, they will provide clear guidance to the public and enable the Board to decide these claims in a more uniform and efficient manner.

When an application for compensation is approved, victims can submit bills for reimbursement of losses. Compensation is awarded after a bill is verified. In fiscal year 2021-2022, CalVCB

received 39,015 applications and provided \$40.35 million in compensation to victims; in fiscal year 2020-2021, CalVCB received 40,640 applications and provided \$52.74 million in compensation to victims; in fiscal year 2019-2020, CalVCB received 50,699 applications and provided \$58.69 million in compensation to victims; in fiscal year 2018-2019, CalVCB received 52,973 applications and provided \$61.88 million in compensation to victims. The amount paid in compensation has remained relatively stable over the past four years and CalVCB does not anticipate a significant change in future payouts. Accordingly, the proposed regulations will not directly impact jobs or the wider economy.

CalVCB has determined that the proposed regulations will not affect:

(A) The creation or elimination of jobs within the State of California,

The proposed regulations do not impact jobs because they apply to a limited group of individuals seeking compensation as a result of being victimized during a crime.

(B) The creation of new businesses or the elimination of existing businesses within the State of California, and

The proposed regulations do not impact the creation of new businesses or elimination of existing businesses in California because they apply to a limited group of individuals seeking compensation as a result of being victimized during a crime.

(C) The expansion of businesses currently doing business within the State of California.

The proposed regulations do not impact the expansion of businesses currently doing business within the State of California because they apply to a limited group of individuals seeking compensation as a result of being victimized during a crime.

The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment:

CalVCB has determined that the proposed regulations do not impact the health and welfare of California residents, worker safety, or the state's environment because they apply to a limited group of individuals seeking compensation as a result of being victimized during a crime.

SMALL BUSINESS DETERMINATION

CalVCB has determined that the proposed regulations do not affect small businesses because they apply to a limited group of individuals seeking compensation as a result of being victimized during a crime.

CONSIDERATION OF ALTERNATIVES

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

CalVCB invites interested individuals to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed regulatory revisions may be directed to:

Neil Ennes, Legislative Coordinator
California Victim Compensation Board
P.O. Box 48
Sacramento, CA 95812-0048
Telephone: (916) 491-3728

The backup contact person for inquiries concerning the proposed regulatory revisions is:

Kim Gauthier
California Victim Compensation Board
P.O. Box 48
Sacramento, CA 95812-0048
Telephone: (916) 491-3605

Please direct requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Neil Ennes at the above address.

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at 400 R Street Sacramento, CA 95811 and on the website <https://victims.ca.gov>. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies may be obtained by contacting Neil Ennes at the P.O. Box or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing, if requested, and considering all timely and relevant comments received, CalVCB may adopt the proposed regulations substantially as described in this notice. If CalVCB makes modifications which are sufficiently related to the original proposed text, it will make the modified text available to the public at least 15 days before CalVCB adopts the regulation as revised. Please send requests for copies of the modified regulation to the attention of Neil Ennes at the P.O. Box indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Neil Ennes at the above P.O. Box address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons and the proposed text of the regulations in underline and strikeout can be accessed through CalVCB's website at <https://victims.ca.gov>.

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