

ARTICLE 60 Claims Presentation Procedure

Sec. 60.1 Claims Presentation Requirements.

(a) Notice of Claims (Government Code §§ 905, 945.2)

1. No suit for money or damages may be maintained against the District on a cause of action for which this article requires a claim to be presented until a written claim has first been timely presented to the District in conformity with this Article.

(b) Claims Subject to Claims Presentation Requirements

1. All claims against the District for money or damages which are exempted by section 905 of the Government Code from the claims procedure provided in Part 3 of Division 3.6, Title 1 of the Government Code and which are not expressly governed by any other statute or regulation shall be governed by this Article. Such claims include the following:
 - A. Claims under the Revenue and Taxation Code or other statute prescribing procedures for the refund, rebate, exemption, cancellation, amendment, modification or adjustment of any tax, assessment, fee or charge or any portion thereof, or of any penalties, costs or charges related thereto.
 - B. Claims in connection with which the filing of a notice of lien, statement of claim, or stop notice is required under any provision of law relating to mechanics', laborers' or materialmen's liens.
 - C. Claims by public employees for fees, salaries, wages, mileage or other expenses and allowances.
 - D. Claims for which the workmen's compensation authorized by Division 4 (commencing with Section 3201) of the Labor Code is the exclusive remedy.
 - E. Applications or claims for any form of public assistance under the Welfare and Institutions Code or other provisions of law relating to public assistance programs, and claims for goods, services, provisions or other assistance rendered for or on behalf of any recipient of any form of public assistance.
 - F. Applications or claims for money or benefits under any public retirement or pension system.
 - G. Claims for principal or interest upon any bonds, notes, warrants, or other evidences of indebtedness.

ARTICLE 60 Claims Presentation Procedure (Cont'd.)

Sec. 60.1 Claims Presentation Requirements (Cont'd.).

(b) Claims Subject to Claims Presentation Requirements (Cont'd.)

- H. Claims which relate to a special assessment constituting a specific lien against the property assessed and which are payable from the proceeds of such an assessment, by offset of a claim for damages against it or by delivery of any warrant or bonds representing it.
- I. Claims by the State or by a state department or agency or by another local public entity.
- J. Claims arising under any provision of the Unemployment Insurance Code, including but not limited to claims for money or benefits, or for refunds or credits of employer or worker contributions, penalties, or interest, or for refunds to workers of deductions from wages in excess of the amount prescribed.
- K. Claims for the recovery of penalties or forfeitures made pursuant to Article 1 (commencing with Section 1720) of Chapter 1 of Part 7 of Division 2 of the Labor Code.
- L. Claims governed by the Pedestrian Mall Law of 1960, part 1 (commencing with Section 11000) of Division 13 of the Streets and Highways Code.

(c) Purpose of Claims Presentation

- 1. Provides the District with an opportunity to settle just claims before suit is brought.
- 2. Permits the District to make an early investigation of the facts on which the claim is based enabling the District to defend itself against unjust claims and to correct the conditions or practices which gave rise to the claim.

(d) Party Responsible to Allow or Reject Claims

- 1. The Board of Directors, or its designee, shall examine and allow or reject claims required to be filed by this Article.
- 2. The Board of Directors hereby designates and authorizes the General Manager of the District to perform all functions of the Board as granted under this Article including examination, allowance, compromise or rejection of all claims submitted in accordance with this Article under \$10,000.00.

ARTICLE 60 Claims Presentation Procedure (Cont'd.)

Sec. 60.1 Claims Presentation Requirements (Cont'd.).

(d) Party Responsible to Allow or Reject Claims

3. The Board of Director's designee's allowance, compromise or rejection of claims shall have the same effect as allowance, compromise or rejection by the Board of Directors.

Sec. 60.2 Written Claim: Sufficiency

(a) Written Claim: Required Information (Government Code § 910)

1. Written claims must contain the following information:
 - A. The name and address of the claimant;
 - B. The post office address to which the person presenting the claim desires notices to be sent;
 - C. The date, place, and other circumstances of the occurrence or transaction which gave rise to the claim asserted;
 - D. A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim;
 - E. The name or names of the public employee or employees causing the injury, damage or loss, if known;
 - F. The amount claimed if it totals less than Ten Thousand Dollars (\$10,000) as of the date of claim presentation;
 - G. The signature of the claimant or some person on his or her behalf (Government Code § 910.2).

(b) District Claim Form (Government Code § 910.4)

1. The District may provide a form that the claimant may use in lieu of submitting a claim containing the information specified in Section 60.2(a).
2. A claim presented on a form provided pursuant to this Section shall be deemed to be in conformity with Section 60.2(a) if the claim complies substantially with the requirements of the form or with the requirements of Section 60.2(a). (Government Code § 910.4).

Sec. 60.3 Written Claim: Insufficiency (Government Code §910.8 and 911)

(a) Claim Insufficiency

1. If the written claim does not substantially comply with the contents requirements of Section 60.2(a) or with the requirements of a District form provided under Section 60.2(b), the claim is insufficient. (Government Code § 910.8).

