

Manager/Supervisor Risk Management

#48– 4/24/12

A twice weekly e-mail training for YCPARMIA members

TOPIC: GOVERNMENT CODE -- CLAIM REQUIREMENTS

The California Government Code lays out the essential or required elements of a claim against a public entity by third parties. First, and foremost, the claim must be written and include:

- The name and addresses of the claimant and the person to whom notices are to be sent.
- A statement of the “date, place, and other circumstances of the occurrence or transaction.”
- A description of the injury, damage, or loss as far as it is known when the claim is presented.
- The name of the public employee who caused the injury, if known.
- The amount claimed which is usually specific, or “over \$25,000” to signify superior court jurisdiction.

The claim must be signed by the claimant or their representative under penalty of fraud.

A claimant can use either a claim form provided by the entity, or any other written communication that includes the elements listed above. The test is “substantial compliance,” but the standard in practice is whether the claim gives the entity enough information to reasonably conduct an investigation. Every YCPARMIA member should have their own claim form to provide to potential claimants; there are model forms in Section B of the YCPARMIA “Blue Binder.”

The claimant must deliver, in person or by mail, the written claim (in a timely manner) to the clerk, secretary, auditor or the governing board of the public entity. This means that giving a claim to an entity employee, other than the few listed above, does not satisfy the claim requirements. Generally, an employee should not accept any claim, but instead should direct the claimant to the appropriate person in their agency. It is vital that when a claim is received that it be stamped to document the date of receipt; the importance of this will be discussed when we address the entity’s duty to respond to the claim.

When a member agency receives a claim, they should immediately forward a copy to YCPARMIA so that we can start our investigation (a limited exception is that the member can handle small property claims in-house as long as the claimed amount does not exceed their deductible). Recognize that it is common for a claim to be made up to six months after an occurrence; investigations started that long after an event are inherently difficult. Results are much better when we start an investigation without waiting for the claimant to start the process by filing a claim. If something happens that you suspect will result in a claim, please contact us, and we will act; YCPARMIA liability investigations are done in-house, and there are no associated costs for our members. Documenting an occurrence while recollections are fresh and physical evidence is available greatly enhances our ability to defend the claim.

In summary: A claimant cannot recover money damages against a public entity until they file a timely claim, but there is no requirement for us to wait for a claim to start our investigation.

Next topic: GC Claim – Time limits to present a claim.