

## **Business and Noninstructional Operations**

### **CLAIMS AND ACTIONS AGAINST THE DISTRICT**

The Governing Board intends that the district's operations minimize risk, protect district resources, and promote the 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 Board policy and administrative regulation.

*(cf. 3530 - Risk Management/Insurance)*

*(cf. 5143 - Insurance)*

Claims for money or damages not governed by the Government Claims Act (Government Code 810-996.6) or accepted by Government Code 905 shall be presented consistent with the manner and time limitations in the Government Claims Act, unless a procedure for processing such claims is otherwise provided by state or federal law. Such compliance is a prerequisite to any court action consistent with the provisions of Government Code 945.4.

This policy is intended to apply retroactively to any existing causes of action and/or claims for money and/or damages.

### **Roster of Public Agencies**

The Superintendent or designee shall file the information required for the Roster of Public Agencies with the Secretary of State and the County Clerk. Any changes to such information shall be filed within 10 days after the change has occurred. (Government Code 53051)

This information shall include the name of the school district, the mailing address of the Board, and the names and addresses of the Board presiding officer, the Board clerk or secretary, and other members of the Board. (Government Code 53051)

*Legal Reference (next page)*

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

### *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*

53051 *Information filed with secretary of state and county clerk*

#### PENAL CODE

72 *Fraudulent claims*

#### COURT DECISIONS

*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>

Policy  
adopted: April 14, 1997  
revised: October 18, 2005  
revised: June 9, 2009

**VISALIA UNIFIED SCHOOL DISTRICT**  
Visalia, California

**CLAIMS AND ACTIONS AGAINST THE DISTRICT**

Unless otherwise provided by law, prior to filing a lawsuit against the district for money or damages, a written claim shall be filed in accordance with the following administrative regulation.

**Time Limitations**

The following time limitations apply to claims against the district:

1. Claims for money or damages relating to any cause of action specifically excepted from the Government Claims Act by Government Code 905 and for which a statute or regulation provides a claims presentation procedure shall be filed in accordance with the applicable governing statute or regulation. (Government Code 905, 935)

*(cf. 4157.1/4257.1/4357.1 - Work-Related Injuries)*

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

2. In accordance with the Governing 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 and 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 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.

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)**

### **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 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 of \$25,000 or less.
7. The signature of the claimant or the person acting on the claimant's 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)

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT** (continued)

### **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)

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 the person 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)

## **CLAIMS AND ACTIONS AGAINST THE DISTRICT** (continued)

### **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)

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 **VISALIA UNIFIED SCHOOL DISTRICT**

approved: April 14, 1997

revised: September 19, 2005

revised: May 18, 2009

revised: February 13, 2020

Visalia, California

JPA MEMBER DATE STAMP WHEN RECEIVED: \_\_\_\_\_

***VISALIA UNIFIED SCHOOL DISTRICT***

1. NAME OF CLAIMANT: \_\_\_\_\_ AGE: \_\_\_\_\_
2. RESPONSIBLE PARENT/GUARDIAN: \_\_\_\_\_  
NAME OF OTHER PERSON FOR LEGAL NOTIFICATION: \_\_\_\_\_  
LEGAL MAILING ADDRESS: \_\_\_\_\_  
TELEPHONE NO. (    ) \_\_\_\_\_
3. RESIDENCE ADDRESS OF CLAIMANT: \_\_\_\_\_
4. DATE OF ACCIDENT OR LOSS: \_\_\_\_\_ TIME OF DAY: \_\_\_\_\_
5. LOCATION OF ACCIDENT: \_\_\_\_\_
6. PLEASE DESCRIBE WHAT HAPPENED AND WHY YOU FEEL THE SCHOOL IS RESPONSIBLE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Use additional sheets if necessary)
7. THE NAME(S) OF PERSON(S) CAUSING THE ACCIDENT OR LOSS (IF ANY): \_\_\_\_\_  
\_\_\_\_\_
8. AMOUNT YOU ARE CLAIMING:  
\$ \_\_\_\_\_ Medical Expense \_\_\_\_\_  
\$ \_\_\_\_\_ Property Loss \_\_\_\_\_  
\$ \_\_\_\_\_ Other \_\_\_\_\_  
\$ \_\_\_\_\_ TOTAL CLAIM
9. NAMES AND ADDRESSES OF WITNESSES: \_\_\_\_\_  
\_\_\_\_\_

*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)  
9/19/05

**NOTICE OF FAILURE TO USE DISTRICT'S CLAIM FORM**  
**Government Code Section 910.4**

\*\*\*Note: The following form should be modified to reflect district practice. Districts are strongly encouraged to consult district legal counsel in developing this form. \*\*\*

TO: [Claimant]  
[Address]

RE: Claim Filed [date]

The claim you presented to the Superintendent or designee on [date] is being returned because it was not presented on the district's claim form as required by Government Code Section 910.4 and in accordance with Board policy and administrative regulation. Because the claim was not presented on the district's form, no action was taken on the claim.

