

IDYLLWILD FIRE PROTECTION DISTRICT

POLICY TITLE: Claims Against the District
POLICY NUMBER: 1040

The purpose of this policy is to provide direction to District staff for processing and resolving (if possible) account adjustment requests and property damage claims against the District. Inherent in this policy is the recognition that every adjustment request or claim will be unique, and that guidelines cannot be written to accommodate every case. Therefore, staff must use discretion and good sense in handling each claim. Prior to investigating damage claim the District's insurance carrier will be notified.

Under California law, before any payment is made to a Third Party (the Claimant) for injuries or damage to real or personal property, a claim must be filed with the public entity specifying the allegations against the public entity and the amount of the claim.

1040.1 The District's carrier, SDRMA as a Joint Powers Authority, self-administers claims filed against participating Property / Liability Program members. SDRMA claims staff investigates, evaluates, and determines the members' potential liability exposure on **ALL** covered claims and will negotiate a settlement or deny liability on behalf of the member.

In some cases, a claim will proceed into litigation and claims staff will direct counsel in the defense of the action and ultimate resolution of the claim. This section outlines what steps the IFPD will take when a claim is presented.

1. A claim is any written request for payment arising out of a claim of liability and must be presented to the IFPD prior to the filing of a lawsuit. The claim must be signed by the claimant or by some person on their behalf.
2. Under Government Code §911.2, a claim relating to a cause of action for death or for injury to person or to personal property shall be presented not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented not later than one year after the accrual of the cause of action.

1040.2 Information which must be contained in the claim:

- a. Name and post office address of the claimant.
- b. 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.
- 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 presentation of the claim, including the estimated amount of any prospective injury, damage or loss, insofar as it may be known at the time of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim, but the claim shall indicate whether the claim is a limited civil case.
- g. The signature and date of claimant or some person on claimant's behalf.

1040.3 Following receipt of the claim, the IFPD has 45 days in which to act on the claim. Otherwise, the claim is deemed to have been automatically rejected as a matter of law.

1040.4 IFPD's insurance carrier suggests that all claims found unmeritorious be formally rejected since this reduces the time available to the claimant for filing a lawsuit from two years to six months from date notice of rejection is mailed.

1040.5 A rejection letter must be sent to the claimant or their representative at the address specified in the claim. The rejection notice must contain the mandatory notification language advising the claimant that they have six (6) months from the date of the Notice of Rejection to file a lawsuit.

1040.6 The IFPD will avoid any references to insurance, insurance company adjusters, risk managers, or any other statements that might indicate that the claim is being given any further consideration. Statements of that type could lead to a voiding of the rejection and extend the time frame available to a claimant for filing a lawsuit.

1040.7 If the IFPD sends a Notice of Insufficient Claim within the time prescribed and the claimant (or attorney) has not filed an amended claim correcting the insufficiency; the IFPD will reject the claim. It is essential that the correct letter format is utilized so that the time for filing a lawsuit is not extended and so that the IFPD does not waive insufficiencies as a defense.

1040.8 If the IFPD has sent a Notice of Insufficient Claim and the claimant (or attorney) has filed an amended claim, but has not done so within the time allowed by the Government Code (15 days), the IFPD should reject the claim, but should reserve the right to assert the untimeliness of the filing of the amended claim, as a defense.

1040.9 IFPD District Counsel will be notified and consulted throughout all stages of the process. The IFPD insurance carrier will also be notified immediately of any claim and will be consulted and involved throughout the process.

1040.10 Under California Government Code the IFPD is not required to provide a claim form when requested. A General Claim Form is available through the IFPD insurance carrier, and will be provided a claimant or their representative upon request.

1040.11 All claims must contain information as required by Government Code §910 and §910.2. If the claim elements meet all the requirements of §910 and §910.2 the claim will be evaluated for acceptance or rejection. If the IFPD disputes any of the allegations of the claim or the amount claimed, the claim should be rejected.

The IFPD needs to take formal action to reject the claim, and will use the NOTICE OF REJECTION OF CLAIM form (found on SDRMA site.) After 45 days from the date the claim was received by the IFPD and the IFPD has taken no action to reject or accept the claim, the claim is deemed rejected as a matter of law. The IFPD will use the SDRMA NOTICE OF REJECTION BY OPERATION OF LAW form (found on SDRMA site.).

1040.12 Insufficient Claim: Assuming that a claim has been presented, the IFPD has the responsibility of reviewing it and notifying the claimant if the claim is (1) insufficient, or (2) untimely. A failure to notify a claimant of defects or omissions in his or her claim can result in a waiver of the deficiencies. The IFPD should not take any action on the claim but should return the claim to the claimant using the NOTICE OF INSUFFICIENCY OF CLAIM FORM AND RETURN WITHOUT ACTION form. The IFPD should identify the specific deficiencies in the claim.

1040.13 Time for Notifying of Insufficiency: The claimant must be notified of an insufficiency within twenty (20) days of the time of presentation of the claim. A mailed claim is deemed presented on the date it is mailed. Government Code §910.8

1040.14 Notifying Claimant of Insufficiency of Claim: If a review of the claim shows that the claimant has failed to comply "substantially" with the requirements regarding the contents of the claim, the IFPD must notify the claimant of the insufficiency. Government Code §910.8.

1040.15 No Governing Body Action for 15 Days after Notice of Insufficiency: The IFPD cannot reject a claim until at least 15 days have elapsed from the date notice is sent to the claimant of the insufficiency of his or her claim. §910.8. This delay gives the claimant time to remedy the deficiencies.

1040.16 Claimant Neglects to Give Address: The IFPD is relieved of the necessity to give any notices whenever no mailing address is supplied by the claimant. Government Code §915.4(b), §911.3(b).

1040.17 Complete Proof of Service:

The IFPD will complete the PROOF OF SERVICE section on each form provided by IFPD insurance carrier and will keep a copy for documentation purposes.

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Richard Steppacher
Clerk of the Board