

INITIAL STATEMENT OF REASONS

CALIFORNIA STUDENT AID COMMISSION
P. O. Box 419026
Rancho Cordova, CA 95741

CALIFORNIA CODE OF REGULATIONS

TITLE 5. EDUCATION
DIVISION 4. CALIFORNIA STUDENT AID COMMISSION
CHAPTER 1. CALIFORNIA STUDENT AID COMMISSION
ADOPT NEW ARTICLE 19
SECTIONS 30928 -30931

PUBLIC INTEREST ATTORNEY LOAN REPAYMENT PROGRAM

I. INTRODUCTION AND BACKGROUND

This document presents the California Student Aid Commission's (Commission) proposed regulations to implement the Public Interest Attorney Loan Repayment (PIALR) Program, in accordance with the provisions of Education Code Sections 69740 through 69746.5.

The provisions of the PIALR Program were initially adopted and established within the Education Code in 2001 (Assembly Bill 935, Statutes of 2001). These Education Code provisions direct the Commission to adopt regulations to administer the program within one year of the initial program funding appropriation.

Senate Bill 101 (Chapter 12, Statutes of 2023) included the first funding appropriation for the PIALR Program in the amount of \$667,000, as part of the "Budget Act of 2023". Thus, under the Education Code, the Commission is charged with adopting initial regulations to administer the PIALR Program by July 1, 2024. Specifically, Education Code Section 69742(b) provides:

The Commission shall adopt initial regulations for the program within one year of the effective date of the initial appropriation funding the program.

The proposed regulations discussed in this document were developed by staff to interpret, implement, and make specific the statutory provisions of the Education Code relative to the PIALR Program and to govern the Commission's administration of the Program. The proposed draft regulations developed by staff are shown in "Appendix A: Proposed Regulations."

II. THE PROBLEM THE PROPOSAL INTENDS TO ADDRESS

As described above, Education Code Section 69742(b) directs the Commission to develop regulations to administer the PIALR Program by July 1, 2024. The regulations are

necessary for the Commission to establish the programmatic provisions for its administration of the PIALR Program within the California Code of Regulations, in accordance with the statutory provisions of the Education Code. These Education Code provisions direct the Commission to establish the eligibility criteria for making program awards to eligible Program participants based on “need and merit”, among other things.

III. PUBLIC PROCESS TO DEVELOP PROPOSED REGULATORY ACTION, INCLUDING CONSULTATION WITH ADVISORY COMMITTEE (Pre-rulemaking Activities and Consultations)

Staff developed these proposed regulations in consultation with an Advisory Committee established in accordance with Education Code section 69740(i). The Advisory Committee included representatives from the State Bar of California, Legal Aid Association of California, the California on Access to Justice Commission, the Universities of California at Davis and Irvine, and the Thomas Jefferson School of Law. Advisory Committee representatives included Law School Deans, and Professors, Program Directors, and others with an interest in the PIALR Program.

Staff consultations with the Advisory Committee included an October 2023 working-group meeting where the Committee helped staff interpret and define regulatory terms relative to public interest law, review and comment on provisions of the proposed application scoring matrix and respond to staff questions about the proposed regulations. Advisory Committee representatives continued to provide review assistance to staff as the proposed regulations were finalized.

IV. THE SPECIFIC PURPOSE AND RATIONALE OF EACH PROPOSED ADOPTION

This chapter provides a summary of the specific purpose of each section of the proposed regulations, along with staff determinations of why each section is reasonably necessary and appropriate to achieve the purpose of the regulatory section.

The proposed regulations duplicate and reorganize certain sections of the Education Code provisions. Staff believes it’s appropriate to reorganize certain statutory provisions into a more readable and clearer outline of Participant and Commission responsibilities under the proposed regulations. Where duplication of statutory language occurs in the regulations, such duplication is necessary to ensure that relevant definitions, requirements, and other elements of the program can be found in one location. This provides clarity and protects against confusion regarding those requirements and elements.

Section 30928. Definitions.

Summary and Purpose of Section 30928

This section outlines the various definitional terms used in the proposed regulations, which identify Participant eligibility criteria, service obligations, loan repayment provisions, and public interest law employment classifications (among other things) subject to and affected by the regulations. These definitional terms developed by the Commission are necessary to implement and clarify Program requirements, consistent with the Education Code's statutory definitions and provisions.

