Policy 3320: Claims And Actions Against The District **Status:** ADOPTED

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CSBA NOTE: The following optional policy reflects the claims procedure in the Government Claims Act pursuant to Government Code 810-996.6. The Government Claims Act sets forth prelitigation requirements and deadlines for claims against public entities, including school districts. In City of Stockton v. Superior Court, the California Supreme Court held that the claim requirements in Government Code 900-915.4 also apply to claims for breach of contract. For any cause of action that is excepted from the Government Claims Act pursuant to Government Code 905 but has its claim presentation procedure specified in another statute or regulation, such as childhood sexual assault, a claim must be presented in accordance with that statute or regulation. For any cause of action that is excepted from the Government Claims Act pursuant to Government Code 905 but is not governed by any procedure in another statute or regulation, the district may establish its own claim presentation procedure in accordance with Government Code 935.

Government Code 905 specifies certain types of claims which are exempted from the procedures in the Government Claims Act. Pursuant to Government Code 935, a district is authorized to establish its own claims processing procedures for those exempted claims. 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 Governing Board to take action on a claim than the timeline provided for claims under the Government Claims Act. The following policy may be revised to reflect district practice.

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 Board, this Board policy 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.

It is recommended that the district consult CSBA's District and County Office of Education Legal services or district legal counsel, as necessary, if questions arise regarding the proper procedure to follow for a claim against the district, and the district's insurance carrier and legal counsel for questions regarding conditions of coverage from an insurance carrier or JPA.

The Governing Board desires to conduct district operations 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 the Government Claims Act or other applicable state or district procedures, as well as the district's joint powers authority (JPA) agreement or other insurance coverage.

CSBA NOTE: The following optional paragraph is for use by districts that choose to establish their own claims procedures for certain types of claims pursuant to Government Code 935.

Any claim for money or damages not governed by the Government Claims Act (Government Code 810-996.6) or specifically excepted by Government Code 905 shall be presented and acted upon in accordance with district-established procedures consistent with the manner and time limitations specified in this Board policy. (Government Code 935)

CSBA NOTE: Pursuant to Government Code 935, claims procedures established by the district may include a requirement that a claim be presented and acted upon in accordance with such procedures as a prerequisite to the filing of a lawsuit against the district. The following paragraph extends this requirement to claims filed under other statutes and may be revised to reflect district practice.

Unless otherwise provided by law, a written claim shall be presented to and acted upon by the Board in accordance with such procedures prior to filing a lawsuit against the district for money or damages.

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.

Time Limitations

CSBA NOTE: Items #1-4 below reflect timelines for presenting claims in relation to different causes of action, pursuant to the Government Claims Act and other applicable statutes.

The following time limitations apply to the presentation of claims for money or damages against the district:

1. Claims relating to a cause of action for death or for injury to a 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)

2. Claims relating to any other cause of action subject to the Government Claims Act shall be filed not later than one year after the accrual of the cause of action (Government Code 911.2)

CSBA NOTE: Claims for childhood sexual assault are governed by the timelines and procedures specified in Code of Civil Procedure 340.1 and 340.11. For claims of childhood sexual assault that occurred on or after January 1, 2024, Code of Civil Procedure 340.1, as amended by AB 452 (Ch. 655, Statutes of 2023), provides that there are no time limits for the commencement of actions for the recovery of damages for such assaults, including plaintiffs who are 40 years of age or older who file certificates of merit by the plaintiff's attorney and by a licensed mental health practitioner selected by the plaintiff setting forth the facts which support the declaration. For claims of childhood sexual assault that occurred on or before December 31, 2023, Code of Civil Procedures 340.1, as amended by AB 452, and Code of Civil Procedure 340.11, as added by SB 558 (Ch. 877, Statutes of 2023), provide that the statute of limitations is 22 years from the date the plaintiff attains age 18 or within five years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after age 18 was caused by sexual assault, with claims by plaintiffs who are 40 years of age or older only permitted if the person or district knew or had reason to know, or was otherwise on notice, of any misconduct that creates a risk of childhood sexual assault by an employee, volunteer, representative, or agent or designee, or the person or district failed to take reasonable steps or to implement reasonable safeguards to avoid acts of childhood sexual assault.

