

Item 5

(Action Item)

Consideration to approve the proposed regulations for the Public Interest Attorney Loan Repayment Program (Ed Code Section 69740, et seq.)

SUMMARY:

This item provides a description of the proposed regulations for the Public Interest Attorney Loan Repayment Program (PIALR Program), including the proposed regulation text, additional regulatory documents, and a description of the regular rulemaking process.

RECOMMENDATION:

Staff recommends the California Student Aid Commission (Commission) approve the proposed regulations and authorize staff to complete the regulatory process, including opening a 45-day public comment period, preparing, and submitting all required documents to the Office of Administrative Law (OAL), and making all non-substantive changes to the regulations and supporting documentation resulting from public comment or as requested by OAL.

BACKGROUND:

As of July 29, 2021, the Commission's rulemaking workgroup, comprised of Program Administration and Services Division (PASD) and the Legal Unit, has been reviewing the Commission's regulations and new programs.

The provisions of the Public Interest Attorney Loan Repayment Program (PIALR Program) were initially adopted and established within the Education Code in 2001 (*Assembly Bill No. 935 of 2001*). Senate Bill 101 (Chapter 12, Statutes of 2023) included the first funding appropriation for the PIALR Program in the amount of \$216,000, as part of the "Budget Act of 2023".

Implied or express regulatory authority is required for the Commission to adopt regulations. The PIALR Program statute includes express regulatory authority.

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.

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Pursuant to Education Code Section 69742(b), the Commission is charged with adopting initial regulations to administer the program *“within one-year of the effective date of the initial appropriation funding the program.”* Thus, under the Education Code, the Commission shall adopt initial regulations to administer the PIALR Program by July 1, 2024.

Staff developed these proposed regulations in consultation with an Advisory Committee 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 Deans, Law Professors, Program Directors, and others with an interest in the PIALR Program. Staff consultations with the Advisory Committee included an October 24, 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.

Staff has determined that regulations are necessary for the PIALR Program to incorporate and implement the items prescribed by Education Code Section 69740, et seq. The proposed regulations were developed to satisfy these provisions of the Education Code and to establish the PIALR Program and its administration by the Commission.

Commission approval is required for staff to begin the regulatory process. Upon approval by the Commission, staff will prepare the regulation package for public review, which will include the proposed text, Initial Statement of Reasons, the STD 399 Fiscal Impact Statement, and the Notice of Proposed Regulatory Action. These documents will be made available for a 45-day public review and comment period through the Office of Administrative Law's California Regulatory Notice Register and on the Commission's website.

The rulemaking process requires, at a minimum, a 45-day public comment period. The Commission may also elect to hold a public hearing on a proposed rulemaking action. If the Commission does not schedule a public hearing, any interested person can submit a written request for one to be held. The written request for a hearing must be submitted at least 15 days prior to the close of the written public comment period, and the agency must give notice of and hold a public hearing. After the initial 45-day public comment period, the Commission may decide to change its initial proposal either in response to public comments received or on its own initiative. If changes to the initial regulations are made, the Commission shall decide whether the changes necessitate an additional public comment period. Depending on whether the change is non-

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substantial or substantial, an additional comment period of either 15-days or 45-days may be required.

The Commission must summarize and respond on the record to timely comments that are directed at the proposal or at the procedures followed by the agency during this process. With each comment, the agency must either (1) explain how it has amended the proposal to accommodate the comment, or (2) explain the reasons for making no change to the proposal.

The summary and response to comments are part of the rulemaking file and are included in the Final Statement of Reasons that is submitted to OAL. Once the complete rulemaking file is submitted to OAL, OAL has 30 working days to conduct its review. OAL must review the rulemaking record to determine whether it demonstrates that the Commission satisfied the procedural requirements of the APA and complied with the appropriate legal standards. Once OAL has completed its review, and assuming the Commission has met its obligations, OAL files the regulation with the Secretary of State and the regulations become effective.

Staff recommends the California Student Aid Commission (Commission) approve the proposed regulations and authorize staff to complete the regulatory process, including opening a 45-day public comment period, preparing, and submitting all required documents to the Office of Administrative Law (OAL), and making all non-substantive changes to the regulations and supporting documentation resulting from public comment or as requested by OAL.

RESPONSIBLE PERSON(S):

Edmundo Aguilar, Acting General Counsel
Executive Office

Tae Kang, Deputy Director
Program Administration and Services Division

Libby Rafferty, Specialized Program Manager
Program Administration and Service Division

ATTACHMENT(S):

Education Code Section 69740 through 69746.5
OAL Regular Rulemaking Process
Notice of Proposed Rulemaking
Draft Resolution
Initial Statement of Reasons
Text of Proposed Regulations