

## **Guide for Handling Claims Against California Public Entities**

The California Tort Claims Act implemented a number of very specific requirements and time limits that must be complied with in order to pursue a claim against public entities in the state. These have been incorporated into various sections of the California Government Code (CGC). Following is an outline of many of these requirements and references to various form letters that may be used to advise claimants of their rights, the statutory requirements and the deficiencies in the presentation of their claim.

### A. **WRITTEN CLAIM** **(CGC § 945.4)**

Before commencing a suit for money for damages, the claimant must, with few exceptions, present a written claim to the public entity and allow it to act upon the claim.

A sample Claim Form can be found on page 14 of this section. It may be given to the claimant for his convenience. You may accept any other writing that adequately describes the claim.

### B. **SUFFICIENCY- CONTENT OF CLAIM** **(CGC § 910 & § 910.2)**

The written claim should contain all of the following:

1. The name and address of the claimant;
2. The Post Office address to which the person presenting the claimant desires notices to be sent;
3. Date, place, and circumstances of the occurrence;
4. Description of injury, damages, or losses so far as known;
5. Name(s) of public employee(s) causing injury, or damages;
6. Amount claimed and the basis for computation if under \$10,000;  
and
7. Signature of the claimant or representative.

The above information is the Code requirement. If you have any doubt as to whether or not the claim presented to you is sufficient, please contact a JPIA claim representative before taking action. It has been our experience that the courts vary significantly in their interpretation of this area. They may give considerable latitude to the claimant in meeting these requirements.

C. **TIMELINESS** (CGC § 911.2)

1. A claim for personal injury or damage to personal property or growing crops must be presented within six (6) months of the accrual of the cause of action.
2. Not all claims are required to be presented within six (6) months. Damage to real property, inverse condemnation, the interest of minors as well as several other causes may have longer periods in which to file their claims. If you are not certain as to what action to take on a claim, please refer it to the JPIA before taking any action.

D. **REJECTION OF SUFFICIENT AND TIMELY CLAIMS** (CGC § 913 & § 945.6)

1. Only those claims that are timely and sufficiently presented can legally be rejected by the public entity.
2. The claim should be rejected within forty-five (45) days of presentation or the claim will be deemed rejected by operation of law on the 45<sup>th</sup> day. If the claim is rejected in writing, the claimant has **only six (6) months** in which to file suit. If, however, the claim is allowed to be rejected as a matter of law the claimant will have **two years** in which to file suit. It is therefore generally preferable, when you elect to reject a claim, to do so in writing. This forces the claimant to present his proof of damages in a timely fashion and helps prevent claims from dragging on for years. A model “Merit Rejection Letter” is included on page 21 of this section.

E. **INSUFFICIENT CLAIMS** (CGC § 910.8 & § 911)

If the claim does not comply with the sufficiency requirements as outlined in paragraph B, a public entity must notify the claimant in writing within twenty (20) days of the presentation that the claim is insufficient, stating the particulars of the deficiency. If the public entity fails to respond, it will be deemed to have waived its right to claim insufficiency. A model “Insufficiency Letter” is included on page 22 of this section.

F. **LATE CLAIMS** (CGC § 911.4, § 911.6 & § 911.8)

1. Claims filed late, if not accompanied by an application for leave to file a late claim, should be rejected **specifically because they are late**. They should **not** be considered or rejected on their merits. A model “Late Filing Letter” is included on page 23 of this section.

2. If the claim is not presented in a timely fashion, then the claimant must present an application to present a late claim. The application must:
  - a. be presented within one year of the accrual of the cause of action;
  - b. have a written claim form attached; and
  - c. set forth the reason for delay.

G. **DENIAL OF APPLICATION TO PRESENT A LATE CLAIM**  
**(CGC § 911.8 & § 946.6)**

1. The public entity may deny the Application to Present a Late Claim if it is not excused. The denial must be in writing and must advise the claimant that he has only six (6) months to take the matter to court. The court can choose to allow the filing of the late claim for several reasons, including excusable neglect, lack of prejudice and other reasons cited in the Government Code. If, for any reason, you believe the Application to Present a Late Claim should be accepted, it is important is that you contact the JPIA before taking action.
2. It is important to remember that the denial of the application has nothing to do with the merits of the claim. It means only that the claim has not been presented in a timely fashion.