



May 16, 2022

TO: Superintendents and Chief Business Officials

FROM: Robert J. Kretzmer
Director, Property & Liability

SUBJECT: **Claims for Damages and Notices of Rejection**

A Claim for Damages must be filed in accordance with the Tort Claims Act before a Complaint can be filed against the public entity. Claims based on causes of action for death, personal injury, injury to personal property and injury to growing crops must be filed within six months. Claims for “any other” cause of action (for instance, a breach of contract claim or a damage to real property claim) must be filed within one year.

In most cases, when a Claim for Damages is timely filed, SISC will recommend to our member districts that the Claim for Damages should be rejected. Recently this question was posed to SISC as to why a Claim for Damages that is timely filed is usually recommended for rejection. Briefly, here are the reasons why this is the case.

- A Claim for Damages that is filed and meets the requirements of Government Code section 910 is eligible for allowance or rejection.
- Per the Government Code, the member district must allow or reject a timely claim within 45 days and provide written notice to the claimant.
- The issuance of a rejection letter by the member district initiates a six-month statute of limitations for the filing of suit for money damages.
- Even in cases where the district elects to reject a timely claim by operation of law, a written rejection notice must be issued in order to initiate the six-month statute of limitations.
- Absent the issuance of the rejection letter, the claimant will have two years from the date of the event or the action that gives rise to the claim (also known as the date of accrual) in order to file suit for money damages.

SISC takes the position that timely claims that fulfill the requirements under the Government Code should be considered and rejected expeditiously. It is important to note that the rejection of a claim does not preclude SISC or the district from continuing to investigate the claim on its merits and/or negotiating a settlement of the claim prior to expiration of the statute of limitations for suit filing.

In some instances, an opportunity is presented after an incident takes place to resolve the claim immediately or promptly without the need for a Claim for Damages to be filed. For example, a district vehicle collides with a visitor’s vehicle while the visitor’s vehicle is parked in the district parking lot. The damage is minor and the claim can be resolved based on the submission of an estimate and verification by the SISC adjuster of the circumstances surrounding the claim. The adjuster in this circumstance may recognize the claim can be settled without the need for a Claim for Damages to be filed with the district. In this instance, the adjuster is able to negotiate settlement of the claim and obtain a release. This is an acceptable approach and one that reinforces the need for prompt reporting to SISC of incidents that could give rise to a claim in the future.

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It should be noted that member districts should not take it upon themselves to resolve claims prior to giving notice to SISC. **Section IX – Duties in the Event of Occurrence, Claim or Suit** of the **SISC Liability Memorandum of Coverage** indicates the following:

- D. No covered party will, except at its own expense, voluntarily make any payment, assume any obligation or incur any expense except as may be required for medical expenses under student accident coverage (Section VIII) without the prior consent of the authority.

The main purpose of this memo is intended to cover the issue of rejection of a timely claim. The sections dealing with Claims for Damages under the Government Code are complex and at times confusing even for the experienced claims handler. At times, your SISC representative will recommend a response to the Claim for Damages that falls outside the scope of rejection of the claim. Typically, this sort of recommendation is presented in writing by SISC after consultation with your office.

RJK