

CLIENT NEWS BRIEF

Local Agencies May Enact Presentation Requirements for Childhood Sexual Abuse Claims, Court Rules

The Fifth District Court of Appeal's opinion in [Big Oak Flat-Groveland Unified School District v. Superior Court](#) holds, for the first time, that local agencies may enact local claims procedures under the Government Claims Act which require the submission of claims regarding childhood sexual abuse, despite the general exemption of such claims from the Government Claims Act's claim presentation requirements and the more forgiving statute of limitations which apply to such claims under the Code of Civil Procedure.

Lozano Smith [Litigation Practice Group](#) Co-Chair [Sloan Simmons](#) represented the California School Boards Association (CSBA) and CSBA's Education Legal Alliance as amicus curiae in this case.

Background

The case involved an alleged childhood sexual abuse victim, Jane Doe, who attempted to sue a school district without first presenting a claim for damages. Childhood sexual abuse claims are exempt from the Government Claims Act's claim presentation requirements, and based on this exemption, the plaintiff did not present a claim to the district before commencing her lawsuit. The district claimed the lawsuit was barred by the plaintiff's failure to follow its local claim presentation policy, which the district said it was permitted to establish under a separate provision of the Act. The district argued that despite the Act's exceptions under Government Code section 905, the plaintiff was still required to present a claim to the district due to the local policy adopted by the district under Government Code section 935.

The appellate court sided with the district, holding that local entities can prescribe their own presentation requirements for exempt claims as long as the local claim presentation period is no shorter than six months. Since the district maintained a local policy prescribing a presentation period of six months after accrual of the cause of action for all exempt claims and the plaintiff did not present her claim to the district within that time period, her suit was barred for failing to comply with the local requirements.

Takeaways

The court's opinion affirms the underlying purpose for the Government Claims Act: allowing public entities to investigate and remedy harm before litigation ensues and to create internal protections that will prevent future harm. The opinion also serves the public policy that limited public resources should not be spent on litigation that could be avoided, and that public agencies make the best use of their limited resources when they can plan their budgets in advance.

Local public agencies should consider adopting local policies that address exempt claims. For school districts and county offices of education, CSBA's model Board Policy and Administrative Regulation 3320 contain optional policy language on point. Lozano Smith's Litigation Practice Group also offers its

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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

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April 2018
Number 15

[Government Claims Handbook](#) as a resource for addressing claims under the Act.

The plaintiff in the case recently petitioned the California Supreme Court to review the appellate court's opinion. The Supreme Court will determine whether to grant review in the coming months.

If you have any questions regarding the *Big Oak Flat-Groveland Unified School District* opinion, the Government Claims Act, or the adoption of local claim presentation requirements, please contact the authors of this Client News brief or an attorney at one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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