

**California Victim Compensation and Government Claims Board  
Victim Compensation Program Regulations  
Title 2, §§ 649.50, 649.51, 649.53, 649.54, 649.56**

**INITIAL STATEMENT OF REASONS**

Government Code section 13950 requires the Victim Compensation and Government Claims Board (Board) to “assist residents of the State of California in obtaining compensation for the pecuniary losses they suffer as a direct result of criminal acts.” However, victims who sustain pecuniary losses while participating in a crime are generally ineligible for compensation. Victims who were involved in the events leading to the pecuniary loss may be ineligible for compensation. The proposed regulations clarify what conduct constitutes participation versus involvement, and delineate the consequences of each. The proposed regulations also clarify exceptions to the definition of participation and involvement and renumber the regulations. Finally, the proposed regulations eliminate unnecessary verbiage in the current regulations.

The specific purpose of each revision or proposed regulation and the reasons that the revision or proposed regulation is necessary, together with a description of the public problem, are described below.

## **Old Section 649.50. Involvement in a Vehicle-Related Qualifying Crime**

### **Authority and Reference**

Pursuant to Government Code sections 13920 and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program (“CalVCP”). This rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 13956.

### **Rationale**

This regulation must be repealed because the rules regarding participation and involvement are being reorganized.

### **Specific Purpose of Regulation**

It is necessary to repeal this regulation in order for it to be amended and renumbered.

## **New Section 649.50. Participation in the Commission of a Crime for Which Compensation is Being Sought**

### **Authority and Reference**

Pursuant to Government Code sections 13920 and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program (“CalVCP”). This

rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 13956.

**Rationale**

With enumerated exceptions, Government Code section 13956(a) excludes victims who suffer pecuniary losses while participating in a crime from receiving CalVCP benefits. This revision is necessary to clarify the exceptions listed in section 13956(a).

**Specific Purpose of Regulation**

It is necessary to revise this provision because the exceptions to the “participation exclusion” mandated by statute are only identified by their penal code sections. This revision will list the exceptions using plain English. The revision also eliminates unnecessary language in the current regulation.

**Old Section 649.51. Participation in the Commission of a Crime for Which Compensation is Being Sought**

**Authority and Reference**

Pursuant to Government Code sections 13920 and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program (“CalVCP”). This rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 13956.

**Rationale**

This regulation must be repealed because the rules regarding participation and involvement are being reorganized.

**Specific Purpose of Regulation**

It is necessary to repeal this regulation in order for to be amended and renumbered.

**New Section 649.51. Participation in the Qualifying Crime Due to Illegal Drug-Related Activity**

**Authority and Reference**

Pursuant to Government Code sections 13920 and 13974, the Board has authority to adopt necessary regulations for CalVCP. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 13956.

### **Rationale**

It is necessary to revise this regulation to clarify that, in accordance with Government Code section 13956(a), illegal drug activity constitutes participation, not involvement in the events leading to the qualifying crime.

### **Specific Purpose of Regulation**

Government Code section 13956(a) mandates that victims participating in crimes be excluded from receiving CalVCP benefits, while 13956(c) authorizes the Board to allow, in some cases, the claims of victims who were involved in non-criminal conduct leading to their pecuniary losses. CalVCP currently cites the “involvement exclusion” to deny benefits to claimants who were engaged in illegal drug activity when they were victimized. However, because illegal drug activity is a crime, the conduct must be properly characterized as “participation,” not “involvement.” The regulation must be revised to properly implement and make specific Government Code 13956.

## **Old Section 649.53. Involvement in the Qualifying Crime Due to Mutual Combat**

### **Authority and Reference**

Pursuant to Government Code sections 13920 and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program (“CalVCP”). This rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 13956.

### **Rationale**

This regulation must be repealed because the rules regarding participation and involvement are being reorganized.

### **Specific Purpose of Regulation**

It is necessary to repeal this regulation in order for to be amended and renumbered.

## **New Section 649.53. Participation or Involvement in a Vehicle-Related Qualifying Crime**

### **Authority and Reference**

Pursuant to Government Code sections 13920 and 13974, the Board has authority to adopt necessary regulations for CalVCP. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 13956.

## **Rationale**

It is necessary to revise this regulation to clarify what conduct constitutes participation, and what conduct constitutes involvement in vehicle-related crimes. It is also necessary to clarify what exceptions to the “involvement exclusion” will be recognized by CalVCP.

