

Business and Non-instructional Operations

Claims and Actions Against the District

The Governing Board desires to conduct district operations in a manner that minimizes risk, protects district resources, and promotes the health and safety of students, staff, and the public. Any and all claims for money or damages against the district shall be presented to and acted upon in accordance with the Government Claims Act or other applicable state or district procedures, as well as the district's joint powers authority (JPA) agreement or other insurance coverage.

(cf. 3530 - Risk Management/Insurance)

(cf. 5143 - Insurance)

Any claim for money or damages not governed by the Government Claims Act (Government Code 810-996.6) or specifically excepted by Government Code 905 shall be presented and acted upon in accordance with district-established procedures consistent with the manner and time limitations specified in the accompanying administrative regulation, unless a procedure for processing such claims is otherwise provided by state or federal law or regulation.

(Government Code 935)

Upon notice to the district of a claim, the Superintendent or designee shall take all necessary steps to protect the district's rights under any applicable contractual agreements, including the right to indemnification from its insurance or other coverage provider.

In accordance with Government Code 935.4, the Board delegates to the Superintendent the authority to allow, compromise, or settle claims of \$50,000 or less pursuant to any conditions of coverage in the district's JPA agreement or insurance coverage.

Roster of Public Agencies

Within 10 days of any change in the name of the district, the mailing address of the Board, or the names and addresses of the Board president, the Board clerk or secretary, or other Board members, the Superintendent or designee shall file the updated information with the Secretary of State and the County Clerk. (Government Code 53051)

Legal Reference:

EDUCATION CODE

35200 Liability for debts and contracts

35202 Claims against districts; applicability of Government Code

CODE OF CIVIL PROCEDURE

340.1 Damages suffered as result of childhood sexual abuse

GOVERNMENT CODE

800 Cost in civil actions

810-996.6 Claims and actions against public entities

6500-6536 Joint exercise of powers

53051 Information filed with secretary of state and county clerk

PENAL CODE

72 Fraudulent claims

OROVILLE UNION HIGH SCHOOL DISTRICT

BP 3320 (b)

Claims and Actions Against the District (Cont.)

COURT DECISIONS

Big Oak Flat-Groveland Unified School District v. Superior Court of Tuolumne County, (2018) 21 Cal.App.5th 403

City of Stockton v. Superior Court, (2007) 42 Cal. 4th 730

Connelly v. County of Fresno, (2006) 146 Cal.App.4th 29

CSEA v. South Orange Community College District, (2004) 123 Cal.App.4th 574

CSEA v. Azusa Unified School District, (1984) 152 Cal.App.3d 580

Management Resources:

WEB SITES

California Secretary of State's Office: <http://www.sos.ca.gov>

Adopted: 11/28/90

Amended: 5/5/04, 11/4/09, 10/17/18

Business and Non-instructional Operations

Claims and Actions Against the District

Time Limitations

The following time limitations apply to claims against the district:

1. Claims for money or damages relating to any cause of action which is governed by a statute or regulation, including childhood sexual abuse and other causes of action specifically excepted from the Government Claims Act by Government Code 905, shall be filed in accordance with the governing statute or regulation. (Government Code 905, 935)
2. In accordance with the Board's authority pursuant to Government Code 935, claims for money or damages which relate to any cause of action specifically excepted from the Government Claims Act by Government Code 905 but which are not governed by any other claims presentation statute or regulation shall be filed not later than six months after the accrual of the cause of action. (Government Code 905, 935)
3. 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 911.2)
4. Claims for money or damages relating to any other cause of action shall be filed not later than one year after the accrual of the cause of action. (Government Code 911.2)

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 district office or deposited in a post office, mailbox, sub-post office, substation, mail chute, or other similar 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 joint powers authority 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

Claims and Actions Against the District (Cont.)

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 district employee(s) causing the injury, damage, or loss if known
6. The amount claimed if it totals less than \$10,000, 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

If a claim is found insufficient or not to satisfy the form requirements under Government Code 910 and 910.2, the Board or its designee shall, within 20 days of receipt of the claim, personally deliver or mail to the claimant, at the address stated in the claim or application, a notice that states the particular defects or omission in the claim. (Government Code 910.8, 915.4)

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

Amendment to Claims

Within the time limits provided in the section "Time Limitations" above or prior to final action by the Board, whichever is later, a claim may be amended if, as amended, it relates to the same transaction or occurrence which gave rise to the original claim. (Government Code 910.6)

Late Claims

For claims under items #2 and #3 in the section "Time Limitations" above, any person who presents a claim later than six months after the accrual of the cause of action shall present, along with the claim, an application to present a late claim. Such claim and the application to present a late claim shall be presented not later than one year after the accrual of the cause of action. (Government Code 905, 911.4)

If the claim is presented late and is not accompanied by an application to present a late claim, the Board or its designee may, within 45 days, give written notice that the claim was not presented timely and that it is being returned without further action. (Government Code 911.3)

The Board 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 provided that such agreement is made before the expiration of the 45-day period. (Government Code 911.6)

The Board shall grant the application to present a late claim where one or more of the following conditions are applicable: (Government Code 911.6)

Claims and Actions Against the District (Cont.)

1. The failure to present the claim was through mistake, inadvertence, surprise, or excusable neglect and the district was not prejudiced in its defense regarding the claim by the claimant's 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 substantially the same form as set forth in Government Code 911.8. (Government Code 911.8)

If the Board 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)

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 between the district and the claimant 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 commenced or been barred by legal limitations. (Government Code 912.4)

The Board may act on the claim in one of the following ways: (Government Code 912.4, 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 (Cont.)

