

CLAIMS AND ACTIONS AGAINST THE DISTRICT

Any and all claims for money or damages against the district must be presented to and acted upon in accordance with Board policy and administrative regulation. Compliance with district procedures is a prerequisite to any court action, unless the claim is governed by statutes or regulations which expressly free the claimant from the obligation to comply with this policy and the claims procedures set forth in the Government Code.

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

Legal Reference:

EDUCATION CODE

35200 Liability for debts and contracts

35202 Claims against districts; applicability of Government Code

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

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

CLAIMS AND ACTIONS AGAINST THE DISTRICT

Time Limitations

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 no later than six months after the accrual of the cause of action. (Government Code 905, 911.2)
2. Claims for money or damages as authorized in Government Code 905 and not included in paragraph #1 above shall be filed not later than one year after the accrual of the cause of action. (Government Code 905, 911.2)
3. 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. (Government Code 905, 911.2, 935)

Special Claims Procedures

Pursuant to the authority contained in Section 935 of the Government code of the State, the following claims procedures are established for those claims against the El Rancho Unified School District for money or damages not now governed by State or local laws:

1. Employee Claims

Notwithstanding the exceptions contained in Section 905 of the Government Code of the State, all claims by public officers or employees for fees, salaries, wages, overtime pay, holiday pay, compensating time off, vacation pay, sick leave pay, and any other expenses or allowances claimed due from the El Rancho Unified School District, when a procedure for processing such claims is not otherwise provided by State or local laws, shall be presented within the time limitations and in the manner prescribed by Sections 910 through 915.2 of the Government Code of the State. Such claims shall further be subject to the provisions of Section 945.4 of the Government Code of the State relating to the prohibition of suits in the absence of the presentation of claims and action thereon by the Council.

2. Contract and other claims

In addition to the requirements of subsection (1) of this section, and notwithstanding the exemptions set forth in Section 905 of the Government Code of the State, all claims against the El Rancho Unified School District for damages or money, when a procedure for processing such claims is not otherwise provided by State or local laws, shall be presented within the time limitations and in the manner prescribed by Sections 910 through 915.2 of the Government Code of the State. Such claims shall further be subject to the provisions of suits in the absence of the presentation of claims and action thereon by the Council.

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

Late Claims

Claims under paragraphs #1 and #3 above which are filed later than six months after the accrual of the cause of action must be accompanied by an application to file a late claim. Such claim and application to file a late claim must be filed not later than one year after the accrual of the cause of action.

If a claim under paragraphs #1 or #3 is filed late and is not accompanied by the application, the Board or Superintendent shall, within 45 days, give written notice that the claim was not filed timely and that it is being returned without further action. The notice shall be in the form set forth in Exhibit A.

The application to file a late claim shall state the reason for the delay. The Board shall grant or deny the application within 45 days after it is presented. By mutual agreement of the claimant and the Board, this 45-day period may be extended by written agreement made before the expiration of such period. If the Board does not take action on the application within 45 days, it 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.

If the application to present a late claim is denied, the claimant shall be given notice in the form set forth in Exhibit B. (Government Code 911.3, 911.4, 911.6, 911.8, 912.2, 935)

Delivery and Form of Claim

A claim, any amendment thereto, or an application for leave to present a late claim shall be deemed presented 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. (Government Code 915, 915.2)

Claims may be submitted on the district claim form or as prescribed in Section 910 and 910.2 of the Government Code. (Government Code 910, 910.2, 910.4)

Notice of Claim Insufficiency

The Superintendent or designee shall review all claims for sufficiency of information. The Superintendent or designee may, within 20 days of receipt of claim, either personally deliver or mail to claimant a notice as set forth in Exhibit C stating deficiencies in the claim presented. If such notice is delivered or sent to claimant, the Board shall not act upon the claim until at least 15 days after such notice is sent. (Government Code 910.8, 915.4)

CLAIMS AND ACTIONS AGAINST THE DISTRICT (continued)

Amendments to Claim

Claims may be amended within the above time limits 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 (or Superintendent, if delegated this authority) shall take action on the claim. (Government Code 912.4) This time limit may be extended by written agreement before the expiration of the 45-day period or before legal action is commenced or barred by legal limitations. (Government Code 912.4) The Superintendent or designee shall transmit to the claimant a notice of action taken. The notice shall be in the form set forth in Exhibit D. (Government Code 913)

If no action is taken within the prescribed time limits, the claim shall be deemed to have been rejected and the claimant notified in accordance with Government Code 913. (Government Code 945.6)

Roster of Public Agencies

The Superintendent or designee shall annually verify that all information regarding the school district and the Board is filed accurately with the Roster of Public Agencies in the office of the Secretary of State and the County Clerk. The verified 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)

Exhibit A

NOTICE OF FAILURE TO FILE IN A TIMELY MANNER

TO: [Claimant]
[Address]

RE: Claim Filed [insert date]

The claim you presented to the Superintendent on [date] is being returned because it was not presented within six months after the event or occurrence as required by law. See Government Code 901, 911.2 and 935. 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 district for leave to present a late claim. See Sections 911.4 through 912.2 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.

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.

Exhibit B

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 945.4 (CLAIMS PRESENTATION REQUIREMENT). SEE GOVERNMENT CODE 945.6. SUCH PETITION MUST BE FILED WITH THE COURT WITHIN SIX 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.

Exhibit C

NOTICE OF INSUFFICIENCY

Dear _____:

Please notice that 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 Section 910.4, if a claim is presented on a general claim form provided by the State Board of Control.] 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 California Government Code or legal counsel.

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

Dated: _____

Signature

Typed Title of Officer

Exhibit D

NOTICE OF ACTION TAKEN ON CLAIM

Dear _____:

Notice is hereby given that the claim you presented to the District on [date] _____ was [rejected, allowed, allowed in the amount of \$ _____ and rejected to the balance, rejected by operation of law] on [date of action or rejection by operation of law] _____.

WARNING

Subject to certain exceptions, you have only six 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

Typed Title of Officer