Rationale and Necessity of Section 30928

Each of these definitions is necessary to improve the readability of the proposed regulations, improve the clarity and understanding of the defined terms, and ensure consistent use of defined terms among Program Participants and the Commission as they apply the proposed regulatory provisions and adhere to the statutory provisions within the Education Code.

Summary and Purpose of Section 30928(j)

The definition of "Public Interest Law" contained in the proposed regulations was modified to include those licensed attorneys who provide legal "support services" as defined in Section 30928(m) of these regulations, and who work at a "qualified support center" as defined under California Business and Professions Code section 6213(b). This addition to the "public interest area of the law" definition contained in the Education Code was recommended by the Commission's Advisory Committee, to capture those attorneys who provide legal support services, in the form of training, advocacy, and technical assistance, to a legal services organization. As recommended by the Office of the State Public Defender, the definition of "Public Interest Law" has also been modified to include "assigned or contracted legal counsel" who are not part of a Public Defender's Office but provide criminal defense services.

Rationale and Necessity of Section 30928(j)

Education Code section 69740(i) indicates that "public interest area of the law" means those areas of law determined by the Commission in consultation with the Advisory Committee, for purposes of the PIALR Program administered by the Commission. California Business and Professions Code 6213(b) defines the nature of legal services provided at a "qualified support center".

Summary and Purpose of Section 30928(k)

The definition of "Full-Time or Full-Time Equivalent Employment" contained in the proposed regulations was developed by the Commission to clarify and standardize how a year-long period of full-time or full-time equivalent employment, including potential leave or absences, would be measured and reported by Participants employed at varied organizations as required by Education Code section 69743.5. The definition was also developed to consistently measure Participant completion of the Required Service Obligation and the subsequent awarding of Loan Repayment assistance, in accordance with Education Code section 69745(b).

Rationale and Necessity of Section 30928(k)

The Statute does not define how a "year-long period of full-time or full-time equivalent employment" should be measured among Participants employed at a variety of public interest law entities or organizations. Thus, it was necessary for the Commission to

develop a reasonable and uniform definition that could be consistently applied to assess Participant completion of the Required Service Obligation at various public interest law organizations or entities.

Summary and Purpose of Section 30928(m)

The definition of “Support Services” contained in the proposed regulations was added to clarify the nature of work conducted by public interest law attorneys providing legal services at a “Qualified Support Center” as defined in Section 30928(j) of these regulations.

Rationale and Necessity of Section 30928(m)

As noted above, the Advisory Committee recommended adding attorneys who provide legal “support services” at a “qualified support center” to the regulation’s definition of public interest law. It’s therefore necessary to clarify and distinguish the nature of “support services” work from the “direct legal services” work provided by attorneys practicing law at the other “public interest law” employers referenced in the regulations. Education Code section 69740(i) indicates that “public interest area of the law” means those areas of law determined by the Commission in consultation with the Advisory Committee, for purposes of the PIALR Program administered by the Commission.

Section 30929. Application Process and Information

Summary and Purpose of Section 30929

This section outlines the Commission’s proposed application notification and review process and Applicant informational requirements. The Program application developed by the Commission is designed to establish Applicant Program eligibility, and to collect sufficient information to score and rank Applicants for purposes of making Loan Repayment assistance awards. Thus, information collected from the application form will be used by the Commission to evaluate Program eligibility and select applicants for Program participation or admission based on scoring within the PIALR Program matrix.

Subsection (a) describes the Commission’s proposed process and associated timelines for the release of the Program application, the subsequent review and evaluation of submitted applications from interested Program participants, and the Commission’s notification process for applicants and selected Program Participants.

The information required to be reported by applicants in the PIALR Program application is summarized in the proposed regulations as follows:

Subsections (1) through (6) collect general Applicant identifying and contact information, including the Applicant’s State Bar number. This information is necessary to establish Program eligibility, in accordance with Education Code section 69743.5. Subsection (7) collects information concerning the law school attended by the Applicant and any academic achievements, in accordance with Education Code section 69742(a)(4). Academic achievement information will be used to assign points in the PIALR scoring matrix.

Subsections (8), (10) and (11) collect information concerning an Applicant’s current gross

monthly salary, certain personal financial resources, and law school debt to assess an Applicant's financial needs, in accordance with Education Code section 69742(a)(1). This collected information will also be used to assign points within the PIALR scoring matrix relative to an Applicant's personal financial needs.

Subsection (9) collects identifying and contact information for the Applicant's employer and supervisor necessary to confirm an Applicant's employment status.

