



BOARD MEETING AGENDA SUBMITTAL

TO: GCSB Board of Directors

FROM: Peter Kampa, General Manger

DATE: April 11, 2023

SUBJECT: Agenda Item 7E: Adoption of a Resolution Amending the Claims Against District Policy

RECOMMENDED ACTION:

I move to Adopt Resolution 17-2023 Amending the Claims Against District Policy.

BACKGROUND:

In October of 2010 the Board of Directors adopted an Operating Policies and Procedures Manual (OPPM). Contained within its 353 pages are dozens of Board policies that provide direction to the General Manager on how to administer the day to day affairs of the District.

The Board has stated its intent of proposing policies for Board adoption that contain clear language providing direction to the General Manager on what the Board expects to be accomplished (policy) rather than exactly how the General Manager is to implement the policy (procedure). One of the policies contained in the OPPM prescribes both the policy and procedures for handling claims against the District. This policy was amended in December 2018 however staff has found that the policy is still too wordy, difficult to understand and too procedural.

District staff is recommending to rescind its existing policy and to adopt a much simpler version of the policy which is attached herein. The text proposed to be removed from the Claims policy will be moved to a written standard operating procedure to assist with implementation.

ATTACHMENTS:

1. Resolution 17-2023
2. Revised Claims Against District Policy

Financial Impacts:

None

RESOLUTION 17-2023

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT AMENDING THE CLAIMS AGAINST DISTRICT POLICY

WHEREAS, the Groveland Community Services District (herein referred to as District) is a local government agency formed and operating in accordance with Section §61000 et seq. of the California Government Code; and

WHEREAS, Section §61040 of the California Government Code requires that the board of directors shall establish policies for the operation of the district. The board of directors shall provide for the implementation of those policies which is the responsibility of the district's general manager; and

WHEREAS, the District's Claims Against District Policy is outdated and in need of update; and

WHEREAS, a revised draft Claims Against District Policy has been prepared and is included herein.

NOW THEREFORE BE IT RESOLVED THAT THE BOARD OF DIRECTORS OF THE GROVELAND COMMUNITY SERVICES DISTRICT DOES hereby rescind the previous Claims Against District policies and adopt the revised Claims Against District Policy attached hereto as Exhibit A.

WHEREFORE, this Resolution is passed and adopted by the Board of Directors of the Groveland Community Services District on April 11, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVE:

Nancy Mora, Board President

ATTEST:

Rachel Pearlman, Board Secretary

CERTIFICATE OF SECRETARY

I, Rachel Pearlman, the duly appointed and acting Secretary of the Board of Directors of the Groveland Community Services District, do hereby declare that the foregoing Resolution was duly passed and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District, duly called and held on April 11, 2023.

DATED: _____

GCSD POLICY

POLICY TITLE: CLAIMS AGAINST THE DISTRICT

POLICY NUMBER: 106

ADOPTED: October 11, 2010

AMENDED: December 11, 2018

RESOLUTION: 41-18

106.1 PURPOSE

The Groveland Community Services District (District) is a political subdivision of the State of California and thus subject to the Government Claims Act located in Government Code Sections 810 et. Seq. This policy provides the procedures for the District to follow from when an accident occurs, to receipt of a claim and through the District's reply.

106.2 WHEN AN ACCIDENT OR INCIDENT OCCURS

When an accident or incident occurs, employees ~~should~~shall:

- ~~1. Stay calm and assist any injured or upset individuals;~~
- ~~2. Contact emergency personnel if appropriate (do not transport injured parties in a District or personal vehicle);~~
- ~~3. Collect information by taking photographs, writing down observations, the names of involved parties, license plate numbers, witness information, police report numbers, and so on;~~
- ~~4.1.~~ Only discuss details of the accident/incident with his/her supervisor, the police, the District's insurance provider and District Legal Counsel.

~~At no time are employees to~~Not assign or admit any responsibility or liability for any actions on behalf of the District or make any related promises. ~~Employees may not make promises to anyone, except that the situation will be investigated by the District. Statements NOT to make include:~~

- ~~• "It was my/our fault".~~
- ~~• "I knew this was going to happen".~~
- ~~• "The District will take care of everything".~~

~~It is appropriate to express concern and sympathy, but not to the extent it comes across as accepting blame.~~

~~Statements that are acceptable include~~

- ~~• "I am sorry you were hurt/injured/lost [whatever it is]/ or you feel that way".~~
- ~~• "What can I do to help you?"~~
- ~~• "Is there someone we can call for you?"~~

106.3 INQUIRIES REGARDING HOW TO FILE A CLAIM

During or immediately following an accident or incident, employees may be approached regarding the possibility of filing a claim against the District. ~~These informational inquiries can be done in person, by phone, by letter or email, or by a third party. However, a~~ All submissions of a claim must be made in writing. Employees ~~should respond that there are~~ are to offer two ways to make a claim, if someone believes the District is responsible for their injury or loss; by submitting a District Claim Form or by letter from the Claimant as detailed below.

