

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 a cause of action for death or for injury to person, personal property or growing crops shall be presented to the district not later than six months after the accrual of the cause of action.
2. Claims for money or damages specifically excepted from Government Code 905 shall be filed not later than six months after the accrual of the cause of action.
3. Claims for money or damages as authorized in Government Code 905 and not included in item #1 above, including claims for damages to real property, shall be filed not later than one year after the accrual of the cause of action.

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 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 is not accompanied by an application to file a late claim, the Board, Superintendent or designee 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, Superintendent, or designee 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, Superintendent or designee 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, Superintendent or designee 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 such 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 and Form of Claim

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, sub-post 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.

Claims shall be submitted on the district claim form. The Board, Superintendent or designee may return a claim not using the district's claim form and the claim may be resubmitted using the district's form.

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, Superintendent or designee 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.

The Superintendent, Board or designee shall not act upon the claim until at least 15 days after such notice is given.

Amendments to Claim

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 Claim

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.

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, 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.

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.

The Superintendent or designee shall transmit to the claimant written notice of action taken or 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.

Adopted: October 24, 2007

(Replaces: AR 3532.1 Public Liability Claims Procedure)

(Adopted: January 1972)