

**Subject:** SPARK Comments//Kevin Walsh

**Date:** Wednesday, May 4, 2022 at 1:28:18 PM Pacific Daylight Time

**From:** Walsh, Kevin [REDACTED]

**To:** Regulations

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Thank you for your time today. You asked if I could send my notes. I've included them below.

Regards,

Kevin Walsh

Members of the Board and Agency

Thank you for these hearings.

I'm Kevin Walsh, a principal at Groom Law Group.

I'm here on behalf of The SPARK Institute.

SPARK represents the recordkeepers of retirement plans.

SPARK supports mission of CCPA and CPRA to provide individuals with the privacy they expect.

Thank you for letting us share businesses experience to date.

So far ER and B2B specific rules have largely prevented conflict between goals of employers/employees and privacy. And as additional states have acted, they have ALL recognized that employment related benefits are a unique from a privacy regulations standpoint.

It is important that harmony continues and new regulations not interfere with ability to provide benefits that employees expect

CPRA had two year extension of employee/B2B specific provisions and the assembly is considering legislation that would further extend those employee and B2B specific provisions.

While we are optimistic that the legislature will act, we are here proactively

If not extended, special rules are needed in the benefit space. And benefit space should be defined broadly.

1. Gradual phase in of any new rules in the benefit space. Likely that employee/employer will need unique rules so a rapid snap to standard rules while legislature explores employee/employer relationship only creates costs of developing compliance with something that is likely to change

2. Regulations should make clear data and use are permitted to the extent use is reasonably related to providing employees with benefits — goods and services that an employee receives access to by virtue of their relationship as an employee of an employer

A broad definition helps future proof employee benefits and ensure that Californians do not receive inferior benefits to employees elsewhere. For example, 10 years ago very few employers provided financial wellness or access to programs to assist with paying down student debt. Any definition needs to be broad to allow for continued innovation.

3. An example of why special rules are needed, we can look at the operation of a retirement plan.

Opt outs/controls doesn't work for 401(k) plans. No section of ERISA expressly says that a business needs to (need to be able to comply with vagaries of ERISA and fact that retirement system only functions if participants can be located

Similarly a right to deletion would cause similar problems.

Thank you for your time.

SPARK looks forward to working with you as the rule making advances.

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