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UPDATED INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Victim Compensation and Government Claims Board implements the Government Claims Program (GCP).

This rulemaking action proposes the following changes to Rules 630, 631, 631.5, 632, ~~632.5~~, ~~632.44~~, 632.5, 632.6, 632.7, 632.8, 632.9, 632.10, 632.11:

630: Currently, the regulations do not define common terms. Specifically defining terms the Board uses frequently will eliminate confusion and clarify how the Board intends each term to be used.

631: The revision correctly names the Board as the entity with which claims should be filed.

631.5: It is necessary to revise this provision to acknowledge the reality that GCP claims are submitted electronically to both the affected state entity and Office of the Attorney General. Requiring only one copy of the claim to be submitted will save paper and make it easier for claimants to file.

It is also necessary to revise this provision to require the names and address of all claimants on claim forms because currently, an attorney or other representative frequently only lists his or her contact information on the claim. If the attorney or other representative withdraws representation before the claim is processed, GCP is unable to directly contact the claimant which may compromise the claimant's ability to pursue his or her claim.

632: Government Code section 910 specifies the minimum information required to file a claim against a state entity while Government Code section 910.4 requires the Board to publish a claim form for claimants to use in order meet statutory requirements. Government Code section 910.4 also authorizes GCP to return claims not submitted on claim forms. Historically, both claimants and state entities have expressed confusion and disagreement regarding whether use of the claim form was mandatory. The Board interprets the statute to authorize GCP to require claims to be submitted on a claim form. This regulation will implement the statute and expedite the processing of claims.

This regulation is necessary because the revised form will make it easier to communicate with inmates who file claims against California by requiring that inmate numbers be included on the form and to track third party claims filed by insurance companies by requiring them to include their insured's name and/or claim number. These changes will ensure that GCP will not lose the ability to effectively communication with claimants if the representatives of inmates or third party claimants changes, and will allow GCP to better verify the legitimacy of claims.

This regulation is necessary to acknowledge that unredeemed bonds are no longer processed by GCP.

Old 632.5: This regulation is unnecessary because it codifies claims filing practices that are no longer utilized.

New 632.5: This regulation is necessary because the revised form will make it easier to communicate with inmates who file claims against California by requiring that inmate numbers be included on the form and to track third party claims filed by insurance companies by requiring them to include their insured's name and/or claim number. These changes will ensure that GCP will not lose the ability to effectively communication with claimants if the representatives of inmates or third party claimants changes, and will allow GCP to better verify the legitimacy of claims.

This regulation is necessary to acknowledge that unredeemed bonds are no longer processed by GCP.

632.6: The GCP processes all claims which are not filed directly with the affected state entity. The proposed regulation is necessary to clarify procedures for giving notice to claimants that a claim does not meet statutory requirements and avoid confusing claimants with procedures that are no longer in place.

632.7: Government Code section 911.2 requires claims relating to "any other cause of action" other than death or personal injury, injury to personal property, or injury to growing crops to be presented to the Board within one year of accrual of the cause of action. This regulation clarifies and makes clear that GCP interprets "any other cause of action" to mean a claim of breach of contract, a claim for damage to real property, or a claim for pure economic damages.

This regulation clarifies and makes clear the date GCP considers each claimed breach of contract to have accrued in order to better guide claimants and is necessary to facilitate the processing of claims.

This regulation clarifies and makes clear that, consistent with Government Code section 911.3, the Board loses jurisdiction over claims presented more than one year after accrual of the cause of action.

632.8: The revision conforms to Government Code section 911.3 by confirming that claimants are currently allowed six months, not 100 days, to file claims pursuant to Section 633.7.

The revision also correctly names the Board as the entity with which claims should be filed.

Finally, deleting subsection (e) will facilitate the processing of claims by allowing GCP to retain the ability to determine “good cause” for filing a late application. Consultation with the Office of the Attorney General is not required by statute.

632.9: The revision correctly names the Board as the entity which will be noticing claimants for meeting.

632.10: The revision correctly names the Board as the entity which will be acting on claims.

The revision also makes clear that the Office of the Attorney General does not currently enter into agreements to extend the time which claimants have to file claims. That procedure is evaluated and performed exclusively by GCP, and this regulation is necessary to eliminate confusion from those wishing to enter into agreements to extend the deadline for filing a claim.

This regulation is necessary to make clear that the Board is unable to conduct the extensive fact finding, investigation, and discovery necessary to determine the validity of truly complex claims. This regulation provides the Board clear authority to reject such claims.

This regulation is necessary to make clear that claims from inmates of California correctional facilities are often complex because of the inherent difficulty of determining the appropriateness of the action undertaken by the facility. This regulation will codify the Board’s authority to reject these claims.

Finally, this regulation is necessary to clarify Government Code Section 913.2. That section authorizes the Board to re-examine rejected claims for purposes of settlement. GCP interprets Section 913.2 to also allow the Board to re-examine allowed or partially allowed claims that are subsequently rejected by a claimant who discovers additional damages, or by a claimant who offers additional proof to a state entity sufficient for the entity to recommend payment beyond the amount originally authorized by the Board. This regulation will streamline the settlement process and prevent claimants from needing to litigate a matter that could be resolved by the Board.

Old 632.11: This regulation is unnecessary because it codifies claims processing practices that are no longer utilized.

New 632.11: It is improper to name the GCP or the Board in lawsuits after a claim has been rejected unless the GCP and/or the Board were named as a defendant in the original claim. This incorrect legal practice causes both the Board and the claimant to incur unnecessary legal costs.

These proposed amendments are necessary to ensure efficiency, clarity, and transparency in GCP operations. This rulemaking action clarifies the requirements and procedures necessary to make a claim against the state entities over which the Board has jurisdiction. This rulemaking action also revises forms and updates statutory language referring to the Board as the “Board of Control.”



GCP conducted a 45-day public comment period and held two separate public hearings (October 30, 2013, and November 26, 2013) to allow the public the opportunity to offer comments or concerns about the proposed regulations. No comments or concerns were offered at the two public hearings. However, GCP received several written and oral comments. These comments were addressed and some of them were acted upon. As a result, a 15-day follow up public comment period is being held December 10, 2013 – December 24, 2013.

There have been no other changes in the laws related to the proposed action or to the effect of the proposed regulations from the laws and effects described in the Notice of Rulemaking Action.