

Oregon Tort Claim Notices: If You're Injured and Want to File Against A Public Body

If you've been injured in Oregon on public property, through the negligence of a government employee, or through failure of a government service, you might be able to receive monetary compensation for your injuries and losses by filing a tort claim notice.

According to the Federal Tort Claims Act, from 1946, individuals are eligible to receive compensation they receive on federal government property due to the negligence of a federal employee. Damages can include medical bills, lost wages, wrongful death, and property losses.

So, for example, if you slip and fall in a museum on a federal reserve, and the employees knew that area was dangerous but didn't do anything to prevent injuries, you could contact an attorney and file a tort claim notice. This is negligence on the part of the employees, and therefore they (or rather, the government) can be held accountable.

Laws for each state, however, which regulate state and city properties and employees, vary greatly depending on the state. According to the Oregon tort Claims act, torts filed against public bodies must be filed within 180 days of the accident/loss.

ORS 30.275 discusses the time limits on such filings, and states:

(1) No action arising from any act or omission of a public body or an officer, employee or agent of a public body within the scope of ORS 30.260 to 30.300 shall be maintained unless notice of claim is given as required by this section.

(2) Notice of claim shall be given within the following applicable period of time, not including the period, not exceeding 90 days, during which the person injured is unable to give the notice because of the injury or because of minority, incompetency or other incapacity:

(a) For wrongful death, within one year after the alleged loss or injury.

(b) For all other claims, within 180 days after the alleged loss or injury.

(3) Notice of claim required by this section is satisfied by:

(a) Formal notice of claim as provided in subsections (4) and (5) of this section;

(b) Actual notice of claim as provided in subsection (6) of this section;

(c) Commencement of an action on the claim by or on behalf of the claimant within the applicable period of time provided in subsection (2) of this section; or

(d) Payment of all or any part of the claim by or on behalf of the public body at any time.

(4) Formal notice of claim is a written communication from a claimant or representative of a claimant containing:

(a) A statement that a claim for damages is or will be asserted against the public body or an officer, employee or agent of the public body;

(b) A description of the time, place and circumstances giving rise to the claim, so far as known to the claimant; and

(c) The name of the claimant and the mailing address to which correspondence concerning the claim may be sent.

(5) Formal notice of claim shall be given by mail or personal delivery:

(a) If the claim is against the state or an officer, employee or agent thereof, to the office of the Director of the Oregon Department of Administrative Services.

(b) If the claim is against a local public body or an officer, employee or agent thereof, to the public body at its principal administrative office, to any member of the governing body of the public body, or to an attorney designated by the governing body as its general counsel.

(6) Actual notice of claim is any communication by which any individual to whom notice may be given as provided in subsection (5) of this section or any person responsible for administering tort claims on behalf of the public body acquires actual knowledge of the time, place and circumstances giving rise to the claim, where the communication is such that a reasonable person would conclude that a particular person intends to assert a claim against the public body or an officer, employee or agent of the public body. A person responsible for administering tort claims on behalf of a public body is a person who, acting within the scope of the person's responsibility, as an officer, employee or agent of a public body or as an employee or agent of an insurance carrier insuring the public body for risks within the scope of ORS 30.260 to 30.300, engages in investigation, negotiation, adjustment or defense of claims within the scope of ORS 30.260 to 30.300, or in furnishing or accepting forms for claimants to provide claim information, or in supervising any of those activities.

(7) In an action arising from any act or omission of a public body or an officer, employee or agent of a public body within the scope of ORS 30.260 to 30.300, the plaintiff has the burden of proving that notice of claim was given as required by this section.

(8) The requirement that a notice of claim be given under subsections (1) to (7) of this section does not apply if:

(a) The claimant was under the age of 18 years when the acts or omissions giving rise to a claim occurred;

(b) The claim is against the Department of Human Services or the Oregon Youth Authority; and

(c) The claimant was in the custody of the Department of Human Services pursuant to an order of a juvenile court under ORS 419B.150, 419B.185,

419B.337 or 419B.527, or was in the custody of the Oregon Youth Authority under the provisions of ORS 419C.478, 420.011 or 420A.040, when the acts or omissions giving rise to a claim occurred.

(9) Except as provided in ORS 12.120, 12.135 and 659A.875, but notwithstanding any other provision of ORS chapter 12 or other statute providing a limitation on the commencement of an action, an action arising from any act or omission of a public body or an officer, employee or agent of a public body within the scope of ORS 30.260 to 30.300 shall be commenced within two years after the alleged loss or injury.

Don't Lose Your Right to Compensation

These laws can be very confusing, so if you have questions we suggest you contact a Portland personal injury attorney who understands how to file a tort claim notice properly to ensure that you do not lose of the damages to which you are entitled.