## **Specific Purpose of Regulation**

Government Code section 13956(a) mandates that claimants participating in crimes be excluded from receiving CalVCP benefits, while 13956(c) authorizes the Board to allow, in some cases, CalVCP claims from victims who were involved in the events leading to their pecuniary loss. The current regulation mischaracterizes intoxicated drivers as being involved in the events leading to the vehicle-related crime, while also stating that such drivers could be found to have participated in the events leading to the crime. Because driving under the influence of drugs or alcohol is a crime, the regulation must be revised to both avoid confusion, and properly define intoxicated driving as participation, rather than involvement in the qualifying crime.

However, because passengers of intoxicated drivers have not committed a crime, the current regulation correctly defines them as being involved in the events leading to the vehicle-related crime if they knew, or should have known, the driver was intoxicated. Nevertheless, this regulation must be revised so that the funeral/burial costs of passengers killed by intoxicated drivers are reimbursable.

## **Old Section 649.54. Involvement in the Qualifying Crime Due to Illegal Drug-Related Activity**

### **Authority and Reference**

Pursuant to Government Code sections 13920 and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program (“CalVCP”). This rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 13956.

### **Rationale**

This regulation must be repealed because the rules regarding participation and involvement are being reorganized.

### **Specific Purpose of Regulation**

It is necessary to repeal this regulation in order for to be amended and renumbered.

## **New Section 649.54. Participation or Involvement in Mutual Combat Leading to a Qualifying Crime**

### **Authority and Reference**

Pursuant to Government Code sections 13920 and 13974, the Board has authority to adopt necessary regulations for CalVCP. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 13956.

### **Rationale**

It is necessary to revise this regulation to define when mutual combat constitutes participation or involvement under Government Code section 13956.

### **Specific Purpose of Regulation**

Government Code section 13956(a) mandates that claimants participating in crimes be excluded from receiving CalVCP benefits, while 13956(c) authorizes the Board to allow, in some cases, CalVCP claims from victims who were involved in the events leading to their pecuniary loss. The current regulation defines mutual combat as involvement in the events leading to a qualifying crime. However, mutual combat, because it consists of two individuals physically fighting with each other, in most cases constitutes battery and possibly more serious crimes. Therefore, purposefully engaging in a physical altercation except in cases of self-defense is a crime and the regulation should be revised to properly define it as participation in the events leading to the qualifying crime.

Conversely, instigating or provoking another into physical violence is usually not a crime in and of itself. Therefore, conduct leading to mutual combat should still be analyzed to determine if it rises to the level of involvement in the events leading to the qualifying crime. The regulation must be reorganized to emphasize this distinction.

## **New Section 649.56. Mitigation of Involvement in the Events Leading to the Qualifying Crime**

### **Authority and Reference**

Pursuant to Government Code sections 13920 and 13974, the Board has authority to adopt necessary regulations for CalVCP. This rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 13956.

### **Rationale**

This revision is necessary only to renumber the regulation.

### **Specific Purpose of Regulation**

This regulation must be revised in order to ensure that it follows in numerical order the amended and reorganized regulations proposed herein.

## **Section 649.57. Mitigation of Involvement in the Events Leading to the Qualifying Crime**

### **Authority and Reference**

Pursuant to Government Code sections 13920 and 13974, the Board has authority to adopt necessary regulations for the Victim Compensation Program (“CalVCP”). This rulemaking action is intended to further implement, interpret, and/or make specific Government Code section 13956.

### **Rationale**

This regulation must be repealed because the rules regarding participation and involvement are being reorganized.

### **Specific Purpose of Regulation**

It is necessary to repeal this regulation in order for to be renumbered.

### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

The Board did not rely upon any technical, theoretical or empirical studies, reports or documents in proposing the adoption of these regulations.

### **REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S REASONS FOR REJECTING THOSE ALTERNATIVES**

The Board has determined that there are no other reasonable alternatives to this rulemaking action.

### **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The Board has no evidence indicating any potential adverse impacts to small business are expected as a result of this proposed action.

### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The Board has no evidence indicating any potential significant adverse impact on business as a result of this proposed action.

### **ECONOMIC IMPACT ANALYSIS/ASSESSMENT**

The purpose of the proposed regulations is only to clarify eligibility and conform to applicable statutes. Because CalVCP is a program which offers limited benefits for a limited group of individuals, it does not directly impact jobs or the wider economy. There

is no reason to believe the proposed revisions will either increase or decrease the number of victim applications.

The Board has determined that the selected alternative will not affect:

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

None of the proposed revisions impact jobs because they apply only to CalVCP applications.

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

Because the proposed revisions do not impact the creation or elimination of jobs, there is no impact on the creation of new businesses or elimination of existing businesses in California.

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

Because the proposed revisions do not impact the creation or elimination of jobs, there is no impact on the expansion of businesses currently doing business within the State of California.

(D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

Because the proposed regulations only clarify eligibility and conform to applicable statutes, there is no impact on the health and welfare of California residents, worker safety, or the state's environment.