ARTICLE 60 Claims Presentation Procedure (Cont'd.)

Sec. 60.3 Written Claim: Insufficiency (Government Code §910.8 and 911) (Cont'd.)

(a) Claim Insufficiency (Cont'd.)

2. An insufficient claim should not be rejected but should be acknowledged with a written notice of insufficiency.
3. Within 20 days after the claim is presented, the Board or its designee shall give written notice of the claim's insufficiency stating with particularity the claim's defects or omissions. (Government Code § 910.8).
4. Written notice of insufficiency shall be given in one of the following ways (Government Code § 915.4):
 - A. Personally delivering the notice to the person presenting the claim;
 - B. Mailing the notice to the address, if any, stated in the claim or on the application.
5. No notice need be given when the claim fails to state either a street address or post office address. (Government Code § 915.4(b)).
6. The Board or its designee may not take action on the claim for a period of 15 days after the written notice of insufficiency is given. (Government Code § 910.8).
7. Should the District fail to provide written notice of the claim's insufficiency to the claimant, the District waives the insufficiency and cannot claim insufficiency as a defense (Government Code § 911).

Sec. 60.4 Timeliness (Government Code §911.2)

(a) Claims Which Must be Presented Within Six Months

1. A claim relating to one of the following must be presented not later than six (6) months after accrual of the cause of action:
 - A. Death or personal injury;
 - B. Damage to personal property or growing crops.

(b) Claims Which Must be Presented Within One Year

1. A claim relating to any other cause of action must be presented within one (1) year of the accrual of the cause of action (Government Code § 911.2).

ARTICLE 60 Claims Presentation Procedure (Cont'd.)

Sec. 60.4 Timeliness (Government Code §911.2) (Cont'd.)

(c) Computing Time Limit

1. The computation of the six (6) month and one (1) year claims presentation periods may entail subtle issues with respect to when the period commences to run.
2. Consult with General Counsel should there be any question regarding time lines, especially in the areas of employment, harassment or discrimination claims.

Sec. 60.5 Rejection/Allowance of Sufficient and Timely Filed Claims

(a) Board Action Within Forty-Five Days (Government Code § 912.4)

1. The Board or its designee shall act on a sufficient and timely submitted claim within forty-five (45) days after the claim has been presented.

(b) Actions the Board May Take (Government Code § 912.6)

1. The Board or its designee may act on the claim in one of the following ways:
 - A. Reject the claim if the Board or its designee finds the claim is not a proper charge against the District;
 - B. Allow the claim if the Board or its designee finds the claim is a proper charge against the District and is for an amount justly due;
 - C. Either reject the claim or allow it in the amount justly due and reject it as to the balance if the Board or its designee finds the claim is a proper charge against the District but is for an amount greater than is justly due;
 - D. Reject the claim or compromise it if legal liability of the District or the amount justly due is disputed.

(c) Reject only Timely, Proper and Sufficient Claims

1. Only those claims with proper and sufficient contents, as provided in Section 60.2(a), and presented in a timely fashion, as provided in Section 60.4, can be rejected.

ARTICLE 60 Claims Presentation Procedure (Cont'd.)

Sec. 60.5 Rejection/Allowance of Sufficient and Timely Filed Claims (Cont'd.)

(d) Board Action Within Forty-Five Days on Amended Claim (Government Code § 912.4(a))

1. If a claim is amended, the Board or its designee shall act on the amended claim within forty-five (45) days after the amended claim is presented.

(e) Extension of Time by Agreement

1. The claimant and the Board or its designee may extend the time period within which the Board is required to act on the claim by written agreement. (Government Code § 912.4(b)).

2. The extension of time must be given:

- A. Before the expiration of the forty-five (45) day period; or
- B. After the expiration of the forty-five (45) day period, if an action based on the claim has not been commenced and is not yet barred by the period of limitations provided in Section 60.4. (Government Code § 945.6)

3. Any claim which is not acted upon within the extended time period shall be deemed to have been rejected by the Board or its designee on the last day of the extended time period. (Government Code § 912.4(c)).

(f) Written Rejection (Government Code § 913)

1. The claimant has six (6) months in which to file suit on a claim which has been rejected in writing within forty-five (45) days of presentation.

- A. The written letter of claim rejection must be substantially in the form found at Government Code § 913.

- B. The written letter of claim rejection must be given as provided in Section 60.3(a)4.

ARTICLE 60 Claims Presentation Procedure (Cont'd.)

Sec. 60.5 Rejection/Allowance of Sufficient and Timely Filed Claims (Cont'd.)

(g) Rejection by Operation of Law (Government Code § 912.4)

1. A claim that is not rejected in writing within forty-five (45) days of presentation is deemed rejected by operation of law on the forty-fifth (45th) day following presentation.
 - A. Written notice of rejection must be provided to the claimant for claims deemed rejected by operation of law.
 - (1) The claimant has six (6) months in which to file suit in a claim deemed rejected by operation of law if written notice of rejection is provided. (Government Code § 913)
 - (2) The claimant has two (2) years in which to file suit on any claim deemed rejected by operation of law if written notice of rejection is not provided. (Government Code § 945.6).
 - B. The written letter of claim rejection must be substantially in the form found at Government Code § 913.

