



California Victim Compensation Program



STATE OF CALIFORNIA  
EDMUND G. BROWN JR., Governor

ANNA M. CABALLERO  
Secretary  
State and Consumer Services Agency  
Chairperson  
JOHN CHIANG  
State Controller  
Board Member  
MICHAEL A. RAMOS  
San Bernardino County District Attorney  
Board Member  
JULIE NAUMAN  
Executive Officer

TITLE 2. VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD  
VICTIM COMPENSATION PROGRAM REGULATIONS  
Title 2, §§ 649.56

[Notice Published December 28, 2012]

The Victim Compensation and Government Claims Board (Board) proposes to amend the regulation described below after considering all comments, objections and recommendations regarding the proposed action.

**PUBLIC HEARING**

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

**WRITTEN COMMENT PERIOD**

Any interested individual, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on February 11, 2013. The Board will consider only comments received at the Board's office by that time. Submit written comments to:

Geoff Feusahrens, Regulations Analyst  
Victim Compensation and Government Claims Board  
400 R Street, Suite 500  
Sacramento, CA 95811

Comments may also be submitted by facsimile (FAX) at (916) 491-6441 or by e-mail to [regulations@vcgcb.ca.gov](mailto:regulations@vcgcb.ca.gov).

## AUTHORITY AND REFERENCE

Government Code sections 11400.20, 13920 and 13974 authorizes the Board to adopt this proposed regulation. The proposed regulation implement, interpret and make specific Government Code sections 13920, 13956 and 13974.

## INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Government Code section 13950 requires that the Victim Compensation and Government Claims Board “assist residents of the State of California in obtaining compensation for the pecuniary losses they suffer as a direct result of criminal acts.”

The California Victim Compensation Program (CalVCP) proposes an amendment to Rule 649.56, Involvement in the Qualifying Crime of Prostitution. Victims of human trafficking are often forced to commit acts of prostitution. Because prostitution is a specific intent crime, CalVCP strongly contends that human trafficking victims are not committing the crime of prostitution because they are forced to perform the acts against their will. Human trafficking victims do not possess the specific intent to commit the crime of prostitution; therefore, CalVCP proposes adding the below language to Rule 649.56.

Because human trafficking victims are not committing the crime of prostitution, Rule 649.56, the regulation regarding the denial of benefits due to involvement in the events leading up to the qualifying crime, is not applied in human trafficking cases. The purpose of amending Rule 649.56 is to include language of our policy in the regulation therefore ensuring consistent processing decisions. CalVCP proposes adding the following language to Rule 649.56:

(d) This section shall not be applied to cases involving human trafficking pursuant to Penal Code section 236.1.

The Board has determined that the proposed regulation is not inconsistent or incompatible with existing state regulations. After performing a review of any related regulations, we have found that these are the only regulations dealing with this subject area. Therefore, this proposed regulation is neither inconsistent nor incompatible with existing state regulations. Further clarifying and defining this area would help the Board make better decisions and potentially benefit victims of crime to receive the help and benefits they need.

## RESULTS OF THE ECONOMIC IMPACT ANALYSIS

By defining that human trafficking is not applicable in regard to Rule 649.56, CalVCP’s Restitution Fund may be impacted by an increase in applications, but there is no impact on the creation of new businesses or the elimination or expansion of businesses currently doing business within the State of California nor is there an impact on the creation or elimination of jobs within the State of California.

Benefits of the Proposed Action: Clarifying and defining this area would help the Board make better decisions and potentially benefit victims of crime to receive the help and benefits they need. Because human trafficking victims are not committing the crime of prostitution, Rule 649.56, the regulation regarding the denial of benefits due to involvement in the events leading up to the qualifying crime, is not applied in human trafficking cases. The purpose of amending Rule 649.56 is to include language of our policy in the regulation therefore ensuring consistent processing decisions. In doing so, victims of human trafficking can potentially benefit from

CalVCP by receiving compensation to pay for various expenses such as relocation expenses and/or mental health therapy expenses.

*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 17500 through 17630: None

Other nondiscretionary cost or savings imposed on local agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: 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.

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.

Significant effect on housing costs: None

#### SMALL BUSINESS DETERMINATION

The Board has determined that the proposed regulation does not affect small businesses because the regulation only applies to individuals who apply to CalVCP.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board 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.

The Board invites interested individuals to present statements or arguments with respect to alternatives to the proposed regulation during the written comment period.

#### CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Geoff Feusahrens  
Victim Compensation and Government Claims Board  
400 R Street, Suite 500  
Sacramento, CA 95811  
Telephone: (916) 491-3863

The backup contact person concerning the proposed administrative action may be directed to:

Kevin Kwong  
Victim Compensation and Government Claims Board  
400 R Street, Suite 500  
Sacramento, CA 95811  
Telephone: (916) 491-3750

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 Geoff Feusahrens at the above address.

#### AVAILABILITY OF STATEMENT OF REASONS, TEXT 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 the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation and the Initial Statement of Reasons. Copies may be obtained by contacting Geoff Feusahrens at the address 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, the Board may adopt the proposed regulation substantially as described in this notice. If the Board 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 the Board adopts the regulation as revised. Please send requests for copies of the modified regulation to the attention of Geoff Feusahrens at the address 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 Geoff Feusahrens at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons and the text of the regulations in underline and strikeout can be accessed through our website at [www.vcgcb.ca.gov](http://www.vcgcb.ca.gov).

\* \* \* \* \* END \* \* \* \* \*