

LODI UNIFIED SCHOOL DISTRICT

Rule 3320

Business and Non-Instructional Operations

Claims and Actions Against the District

Claim Presentation Requirements

California law requires that prior to filing a complaint against the district or its employees, the claimant must present a claim under the California Tort Claim Acts. (Government Code 911 et seq.)

Time Limitations to Present Claim

1. Claims for money or damages relating to a cause of action for death or for injury to person, personal property or growing crops shall be presented to the Board of Education no later than six months after the accrual of the cause of action.
2. Pursuant to Government Code 935, claims for money or damages that are listed as exceptions in Government Code 915 shall be presented not later than six months after the accrual of the cause of action. Such claims include:
 - a. Claims under the Revenue and Taxation Code or other statute prescribing procedures for the refund, rebate, exemption, cancellation, amendment, modification, or adjustment of any tax, assessment, fee, or charge or any portion thereof, or of any penalties, costs, or charges related thereto;
 - b. Claims in connection with which the filing of a notice of lien, statement of claim, or stop notice is required under any law relating to liens of mechanics, laborers, or material men;
 - c. Claims by public employees for fees, salaries, wages, mileage, or other expenses and allowances;
 - d. Claims for which the Workers' Compensation authorized by Division 4 (commencing with Section 3200) of the Labor Code is the exclusive remedy;

- e. Applications or claims for any form of public assistance under the Welfare and Institutions Code or other provisions of law relating to public assistance programs, and claims for goods, services, provisions, or other assistance rendered for or on behalf of any recipient of any form of public assistance;
- f. Applications or claims for money or benefits under any public retirement or pension system;
- g. Claims for principal or interest upon any bonds, notes, warrants, or other evidence of indebtedness;
- h. Claims that relate to a special assessment constituting a specific lien against the property assessed and that are payable from the proceeds of the assessment, by offset of a claim for damages against it or by delivery of any warrant or bonds representing it;
- i. Claims by the state or by a state department or agency or by another local public entity or by a judicial branch entity;
- j. Claims arising under any provision of the Unemployment Insurance Code, including, but not limited to, claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties, or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed;
- k. Claims for the recovery of penalties or forfeitures made pursuant to Article I (commencing with Section 1720) of Chapter 1 of Part 7 of Division 2 of the Labor Code;
- l. Claims governed by the Pedestrian Mall Law of 1960 (Part 1 (commencing with Section 11000) of Division 13 of the Streets and Highways Code);
- m. Claims made pursuant to Section 340.1 of the Code of Civil Procedure for the recovery of damages suffered as a result of childhood sexual abuse. This subdivision shall apply only to claims arising out of contact occurring on or after January 1, 2009;

- n. Claims made pursuant to Section 701.820 of the Code of Civil Procedure for the recovery of money pursuant to Section 26680; and
 - o. Claims made pursuant to Section 49013 of the Education Code for reimbursement of pupil fees for participation in educational activities.
3. Claims for money or damages as authorized in Government Code 905 and not included in paragraph #1 or paragraph #2 above, including claims for damages to real property, shall be presented not later than one year after the accrual of the cause of action.

Claims against the District shall further be subject to the provisions of Government Code 945.4, relating to the prohibition of suits in the absence of the presentation of claims and action thereon by the District.

Late Claims

Any person presenting a claim under item #1 or #2 above later than six months after the accrual of the cause of action shall present, along with the claim, an application to file a late claim. Such claim and application to file a late claim must be filed not later than one year after the accrual of the cause of action.

If a claim under item #1 or #2 is filed late and it is not accompanied by an application to file a late claim, the Board or Superintendent shall, within 45 days, give written notice that the claim was not filed timely and that it is being returned without further action.

The Board or Superintendent shall grant or deny the application to file a late claim within 45 days after it is presented. This 45-day period may be extended by written agreement of the claimant and the Board or Superintendent provided that such agreement is made before the expiration of the 45-day period.

The Board or Superintendent shall grant the application to file a late claim under any one of the following circumstances:

1. The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the district was not prejudiced in its defense of the claim by the failure to present the claim within the time limit.

2. The person who sustained the alleged injury, damage, or loss was a minor during all of the time specified for presentation of the claim.
3. The person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during all of the time specified for presentation of the claim and the disability was the reason he/she failed to present the claim.
4. The person who sustained the alleged injury, damage or loss died before the expiration of the time specified for the presentation of the claim.

If the application to present a late claim is denied, the claimant shall be given notice in the form set forth in Government Code 911.3.

If the Board or Superintendent does not take action on the application to file a late claim within 45 days, the application shall be deemed to have been denied on the 45th day unless the time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement.

Delivery of Claims

A claim, any amendment thereto, or an application to present a late claim shall be deemed presented and received when delivered to the office of the Superintendent or deposited in a post office, subpost office, substation, or mail chute or other like facility maintained by the U.S. Government, in a sealed envelope properly addressed to the district office with postage paid or when otherwise actually received in the district office.

Claim Form

Claims shall be submitted on the district claim form. The Board or Superintendent may return a claim not using the district's claim form and the claim may be resubmitted using the district's required form attached as an exhibit to this administrative regulation.

Notice of Claim Insufficiency

The Superintendent or designee shall review all claims for sufficiency of information.

If the claim is found insufficient or found not to satisfy the form requirements under Government Code 910.4, the Board or Superintendent may, within 20 days of receipt of the claim, either personally deliver or mail to the claimant, at the address stated in the claim, or application, a notice stating with particularity the defects or omission in the claim. If such a notice is delivered or sent to the claimant, the Superintendent or Board shall not act upon the claim until at least 15 days after such notice is given.

Amendment to Claims

Claims may be amended within the time limits provided under the section entitled "Time Limitations" above or prior to final action by the Board, whichever is later, if the claim, as amended, relates to the same transaction or occurrence which gave rise to the original claim.

Action on Claims

Within 45 days after the presentation or amendment of a claim, the Board shall take action on the claim. This time limit may be extended by written agreement before the expiration of the 45-day period. If the 45-day period has expired or before legal action is commenced or barred by legal limitations.

The Board may act on the claim in one of the following ways:

1. If the Board finds that the claim is not a proper charge against the district or its employees, the claim shall be rejected.
2. If the Board finds that the claim is a proper charge against the district and is for an amount justly due, the claim shall be allowed.
3. If the Board finds that the claim is a proper claim against the district but is for an amount greater than is justly due, the Board shall either reject the claim or allow it in the amount justly due and reject it as to the balance.
4. If legal liability of the district or the amount justly due is disputed, the Board may reject or compromise the claim.

If the Board allows the claim in whole, or in part, or compromises the claim and the claimant accepts the amount allowed or offered to settle the claim, the Board may require the claimant to accept it as settlement of the entire claim.

The Superintendent or designee shall transmit to the claimant written notice of action taken or of inaction which is deemed rejection. The notice shall be in the form set forth in Government Code 913 and shall either be personally delivered or mailed to the address stated in the claim form.

If no action is taken within the prescribed time limits, the claim shall be deemed to have been rejected.

All claimants are encouraged to promptly seek the advice of an attorney so as to protect their legal rights with respect to any claim or potential claim.

This policy is effective immediately and applies retroactively to any and all claims, including to claims which accrued prior to the enactment of this policy.

Rule

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