Subsection (12) collects identifying and contact information for the Applicant's law school debt lender or servicer. This information is necessary for the Commission to make potential Loan Repayment assistance awards to lenders on behalf of Applicants selected for Program Participation, as provided under Education Code section 69745(a).

Subsections (13) and (14) collect information on defined Applicant employment or volunteer experience, and intent to work in public interest law if not already so employed. This information is designed to assess an Applicant's commitment to public service law in accordance with Education Code section 69742(a)(2). This information will also be used to assign points within the PIALR scoring matrix relative to an Applicant's overall commitment to public service law.

Subsection (15) requires Applicants to clarify and indicate if they have sought loan repayment assistance from other available sources, as required under Education Code section 69743.

Finally, subsection (16) requires Applicants to confirm the information provided in the application is true and correct, and provide a signature to this affect under penalty of perjury, and agree to authorize the exchange of necessary records between the Commission, the Applicant's law school, employer, and loan servicer as required for the Program.

Rationale and Necessity of Section 30929

The content of the PIALR Program application, and the information to be provided by applicants is necessary to meet each of the statutory requirements referenced above, and more broadly to allow the Commission to effectively administer the Program, establish eligibility criteria, and select among qualified applicants. Education Code section 69741 provides the Commission with the authority to administer the Program. Education Code section 69742 directs the Commission to establish Program eligibility criteria, and section 69743.5 directs the Commission to select Program Participants from among qualified applicants.

Section 30930. Application Evaluation and Selection

Summary and Purpose of Section 30930

This section outlines the Commission's proposed process to assess applicant program eligibility based on statutory criteria, and to rank and score Eligible Participants and Participants admitted to the PIALR Program within the scoring matrix developed by the Commission for potential Loan Repayment assistance. This section also specifies that

eligible applicants accumulating the highest number of points will be prioritized for assistance and explains how the Commission would address tied scores among eligible Program Participants where limited funding assistance is available.

More specifically, subsection (a) addresses how the Commission will assess applicants for Program eligibility and determine eligibility to be admitted to the Program. Subsections (b) and (c) address how the Commission will use the scoring matrix to rank and score eligible applicants and select from the pool of applicants those who shall be admitted to the Program, for the limited Loan Repayment assistance available.

Subsection (d) explains and clarifies the timeline and way the Commission will notify applicants selected for Program admission and potential Loan Repayment assistance. This subsection also provides that the Commission will select a random and representative percentage of Participants admitted to the Program to conduct further verification of salary and personal resource information reported in their Program applications.

Finally, Subsection (e) clarifies how any unused Program funds would be re-allocated by the Commission should selected Participants fail to meet the subsequent employment verification and service obligation requirements of the program.

Rationale and Necessity of Section 30930

Education Code section 69742 requires the Commission to establish eligibility criteria based around the prescribed “need and merit” factors to participate in the Program, and Education Code section 69743.5 requires the Commission to select from qualified applicants those eligible to participate in and be admitted to the Program. Education Code section 69741.5(b) limits the Commission’s award funding to the amounts authorized in the Budget Act for any fiscal year.

It was necessary for the Commission to develop the PIALR Program scoring matrix to create an objective tool to assess applicant need and merit, and score selected applicants or Participants for the potential receipt of limited Loan Repayment assistance. It was also necessary for the Commission to establish a means to resolve any tied scores among selected Participants where limited Loan Repayment funding assistance is available.

Applicants are not required to provide information to verify or document reported salary and personal resource information in Program applications submitted to the Commission. Not all applicants may be selected for admission based on the Program’s limited funding availability. Thus, the Commission has elected to randomly assess and verify reported information in Program applications for those Participants admitted to the Program. This is necessary for the Commission to provide an appropriate level of financial control over Program funding, consistent with other financial assistance programs administered by the Commission.

Education Code section 69740(j) requires Program Participants to complete the Required Service Obligation to qualify for Loan Repayment assistance. Education Code section 69744 requires the Commission to annually establish the amount of funding to be awarded for loan repayments. It’s therefore appropriate for the Commission to clarify how Program assistance awards would be re-allocated where a Participant fails to complete the service

obligation.

Section 30931. Employment Verification and Loan Repayment Procedure

Summary and Purpose of Section 30931

This section describes the Commission's proposed process for verifying Participant completion of the Required Service Obligation and providing Loan Repayment assistance to the Participant's lender. An Employment Verification Form shall be completed annually by Participants to demonstrate they have completed at least one year of Full-time Equivalent Employment (and have thus satisfied the Required Service Obligation) and are therefore eligible to receive Loan Repayment assistance from the Commission. The Commission will rely on information provided in the Employment Verification Form to authorize payment to a Participant's lender towards the outstanding loan or law school debt balance.

