

California Tort Claims Act

Before you may sue a public entity, you must first file a claim meeting the requirements of the California Tort Claims Act (Government Code §§ 810-996.6). This law applies to public entities such as state, county, and local government agencies or departments, as well as to government employees.

With very few exceptions, you cannot sue the government for money damages unless you have filed a written claim within the legally specified time period.

Filing a claim gives the agency the opportunity to settle the claim before a lawsuit is filed and to investigate the claim so that it can properly defend itself, or to correct the conditions or practices that led to the claim.

Even if you do not currently plan to sue, consider filing a timely claim with the appropriate government entity, to protect your rights and to keep your options open.

When to File Your Claim

The California Tort Claims Act sets out strict guidelines for filing your claim with a governmental entity. You must file:

Within 6 months of the incident for:

- Personal injury
- Damage to personal property
- Wrongful death

Within 1 year of the incident for:

- Breach of contract
- Damage to real property
- Equitable estoppel

If you do not file your claim within this time period, you may be barred from filing a lawsuit. In some cases, you may be able to ask permission to file a late claim. The only valid reasons for filing a late claim are:

- Mistake, inadvertence, surprise, or excusable neglect. Not knowing the law does not constitute an excusable mistake!
- The claimant's minority during the entire 6-month or 12-month period
- Physical or mental incapacity of claimant
- Death of claimant

Your request for permission to file a late claim must be filed within a reasonable time period, not more than one year from the date of injury. The "reasonableness" of the delay is determined on a case-by-case basis.

How to File Your Claim

Local government entities and employees

You can file your claim directly with the entity's governing board or clerk. Many departments and agencies have their own claim form. A list of claim forms for Sacramento-area agencies is available at www.saclaw.org/law-101/civil-rights-topic/.

State of California agencies and employees

File your claim with the California Department of General Services, Office of Risk Management, at <https://www.dgs.ca.gov/ORIM/Services/Page-Content/Office-of-Risk-and-Insurance-Management-Services-List-Folder/File-a-Government-Claim>.

If the agency does not have a claim form

You must draft your own. A written claim must include the following information:

- Your name and address
- Address where you'd like to receive notices
- Date, location, and circumstances surrounding your claim
- A general description of your injuries, damages, etc.
- The name of the employee causing the injury, if known
- The dollar amount claimed and how that number was calculated, if asking for less than \$10,000.
- If you're asking for more than \$10,000, indicate whether your lawsuit will be a limited case (under \$25,000 and **not** asking for non-monetary relief) or an unlimited case (over \$25,000, **or** asking for nonmonetary relief).

After Filing Your Claim

The agency has 45 days after receiving your claim to take action. The agency will typically conduct an investigation of your claim. If their findings support your allegations, the agency will attempt to settle with you. If the agency rejects your claim, they will notify you in writing that you can pursue the matter in court. This written notification is often called your “right to sue letter.” If the agency takes no action within 45 days, the claim is deemed denied and you may sue the agency in court.

Under California Government Code § 945.6, you must sue within 6 months from the date of the postmark or personal delivery of your right to sue letter. If the agency does not provide any written notice rejecting your claim, you have two years from the date of injury or damage.

Government Immunities

Government entities are liable only if there is a statutory basis for the liability. Government entities are also protected by a variety of immunities from lawsuits.

Before starting a lawsuit against a government entity, you may wish to read Government Code §§ 810-996.6, or ask at the Reference Desk for assistance researching government liabilities and immunities.

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Claims Against the Government



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