3. Claims relating to childhood sexual assault and other causes of action which are specifically excepted from the Government Claims Act by Government Code 905, that are subject to a claims presentation procedure in another statute or regulation, shall be presented to the Board in accordance with the applicable governing statute or regulation (Government Code 905)

CSBA NOTE: Optional Item #4 below is for use by any district whose Board has chosen to exercise the authority in Government Code 935 to establish its own procedure for the presentation of claims which are excluded from the Government Claims Act by Government Code 905 and which are not governed by any other applicable statute or regulation. Pursuant to Government Code 935, the district's procedure cannot require a shorter time for presentation of a claim than the time specified in Government Code 911.2. However, the Board has the discretion to adopt a more flexible time limitation and may increase the amount of time allowed for filing such claims. If the Board adopts a more flexible time limitation, Item #4 should be revised accordingly.

4. Claims relating to any cause of action which is specifically excepted from the Government Claims Act by Government Code 905 but is not governed by any other claim presentation statute or regulation shall be presented to the Board within the time limits specified in Items #1 and 2 above, depending on the applicable cause of action (Government Code 911.2, 935)

Receipt of Claims

A 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)

CSBA NOTE: Government Code 915 authorizes a claim, amendment to a claim, or application for a late claim to be submitted through electronic means, if so authorized by a Board resolution. In practice, such electronic means involve online completion of a fillable form and/or transmission by email. The following paragraph may be revised to specify the electronic means authorized by the district. If the Board has not adopted a resolution authorizing electronic submission, the district should delete the following paragraph.

Pursuant to Government Code 915.4, if the Board authorizes electronic submission, then any notice required of the district in response to a claim, amendment, or application for a late claim is required to be sent to the electronic address from which the district received the claim or application, unless the claimant or applicant specified an alternative electronic address for that purpose.

For more information regarding district notice requirements, see "Notice of Claim Insufficiency," "Late Claims," and "Action on Claims", below.

A claim may be submitted electronically in the manner specified by the Superintendent or designee. (Government Code 915, 915.2)

CSBA NOTE: In most circumstances, a district's insurance provider or JPA is responsible for claims management, including investigating, defending, and managing a district's response to a claim presented under the Government Claims Act. The following paragraph requires the Superintendent or designee to immediately forward any claims received to the district's JPA or insurance provider in order to help ensure compliance with any conditions of coverage.

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 JPA or insurance carrier in accordance with the applicable conditions of coverage.

Review of Contents of the Claim

CSBA NOTE: Most JPAs and insurance carriers provide a claim form. The person submitting the claim need not use the claim form provided by the district but, pursuant to Government Code 910 and 910.2, the claim must contain a signature and all the information listed below.

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 as specified in Code of Civil Procedure 85 and 86.

7. The signature of the claimant or the person acting on the claimant's behalf

Notice of Claim Insufficiency

CSBA NOTE: Pursuant to Government Code 910.8, if a claim is found insufficient, the district is required to notify the claimant of the defects or omission in the claim. Government Code 915.4 authorizes such notice to be personally delivered or mailed or, if the Board has adopted a resolution authorizing electronic submission of claims, then any notice of claim insufficiency is required to be sent to the electronic address from which the claim was sent unless the claimant specifies an alternative electronic address for that purpose; see "Receipt of Claims", above.

Pursuant to Government Code 911, if the district, or the JPA or insurance carrier acting on the district's behalf, fails to give notice that the claim is insufficient, as specified below, then the district may not later raise that issue as a defense to the claim.