Subsection (a) specifies that Participants shall submit an Employment Verification Form to the Commission by June 30th of each year, and subsections (1) through (6) outline and summarize the information applicants are to provide in the Form. Subsection (b) provides that the Commission shall make the annual Loan Repayment to the Participant's lender upon its review of the Employment Verification Form and confirmation of the Participant's completion of the Required Service Obligation. Subsection (c) indicates the Commission will use the Employment Verification Form information to make a direct payment to the Participant's lender toward the outstanding loan balance.

Rationale and Necessity of Section 30931

This proposed regulatory section is necessary for the Commission to establish, interpret, and make specific how Program Participants will demonstrate compliance with the Required Service Obligation defined by Education Code section 69740(j) and required under Education Code section 69743.5; and the subsequent process in which the Commission will make Loan Repayment assistance to the Participant's lender, in accordance with Education Code section 69743.5. These proposed provisions are also necessary to allow the Commission to verify Participant completion of Program performance requirements, and to exercise appropriate financial control over Loan Repayment assistance awards.

The June 30th deadline for the Employment Verification Form in subsection (a) is appropriate and necessary to clarify and establish a uniform date by which Participants shall file the Form with the Commission for the potential allocation of Loan Repayment assistance to Participant lenders. Because the Program application window under Section 30929 of the proposed regulations includes a specified deadline, the selection of program Participants and their completion of the Required Service Obligation should also occur within a limited timeframe. Thus, the June 30th deadline was selected to allow sufficient time for Program Participants to document completion of the Required Service Obligation. The information required in the Employment Verification Form under subsections (a)(1) through (5) is needed to allow the Commission to verify a Participant's completion of the Required Service Obligation, and subsection (a)(6) is needed to provide current information

on the Participant's outstanding law school debt amount.

Subsection (b) is necessary to clarify and establish that the Commission will verify completion of the Required Service Obligation before it makes a Loan Repayment assistance award to a Participant's lender, and that the amount of such annual awards shall be as prescribed under Education Code section 69741.5(a).

Subsection (c) is necessary to clarify and establish that Participants shall file an Employment Verification Form to demonstrate completion of the Required Service Obligation as a Commission condition of providing Loan Repayment assistance, and that such assistance shall be made directly to the Participant's lender as specified under Education Code section 69743.5.

Attachment A: PIALR Program Application Scoring Matrix (Matrix)

Summary and Purpose of the Matrix

The Matrix allows the Commission to score and rank Applicants for potential Loan Repayment assistance based on objective measures developed to assess applicant "need and merit" as described in Education Code section 69742. The Matrix includes standardized and weighted measures, developed by the Commission and the Advisory Committee, to assess applicant: salaries, personal resources, law school debt, commitment to public interest law, academic achievement, and public interest law practice in high-need geographic areas of the State.

The "Personal Need" section of the Matrix allows the Commission to evaluate and assign points based on an Applicant's gross salary at time of application, relative to where the Applicant's salary falls within prescribed categories of a "living wage" for the county in which an Applicant is employed. This Matrix section also considers the personal resources of Applicants and ranks them within specific asset-value categories to assign points to Applicants. Reported personal resources include the value of cash and savings held in bank or other financial accounts, real estate or other property (excluding the applicant's personal residence), and any business or farm assets. Finally, an Applicant's reported law school debt is ranked within numerical debt ranges to assign points to Applicants. These three measures of gross salary, personal resources, and law school debt comprise the "Personal Need" analysis in the Matrix and allow the Commission to assign a maximum total of 42 points to Eligible Applicants under this section.

The "Commitment to Public Interest Law" section of the Matrix allows the Commission to rank and assign points to Applicants based on: years of public interest law employment at time of application, other completed public service employment and volunteer experience, and consideration of the Applicant's need to work during law school. These measures were developed to objectively allow the Commission to assess and rank each Applicant's commitment to public interest law in accordance with the Education Code. The Commission may assign a maximum of 33 points to Eligible Applicants under this section.

The "Practicing in High Need Geographic Areas" section of the Matrix allows the

Commission to rank and assign points to Applicant's who are either currently practicing, or intend to practice, public interest law in underserved geographic areas of the State. The measure of public interest attorney need is assessed in the Matrix by the ratio of licensed attorneys relative to the overall resident population of each California County. The Commission may assign a maximum of 20 points under this section.

