



## **AP 6541 Claims Against the District**

### **Reference:**

Education Code Section 72502;

Government Code Sections 900 et seq., 910 et seq., 911.2, and 935

### **1. REQUIREMENTS FOR CLAIMS INVOLVING FORMAL SUBMISSION OF A CLAIM AGAINST THE DISTRICT:**

- A. A government tort claim must be filed against a public entity for any monetary claims for personal injury or death, or for damages to personal property (Gov Code 911.2).
- B. Exemptions: Many non-tort claims are exempt from filing requirements where adequate claims procedures already exist (e.g. tax refund claims, salary claims, unemployment insurance claims, bond claims, and claims for inverse condemnation). Other claims, such as federal civil rights claims and California Fair Employment and Housing Act claims, are exempted by case law.
- C. If the District or its third party administrator makes a partial or advanced payment to the injured party, without notifying them of the claims filing requirements, the filing is excused.
- D. Claimant may contact the District's Risk Management office and request a Claim Form. Such request cannot be denied by District staff; however, District staff is not required to make the form available unless or until such a request is made (Gov Code 910.4). District will send the requested Claim Form via mail, fax, or email as appropriate within five (5) business days.
- E. Any claim submitted without the District's designated Claim Form will be reviewed. If appropriate, the claimant will be provided with the District's Claim Form to complete and return. All claims will be managed in conjunction with the District's Third Party Administrator as appropriate.

### **2. TIME LIMITS FOR FILING CLAIMS:**

- A. Six months from the accrual of a cause of action for personal injury, death or property damage. This is typically the date of loss. However, some actions only accrue when the injury is discovered.

- B. One year for minors.
- C. One year for breach of contract.

**3. REVIEWING CLAIMS:**

- A. Each claim should be reviewed to verify that it is timely and sufficient. A claim is deficient if it does not contain all of the required elements that are outlined in California Government Code Section 910.

**4. RESPONDING TO CLAIMS:**

- A. In response to a claim, the District has the following options:
  - i. Board takes action to accept the claim. The Board of Trustees has forty-five (45) days to take action to accept a claim.
  - ii. Board takes action to reject the claim. The Board of Trustees has forty-five (45) days to take action to reject a claim (see below).
  - iii. District and the claimant agree to extend the time for the District to take action on the claim.
  - iv. Board takes no action and claim is deemed rejected by operation of law on the forty-fifth (45<sup>th</sup>) day. (California Government Code 912.4)
  - v. Claim is returned as untimely. Within forty-five (45) days of the claim being filed, the District must send a notice to the claimant advising them that their claim is untimely and that claimant may properly apply for leave to present a late claim (Government Code 911.3). District must return the original claim with the notice and retain a copy. If the District does not send out the notice within forty-five (45) days of the claim being filed, the District has waived the defense that the claim is untimely. If a claim is filed more than a year after the accrual date, a notice should be sent to the claimant within forty-five (45) days returning the claim as untimely and advising that since the filing was more than one year after the accrual date, claimant's only recourse is to petition the court for relief from the claim filing statutes.
  - vi. Claimant is notified the claim is deficient. If there are defects in the claim, or if it is incomplete, the District must notify the claimant within twenty (20) days and specify the defects (Government Code Section 910.8). If no notice is sent, the District waives any defense based on such defects or omissions. Fifteen (15) days after the deficient notice is sent out, the District can take action to reject the claim.

- A. It is always recommended that a claim be rejected in order to keep the statutes running and limit the time to file suit to six (6) months.
- B. If the Board does not take action to reject the claim and does not send out any notices, the claimant will have two (2) years from the date of accrual to file their lawsuit.

**5. REJECTION OF CLAIM:**

- A. Written notice must be given to the claimant advising that the claim has been rejected. The notice must also contain a warning advising the claimant of the six (6) month statute of limitations on filing a lawsuit. If the notice does not contain the warning language, claimant will have two (2) years from the date of accrual of the loss to file suit.

**6. SETTLEMENT:**

- A. All claims will be evaluated by District's Risk Manager and reviewed with the CBO to determine if a settlement is warranted. In the case of a settlement, the claimant will be required to sign a Release Form holding the District harmless from any future claim.

**7. FOR CLAIMS INVOLVING LIABILITY IN A TOTAL AMOUNT LESS THAN \$50,000 WITH OR WITHOUT FORMAL SUBMISSION OF A CLAIM AGAINST THE DISTRICT:**

- A. Upon written notice of an incident or accident resulting in damages to a 3<sup>rd</sup> party or their property, the District will determine the facts through an internal review process. The Board has authorized Business Services to resolve the issue with the 3<sup>rd</sup> Party. In the case of reimbursement for damages documented by medical bills, or quotes for repair or replacement of property, the District will secure a formal release from any future claims. Reimbursement will be Board ratified on the subsequent purchase order schedule supported by appropriate documents.

**8. DAMAGED PERSONAL PROPERTY OF EMPLOYEE, STUDENT OR OTHER 3<sup>RD</sup> PARTY**

- A. At the discretion of the District, reimbursement shall be made to any employee or student for damage, theft, breakage or other loss, including but not limited to the expiration of the property's useful life, of employee's or student's personal property, upon completion of the following requirements:
  - i. Prior to use of such personal property, such use has been authorized by the Administrator responsible for the area in which such personal property will be used and Administrator obtains approval from the respective Executive Cabinet Member and CBO.
  - ii. Personal property owner provides the following information to, and such

information is accepted as accurate by, the appropriate Administrator responsible for the area in which the personal property will be used:

1. Full description of personal property;
2. Condition of personal property;
3. Original value of the personal property;
4. Actual cash value of the personal property prior to its arrival on campus.

**Reviewed by CPC: 8/30/22**

**Next Review Date: Spring 2028**