106.4 HOW TO FILE A CLAIM (one of the two following methods must be followed):

1. Claimant may submit a claim using a completed District Claim Form (attached). NOTE: Form may also be used by District Employees for accidents or injuries.

~~1-2.~~ The person wishing to submit a claim ("Claimant") can send a letter addressed to the District that includes the same information following in the District Claim Form.: _____ -

- ~~Name and address of claimant~~
- ~~Date, place and circumstances of the occurrence or action which caused damage, injury, or loss~~
- ~~General description of the indebtedness, obligation, injury, damage, or loss incurred, so far as it may be known at the time of the presentation of the claim~~
- ~~Name(s) of the employee(s) or witnesses involved with or having knowledge of the accident/incident, if known~~
- ~~The amount claimed, as of the date of the presentation of the claim, including an estimate of any future amount, including a statement about the basis of the computation of the amount claimed~~
- ~~Signed and dated by the person making the claim, or another person, on their behalf~~

~~2.1. Claimant may submit a claim using a completed District Claim Form (attached). NOTE: Form may also be used by District Employees for accidents or injuries.~~

106.5 PROCESSING A SUBMITTED WRITTEN CLAIM

When accepting a claim letter or form, employees are not to: comment on or evaluate the information provided; agree to or promise anything (except that the District will investigate their claim and they will be notified); or speculate on the possible outcome. The employee accepting the claim letter or form shall write the day's date, their own name, and submit it to the General Manager's office the same day.

Once a claim letter or form is received, and depending on the situation, the District may respond to the claimant with a letter stating that the District has received the claim and that the District is investigating it.

106.6 GATHERING INFORMATION

Claims will be investigated by assigned District staff, in conjunction with the District's Risk Administrator, the General Manager, and/or the District's Legal Counsel. Information to be collected may include, but

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is not limited to: Accident/Incident Reports; photographs; observations; District records and reports; police reports; and, written statements from witnesses and other relevant parties.

106.7 FORWARDING POTENTIAL CLAIM INFORMATION

Assigned staff will forward any accident or incident information to the District's insurance provider and the District's Legal Counsel. This should be done as soon as possible.

106.8 DETERMINING THE COURSE OF ACTION

The General Manager, in consultation with the District's insurance provider and/or the District's Legal Counsel, may determine the course of action, on claims of \$50,000 or less. For claims over \$50,000, the Board of Directors, in consultation with the General Manager, the District's Legal Counsel, and the District's insurance provider, may determine the course of action during a closed session Board Meeting.

After the initial investigation of a claim, the claim may be:

1. Accepted, by the General Manager if the claim is \$50,000 or less or by the Board of Directors for claims of more than \$50,000
2. Deemed denied by operation of law after 45 days
3. Denied by the General Manager if the claim is \$50,000 or less or by the Board of Directors for claims greater than \$50,000
4. Submitted to the District's insurance provider or Legal Counsel for further discussions and resolution of the matter with the claimant

106.9 NOTIFYING THE CLAIMANT

The claimant, or a party representing the claimant, will be notified in writing by the General Manager if a claim is denied or "deemed denied", via the U.S. Postal Service. If a claim is accepted, the District's insurance provider or their Third Party Administrator will contact the claimant and negotiate a settlement.

106.10 THIRD PARTY REPRESENTATION OF THE CLAIMANT

All Claimants who are represented by a third-party (e.g. an attorney) must provide an authorization letter indicating that the third party is authorized to represent the claimant and that the third-party is authorized to act on behalf of claimant and receive information related to the claim. No information should be provided to any third party without an authorization letter from the claimant.

106.11 TIME FOR FILING CLAIMS

CLAIMS FOR DEATH, INJURY TO PERSON OR TO PERSONAL PROPERTY MUST BE FILED NOT LATER THAN 6 MONTHS AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)

ALL OTHER CLAIMS FOR DAMAGES MUST BE FILED NOT LATER THAN ONE YEAR AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)