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)

Adopted: 5/5/04
Amended: 11/4/09, 11/27/18

CLAIM FOR INJURY, DAMAGE and/or INDEMNITY

OROVILLE UNION HIGH SCHOOL DISTRICT

1. Claims for death, injury to person, or to personal property must be filed not later than six (6) months after the occurrence (Govt. Code, Section 911.2)
2. Claims for damages to real property or breach of contract must be filed not later than (1) year after the occurrence (Govt. Code, Section 911.2)

SCHOOL DATE STAMP WHEN RECEIVED _____

CLAIMANT INFORMATION:

Name of Claimant		Age		Date of Birth	
Claimant Social Security Number (if claim for bodily injury)					
Does the Claimant have Medicare coverage?					
Residence Address of Claimant					
Name of Responsible Parent / Guardian					
Name of Other Person for Legal Notification					
Legal Mailing Address					
Telephone Number(s)					

ACCIDENT / LOSS INFORMATION:

Date of Accident or Loss		Time of Day	
Location of Accident or Loss			
Name(s) of person(s) causing the accident or loss (if any)			
Description of what happened and why you feel the school is responsible (attach additional pages if necessary)			

AMOUNT YOU ARE CLAIMING:

Type	Dollar Amount	Briefly Describe
Medical Expense	\$	
Property Loss	\$	
Other	\$	
TOTAL CLAIM	\$	

WITNESSES:

Name	Address	Phone #

I declare under penalty of perjury that the above statements are true and correct.

Signature of Claimant or Representative

Date

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS:

Every person who with intent to defraud, presents for allowance or payment any false or fraudulent claim against a public entity may be guilty of a felony (See California Penal Code 72).

NOTICE OF INSUFFICIENCY OF CLAIM AND RETURN WITHOUT ACTION

Date:

Date of Claim:

To:

Re: Claim of _____ against the Oroville Union High School District

This to advise you that the subject Claim has been reviewed, evaluated and found to be deficient for the reason(s) highlighted below:

- (1) The Claim fails to state the name and mailing address of the claimant.
- (2) The Claim is not signed.
- (3) The Claim fails to state a mailing address to which the person desires notices to be sent.
- (4) The Claim does not provide enough information to determine when, where, and/or how the incident/accident occurred.
- (5) The Claim does not provide enough information to determine what the loss, damage, or injury is.
- (6) The Claim does not provide enough specific information to determine what, if anything, the public entity did or failed to do to create a liability exposure.
- (7) The Claim does not comply with Government Code 910(f) as to the amount sought or the court of appropriate jurisdiction.
- (8) The Claim does not provide the name(s) of any of our employees who may be responsible for the incident/accident.
- (9) The Claim does not comply with Government Code 910.4(a) in that all claims against a public entity shall be submitted on a claim form supplied by the public entity.

The Claim will not be acted upon within fifteen (15) days from the date of this Notice to allow for your amendment of this Claim.

WARNING: A claim that is deficient or does not contain sufficient information, as required by law, may not be considered to have been filed in a timely manner and may prevent the prosecution of a lawsuit based on an incident/accident which is the subject of this Claim.

PROOF OF SERVICE

On __ (Date) _____, I served the within NOTICE OF INSUFICIENCY OF CLAIM on the claimant by placing a true copy thereof enclosed in a sealed envelope in the outgoing mail as requested by the claimant.

I declare under penalty of perjury that the foregoing is true and correct. Executed in _____ (Location) _____, California on _____ (Date)____.
_____ (Type or Print Name) _____ (Signature) _____

NOTICE OF UNTIMELY CLAIM

(To be forwarded on governmental entity letterhead)

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Date:

To:

Re: Claim of _____ against the Oroville Union High School District

Dear _____:

NOTICE IS HEREBY GIVEN that the claim you presented to the Oroville Union High School District on _____, __, _____ will not be accepted for consideration because it was not presented within ONE-YEAR of the date of accrual of the cause of action as required by law. Accordingly, the claim has not and will not be considered on its merits. See Government Code Section 911.2.

Sincerely,

NOTICE OF UNTIMELY CLAIM

(To be forwarded on governmental entity letterhead)

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Date: _____

To:

Re: Claim of _____ against the Oroville Union High School District

Dear _____:

NOTICE IS HEREBY GIVEN that the claim you presented to the Oroville Union High School District is being returned because it was not presented within six months after the event or occurrence as required by law. See Section 901 and 911.2 of the Government Code.

Because the claim was not presented within the time allowed by law, no action was taken on the claim.

Your only recourse at this time is to apply without delay to the Oroville Union High School District for leave to present a late claim. See Sections 911.4 and 912.2, inclusive, and Section 946.6 of the Government Code. Under some circumstances, leave to present a late claim will be granted. See Government Code 911.6 of the Government Code.

Sincerely,

NOTICE OF REJECTION OF CLAIM

(To be forwarded on governmental entity letterhead)

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Date:

To:

Re: Claim of _____ against the Oroville Union High School District

Dear ____:

NOTICE IS HEREBY GIVEN that the claim which was presented to the Oroville Union High School District _____, __, ____ was REJECTED on _____, __, ____.

WARNING

Subject to certain exceptions, you have only (6) months from the date this notice was personally delivered or deposited in the mail to file a state court action on this claim. (See Government Code 945.6).

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Please also be advised that, pursuant to Sections 128.5 and 1038 of the California Code of Civil Procedure, the District will seek to recover all costs of defense in the event an action is filed in the matter and it is determined that the action was not brought in good faith and with reasonable cause.

Sincerely,