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, provide a notice in the manner specified in Government Code 915.4 that states the particular defects or omission in the claim. (Government Code 910.8)

CSBA NOTE: Districts should investigate the background of each claim thoroughly, be cautious before rejecting a claim because of insufficiency of information, and consult CSBA's District and County Office of Education Legal Services or district legal counsel, and/or the district's JPA or insurance provider, as appropriate. In Stockett v. Association of California Water Agencies Joint Powers Insurance Authority, the California Supreme Court held that a claim is sufficient, and may not be barred, so long as enough information is disclosed to allow the district to adequately conduct an investigation of the claim's merits, even if the claim was not indicated in the claimant's initial notice.

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 "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)

Late Claims

When a claim that is required to be presented not later than six months after the accrual of the cause of action, as specified in "Time Limitations" above, is not presented within that time, an application to present a late claim may be presented to the Board, in the manner specified in Government Code 915 and 915.2, within a reasonable time not to exceed one year after the accrual of the cause of action. The application shall include the proposed claim and shall state the reason for the delay in presenting the claim. (Government Code 911.4)

CSBA NOTE: Pursuant to Government Code 911.3, when a claim is presented late and is not accompanied by an application to present a late claim, the Board or designee may, at any time within 45 days after the claim is presented, give written notice to the person presenting the claim that the claim was not filed timely and that it is being returned without further action. In such circumstances, the Board or designee should notify the claimant that "no action" was taken because the claim was presented late, as taking formal action to "reject" the claim could indicate that the Board had accepted the filing of the late claim and potentially waiver certain legal defenses.

Although districts are not required to provide this notice, failing to do so may prevent the district from relying on the claim's untimeliness as a defense in future litigation. Because of this, the language in the following paragraph has been drafted to require provision of the notice whenever an untimely claim is received. Districts that do not wish to notify claimants that their claim is untimely, and therefore risk the waiver of their untimeliness defense, may modify the language accordingly.

If the claim is presented late and is not accompanied by an application to present a late claim, the Board or its designee shall, within 45 days, give written notice, in the manner specified in Government Code 911.3, 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 and in the manner specified in Government Code 915.4.

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)

Action on Claims

CSBA NOTE: Pursuant to Government Code 945.6, if the Board formally acts to reject a claim and provides notice of such rejection, the claimant has only six months from the rejection to initiate a lawsuit. If the Board takes no action or fails to provide written notice rejecting the claim, the claimant then has two years to initiate a suit against the district. The notice of rejection is required to comply with the notification requirements of Government Code 913 unless the claim has no address on it.

Although the Board takes final action on claims as specified below, such action is based on the evaluation of the claim by the district's insurance provider or JPA.

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

CSBA NOTE: The following paragraph is optional. 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. 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.

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 or another employee to settle such claims, the authority is subject to any such requirements or conditions of coverage.

In accordance with Government Code 935.4, the Board delegates to the Superintendent the authority to allow, compromise, or settle claims of $50,000 or less pursuant to any conditions of coverage in the district's JPA agreement or insurance coverage.

CSBA NOTE: The following paragraph should be revised depending on whether the Board delegated to an employee, and if so to which employee, the authority to allow, compromise, or settle a claim of less than $50,000.

If the Board, or Superintendent when appropriate, 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 be provided in the manner specified in Government Code 915.4. (Government Code 913)

Registry of Public Agencies

CSBA 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. In Hovd v. Haward Unified School District, the appellate court held that if the information required to be registered to the Secretary of State and County Clerk is not on file or is not accurate, then a claimant may still state a claim even if the time limit for presenting a claim has expired.

Pursuant to Government Code 960.2 and 960.3, if the information is not on file or is not accurate, the court may allow a person to serve a claim on the district by mailing or personally delivering process to the Secretary of State's office. Additionally, pursuant to Government Code 946.4, if the information is not on file or is not accurate, then if a plaintiff fails to present a claim to the district before filing suit, this will not constitute a defense for the district. Thus, it is imperative that all required information be current and accurate.

Within 10 days of any change in the full, legal name of the district, the mailing address of the Board, or the names, titles, and addresses of the Board president, the Board clerk or secretary, or other Board members, the Superintendent or designee shall file the updated information with the Secretary of State and the County Clerk. (Government Code 53051)