

Board Policy

Claims And Actions Against The District

BP 3320
Business and Noninstructional Operations

Note: The following optional policy and accompanying administrative regulation reflect the claims procedure in the Government Claims Act, also known as the Tort Claims Act, pursuant to Government Code 810-996.6. The Act details requirements for the filing of claims against public entities such as school districts.

Note: Because a district's insurance carrier or Joint Powers Authority (JPA) may require the district to comply with certain claims management conditions as part of the district's contractual coverage obligation, it is strongly recommended that, prior to adoption by the Governing Board, this board policy and accompanying administrative regulation be reviewed for consistency with any applicable conditions of coverage. A district's failure to follow those contractual conditions may result in a loss of coverage benefits. The district's risk manager and legal counsel should also be consulted, as appropriate.

The Governing Board desires to ensure that the district's operations are conducted 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 law, Board policy, and administrative regulation as well as the district's Joint Powers Authority (JPA) agreement or insurance coverage.

(cf. 3530 - Risk Management/Insurance)
(cf. 5143 - Insurance)

Note: Government Code 935 authorizes a district to establish its own procedure for the processing of claims which are either excluded from the claims procedures in the Government Claims Act or not listed as exceptions to the Act as specified in Government Code 905. A local claims requirement must be similar to and be no more restrictive than those established by the Government Claims Act. For example, the district's procedures may not allow a longer time for the Board to take action on a claim than the timeline provided for claims under the Government Claims Act.

Note: The following optional paragraph is for use by districts that wish to adopt local requirements and should be modified for consistency with the district's insurance or JPA agreement, as well as advice from the district's legal counsel or risk manager.

Any claim for money or damages not governed by the Government Claims Act (Government Code 810-996.6) or excepted 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.

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.

Note: Government Code 935.4 authorizes, but does not require, the Board to delegate to any employee the authority to allow, compromise, or settle a claim of \$50,000 or less. However, management of the defense or settlement of the claim may be subject to contractual requirements contained in the district's insurance policy, memorandum of coverage, or contractual indemnity agreements. Thus, even when the Board has authorized the Superintendent to settle such claims, the authority is subject to any such requirements or conditions of coverage. The following paragraph is optional and boards that do not wish to delegate such authority should delete the following paragraph. Boards that wish to delegate this authority may modify the following paragraph to specify a different employee to whom the authority is delegated and/or an amount less than \$50,000.

In accordance with Government Code 935.4, the Board delegates to the Superintendent the authority to allow, compromise, or settle claims of \$5,000 or less pursuant to any conditions of coverage in the district's JPA agreement or insurance.

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

Roster of Public Agencies

Note: Government Code 53051 requires public agencies, such as school districts, to register the information specified below, including the names of all Board members, with the Secretary of State and County Clerk. If the information on file is not accurate or if no information is on file, the court may allow a person to proceed with a claim against the district even if the time limit for filing such a claim has expired. Thus, it is imperative that all required information be current and accurate.

The Superintendent or designee shall file the information required for the Roster of Public Agencies with the Secretary of State and the County Clerk. 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)

Any changes to such information shall be filed within 10 days after the change has occurred.

(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

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>

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Sebastopol, CA 95472**