Finally, the "Academic Achievements" section of the Matrix allows the Commission to assign points to Applicants for their reported achievements while in law school. The Commission may assign a maximum of 5 points under this section.

Rationale and Necessity of the Matrix

Education Code section 69742(a) directs the Commission to establish reasonable eligibility criteria for Program Participants based upon "need and merit", which are set forth in the following order of importance. Subsection (1) specifies that an Applicant's need shall consider salary, personal resources and law school debt. Subsection (2) specifies that an Applicant's commitment to public interest law shall also be evaluated based on employment and volunteer history, including an Applicant's need to work while in law school. Subsection (3) specifies that an Applicant's commitment to practicing in geographic areas where public interest attorney needs are high shall also be considered. Finally, subsection (4) directs the Commission to consider the academic achievements of Applicants.

Loan Repayment assistance funding is limited. Therefore, it is necessary for the Commission to establish a reasonable system to fairly and objectively rank and assign points to Applicants for the limited funding that is available. The Matrix is designed to assign appropriate points to Applicants based on these measures of need and merit, and in the order of importance the statute assigns to these measures.

V. BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

As previously noted, the proposed regulations are necessary to clarify statutory provisions and establish the PIALR Program within the California Code of Regulations. The Program provides financial assistance towards reducing the remaining law school debt of licensed attorneys who agree to work in certain defined areas of "public interest law". The Program may further the interest of the State by encouraging attorneys to pursue careers in public interest law, including in those areas of the State underrepresented by licensed and/or practicing attorneys.

VI. JUSTIFICATION FOR ADOPTION OF REGULATIONS DIFFERENT FROM FEDERAL REGULATIONS CONTAINED IN THE CODE OF FEDERAL REGULATIONS

The proposed regulation would only apply within California and specifically to attorneys residing and practicing law in California who elect to participate in the PIALR Program. The provisions of the proposed regulations would neither affect nor conflict with any federal regulations, or federal education or work study programs.

VII. ECONOMIC IMPACT ASSESSMENT

The proposed regulations would establish the financial assistance provisions of the PIALR Program for licensed attorneys working in public interest law as administered by the Commission. Participation in the Program is voluntary and thus the proposed regulations place no new or substantial requirements on businesses, individuals, or government agencies within California.

The regulation is not expected to create new businesses, eliminate existing businesses, or cause an expansion to businesses currently operating within the State. Furthermore, there is no significant statewide adverse economic impact that would directly affect businesses, including the ability of California businesses to compete with businesses in other States, or on representative private persons. The regulation is not expected to adversely impact California residents' health or welfare, worker safety, or the State's environment.

The regulation is not expected to eliminate any jobs in the State but could encourage licensed attorneys to pursue employment or careers in those specified areas of public interest law defined in the regulations. The financial assistance made available towards the repayment of law school debt could not only help Participants repay this debt, but also free up funds for use towards other living costs such as rent and mortgage payments, cars, and consumer products.

VIII. EVALUATION OF REGULATORY ALTERNATIVES

Government Code Section 11346.2(b)(4) requires the Commission to consider and evaluate reasonable alternatives to the proposed regulatory action and provide reasons for rejecting those alternatives. This section discusses alternatives evaluated and provides reasons why these alternatives were not included in the proposed regulation. As explained below, no proposed alternative was found to be less burdensome and equally effective in achieving the regulation's purposes. The Commission has not identified any reasonable alternatives that would lessen any adverse impact on small businesses. This is a voluntary program that offers potential Loan Repayment assistance to Attorneys practicing public interest law within certain areas of the law and for certain employment entities. Eligible applicants can choose not to participate in the program.

Staff evaluated a "Take No Action" alternative to the proposed regulation. A take no action alternative means the Commission would not develop programmatic regulations to establish and implement the PIALR Program, in accordance with the legislative direction provided by Education Code section 69742(b). Under this scenario, no programmatic regulations to implement the PIALR Program would be established within the California Code of Regulations, and the Commission would be unable to award Program assistance as required by Education Code section 69741.5. This alternative was rejected because staff believes establishing regulations to implement the PIALR Program is not only required by the Commission, but consistent with statutory direction and intent. The proposed regulations should also enable the Commission to operate the Program consistently in future years as additional Budget funding appropriations are

made available.

In drafting the regulations, and in consultation with the established Advisory Committee, staff was unable to identify a more efficient alternative to the Program approach contained in the draft regulations.

IX. REFERENCES

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X. APPENDICIES

A. Proposed Regulations