

## **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 Claims Act. (Government Code 911 et seq.)

### **Time Limitations to Present Claim**

The following time limitations apply to claims against the district:

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 Governing Board not later than six months after the accrual of the cause of action. (Government Code 905, 911.2)
2. Pursuant to Government Code 935, claims for money or damages that are listed as exceptions in Government Code 905 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;

**CLAIMS AND ACTIONS AGAINST THE DISTRICT (Continued)**

(g) Claims for principal or interest upon any bonds, notes, warrants, or other evidences 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 1 (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 conduct 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. (Government Code 905, 911.2, 935)

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. (Government Code 905, 911.2)

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.

**CLAIMS AND ACTIONS AGAINST THE DISTRICT (Continued)****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 shall be presented not later than one year after the accrual of the cause of action. (Government Code 911.4)

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

The Board or Superintendent shall grant or deny the application to present 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. (Government Code 911.6)

The Board or Superintendent shall grant the application to present a late claim under any one of the following circumstances: (Government Code 911.6)

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 911.8. (Government Code 911.8)

If the Board or Superintendent does not take action on the application to present 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. (Government Code 911.6)

**CLAIMS AND ACTIONS AGAINST THE DISTRICT (Continued)****Receipt 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 or by the Board secretary or clerk. (Government Code 915, 915.2)

Upon receipt of a claim against the district pursuant to the Government Claims Act, the Superintendent or designee shall promptly provide written notice to the district's JPA or insurance carrier in accordance with the applicable conditions of coverage.

**Review of Contents of the Claim**

The Superintendent or designee shall review any claim received to ensure that the claim contains all of the following information as specified in Government Code 910 and 910.2:

1. The name and post office address of the claimant
2. The post office address to which the person presenting the claim desires notices to be sent
3. The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted
4. A general description of the indebtedness, obligation, injury, damage, or loss incurred insofar as it may be known at the time of presentation of the claim
5. The name(s) of the public employee(s) causing the injury, damage, or loss if known
6. The amount claimed if it totals less than \$10,000 as of the date of the presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds \$10,000, the dollar amount shall not be included in the claim and the claimant shall indicate whether the claim is a "limited civil case."
7. The signature of the claimant or the person acting on his/her behalf.

**Notice of Claim Insufficiency**

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

**CLAIMS AND ACTIONS AGAINST THE DISTRICT (Continued)**

If the claim is found insufficient or found not to satisfy the requirements under Government Code 910 and 910.2, 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. (Government Code 910.8, 915.4)

The Superintendent or Board shall not act upon the claim until at least 15 days after such notice is given. (Government Code 910.8)

**Amendment to Claims**

Claims may be amended within the time limits provided under the section entitled "Time Limitations to Present Claim" 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. (Government Code 910.6)

**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, the time limit may be extended if legal action has not been commenced or barred by legal limitations. (Government Code 912.4)

The Board may act on the claim in one of the following ways: (Government Code 912.6)

1. If the Board finds that the claim is not a proper charge against the district, 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 charge 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.
5. If the Board takes no action on the claim, the claim shall be deemed rejected.

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 in settlement of the entire claim. (Government Code 912.6)

**CLAIMS AND ACTIONS AGAINST THE DISTRICT (Continued)**

The Board or its 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 or application. (Government Code 913, 915.4)

Regulation

Adopted: September 1, 2005

Revised: August 20, 2009; June 28, 2018

**VACAVILLE UNIFIED SCHOOL DISTRICT**

Vacaville, California