Sec. 60.6 Late Claims (Government Code §911.4, 911.6 and 911.8)

- (a) Any claim which is filed late, and which is not accompanied by an Application to Present a Late Claim should be returned because it is late and should not be considered on its merits.
- (b) Application to Present a Late Claim (Government Code § 911.4)
 1. Should the claimant fail to present a claim within the time provided in Section 60.4(a), the claimant must present an Application to Present a Late Claim.
 2. The Application to Present a Late Claim must:
 - A. Be presented within one (1) year after the accrual of the cause of action;
 - B. Set forth the reasons for the delay;
 - C. Have a written claim attached.

ARTICLE 60 Claims Presentation Procedure (Cont'd.)

Sec. 60.6 Late Claims (Government Code §911.4, 911.6 and 911.8) (Cont'd.)

(b) Application to Present a Late Claim (Government Code § 911.4) (Cont'd.)

3. Partially Late/Partially Timely Claims

- A. A claim which contains several causes of action must be carefully reviewed to determine which causes of action are timely or untimely filed.
- B. Written notice of rejection or allowance, pursuant to Section V, must be provided to claimant for those causes of action within the claim which are sufficient and timely presented.
- C. Written notice of late filing, pursuant to Section 60.6, must be provided to claimant for those causes of action within the claim which are not timely presented.

(c) Acceptance of Application to Present a Late Claim (Government Code § 911.6)

1. The District shall grant the Application to Present a Late Claim in the following instances:

- A. The failure to timely present the claim was due to mistake, inadvertence, surprise or excusable neglect, and the District is not prejudiced in its defense of the claim by the claimant's failure to timely present the claim; or
- B. The person who sustained the alleged injury, damage or loss was a minor during all the time specified in Section 60.4 for the presentation of the claim; or
- C. The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all the time specified in Section 60.4 for the presentation of the claim; or
- D. The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 60.4 for the presentation of the claim; or

2. The Board or its designee must grant or deny the Application to Present a Late Claim within forty-five (45) days after it has been presented.

- A. The claimant and the Board or its designee may extend the period within which the Board must act on the application by written agreement made before the end of the forty-five (45) day period.

- (1) The Board or its designee must act within the extended period of time or the application shall be deemed denied on the last day specified in the agreement.

ARTICLE 60 Claims Presentation Procedure (Cont'd.)

Sec. 60.6 Late Claims (Government Code §911.4, 911.6 and 911.8) (Cont'd.)

- (c) Acceptance of Application to Present a Late Claim (Government Code § 911.6) (Cont'd.).
 - 3. If the Board or its designee fails to act on the application within the forty-five (45) days following the presentation of the claim, the application shall be deemed to have been denied on the forty-fifth (45th) day. (Government Code § 911.6(c)).
- (d) Denial of Application to Present a Late Claim (Government Code §§ 911.8, 946.6)
 - 1. The District may deny the Application to Present a Late Claim if it is not excused pursuant to Section 60.6(c)1.
 - 2. Any denial of an Application to Present a Late Claim must be in writing and must advise the claimant that he or she has six (6) months to petition the appropriate court for relief.
 - A. The court may allow the filing of a late claim on the same basis as found in Section 60.6(c)1.
 - 3. The denial of the Application to Present a Late Claim is unrelated to the validity of the claim. Denial of an Application to Present a Late Claim means only that this claim was not properly presented.
 - 4. Any Application to Present a Late Claim filed or presented a year from the date of accrual of the cause of action shall be rejected in writing. (Government Code § 911.8).
 - A. Written notice of denial of an Application to Present a Late Claim shall be given as provided in Section 60.3(a)4.

Sec. 60.7 Amendment of Claims (Government Code §910.6)

(a) Time to Amend Claim

- 1. A claim may be amended at any time before the expiration of the period designated in Section 60.4 or before final action on the claim is taken by the Board of Directors, whichever is later.

ARTICLE 60 Claims Presentation Procedure (Cont'd.)

Sec. 60.7 Amendment of Claims (Government Code §910.6) (Cont'd.)

(b) Amended Claim Must Relate to Original Claim

1. The amended claim must relate to the same transaction or occurrence which gave rise to the original claim.
2. The amendment shall be considered a part of the original claim for all purposes.

Sec. 60.8 Insurance

(a) Submission of Claim

1. Notice of claim receipt and a copy of the claim should be provided to the District's insurer immediately.
2. District's insurer should be informed of all action taken on the claim.

(b) Subsequent Lawsuits

1. Tender of District's defense and a copy of the complaint should be provided to the District's insurer immediately.

Sec. 60.9 General Counsel

(a) General Counsel should be consulted if there is any question regarding sufficiency of a claim, its timeliness or any other matter regarding proper claim administration.

(b) Brown Act Compliance

1. General Counsel should be consulted regarding open versus closed session discussion of claims and how to agendize such discussion.