You may resubmit your claim using the district's claim form, which may be obtained at the district office. Note that your claim must still comply with the time limits in the Government Code specified for filing of such claims. For further information, call [phone number].

September 19, 2005



**NOTICE OF INSUFFICIENCY**  
**Government Code Section 910.8**

\*\*\*Note: The following form should be modified to reflect district practice. Districts are strongly encouraged to consult district legal counsel in developing this form. \*\*\*

TO: [Claimant]  
[Address]

RE: Claim Filed [date]

The claim presented by you on [date] fails to comply substantially with the requirements of Government Code Sections 910 and 910.2 or with the requirements of the district's claim form provided under Government Code Section 910.4. Specifically, your claim is insufficient because of the following defects or omissions:

Therefore, the claim is being returned to you without further action or consideration. If you wish to pursue this further, you should consult the Government Code or legal counsel.

The Governing Board will not take any action on the claim for a period of fifteen (15) days from the date of this notice.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Title of Officer

September 19, 2005

Exhibit 4

**NOTICE OF FAILURE TO FILE IN A TIMELY MANNER**  
**Government Code Section 911.3**

TO: [Claimant]  
[Address]

RE: Claim Filed [date]

\*\*\*Note: Government Code 911.3 requires the following language. Districts should consult legal counsel before modifying this form. \*\*\*

The claim you presented to the Superintendent or designee on [date] is being returned because it was not presented within six months after the event or occurrence as required by law. See Sections 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 [district name] for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, and Section 946.6 of the Government Code. Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code.

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.

September 19, 2005

**DENIAL OF APPLICATION TO FILE A LATE CLAIM**  
**Government Code Section 911.8**

TO: [Claimant]  
[Address]

RE: Claim Filed [date]

\*\*\*Note: The following paragraph should be modified to reflect district practice.\*\*\*

Your application to file a late claim presented on [date] has been denied. The Governing Board has determined that your claim does not satisfy one of the four conditions listed in Government Code Section 911.6.

\*\*\*Note: Government Code 911.8 requires the following language. Districts should consult legal counsel before modifying this language.\*\*\*

**WARNING**

If you wish to file a court action on this matter, you must first petition the appropriate court for an order relieving you from the provisions of Government Code Section 945.4 (claims presentation requirement). See Government Code Section 945.6. Such petition must be filed with the court within six (6) months from the date your application for leave to present a late claim was denied.

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.

September 19, 2005

**Business and Noninstructional Operations**

**CLAIMS AND ACTIONS AGAINST THE DISTRICT**

**NOTICE OF ACTION TAKEN ON CLAIM  
Government Code Section 913**

Note: Government Code 913 requires districts to provide written notice of action taken or of inaction deemed rejection on any claim for money or damages against the district. Government Code 913 requires that the following language be used in the notice. Districts should consult legal counsel before modifying this language.

Dear \_\_\_\_\_:

Notice is hereby given that the claim you presented to the [district name] on [date] was [rejected, allowed, allowed in the amount of \$ \_\_\_\_\_ and rejected to the balance, rejected by operation of law or other appropriate language, whichever is applicable] on [date of action or rejection by operation of law].

Note: If the claim is rejected either in whole or in part, Government Code 913 requires that the following warning be included.

**WARNING**

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title of Officer

Approved: September 19, 2005  
Revised: May 18, 2009

Exhibit 7

**NOTICE OF REJECTION BY OPERATION OF LAW**

**(To be forwarded on governmental entity letterhead)**

**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Date:

To:

Re:

NOTICE IS HEREBY GIVEN that the related claim presented to the \_\_\_\_\_ was  
REJECTED BY OPERATION OF LAW 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).

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.

Let it be known that the claim has been turned over

Sincerely,

September 19, 2005

Exhibit 8

**NOTICE OF REJECTION OF CLAIM**

**(To be forwarded on governmental entity letterhead)**

**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Date: \_\_\_\_\_, \_\_\_\_, 2005

To:

Re: Claim of

NOTICE IS HEREBY GIVEN that the claim which was presented to the Visalia Unified School District on \_\_\_\_\_ 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.

Let it be known that the claim has been turned over to the District's claims administrator,

Sincerely,

September 19, 2005