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**RECEIVED**  
September 18, 2019  
*Commission on  
State Mandates*

September 18, 2019

**LATE FILING**

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Heather Halsey  
Executive Director  
Commission on State Mandates  
980 9th Street, Suite 300  
Sacramento, California 95814

***Re: Comments to Proposed Parameters & Guidelines 18-TC-01, Public School Restrooms: Feminine Hygiene Products***

Dear Ms. Halsey:

Please be advised the following comments are regarding the *Draft Expedited Parameters & Guidelines* (“Parameters & Guidelines”) Decision 18-TC-01.

Claimant disagrees with the draft following comments:

4. The proposed activities to purchase and install dispensers for feminine hygiene products are not supported by substantial evidence in the record explaining why the activities are reasonably necessary to comply with the mandate and are, therefore, denied.

Substantial evidence in the record includes the following:

1. Legislative history acknowledging that the mandate would result in school districts incurring costs to purchase and install dispensers;
2. Claimant has filed evidence supporting the requirement for the dispensers;

Reasonably necessary activities are those activities necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program. (Cal. Code Regs., tit. 2, § 1183.7.) Desert Sands Unified School District (“Claimant”) contends that the legislature intended that dispensers were essential for stocking and maintaining at all times feminine hygiene products and that the installation costs would be reimbursable. “The precise cost will depend on the actual number of bathrooms that will require dispensers to be installed as well as the installation cost for each dispenser, which can vary from anywhere as low as

Artiano Shinoff

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several hundred dollars to as high as two to three thousand dollars. (emphasis added; Assembly Analysis September 6, 2017; attached) The legislative intent could not be clearer.

Claimant has filed substantial evidence in their test claim and supporting declarations that the dispensers were a critical cost for complying with the mandate in stocking and maintaining at all times feminine hygiene products supporting the requirement for the dispensers.

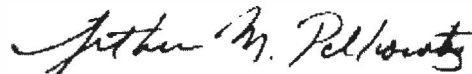
When the test claim was unanimously approved a Commission member voiced her support for reimbursement of the dispenser costs. (attached hearing transcript p.226-227.) Furthermore, there is no evidence in the record of a method other than dispensers for stocking and maintaining the feminine hygiene products.

### **Conclusion**

The use of the dispensers is a reasonably necessary activity necessary to comply with the statutes, regulations and other executive orders found to impose a state-mandated program. (2 CCR § 1183.7.) Installing dispensers is a reasonable, healthy, safe and effective method to satisfy the statute's requirement "to stock at least 50 percent of the school's restrooms with feminine hygiene products at all times." (Education Code Section 35292.6.) Claimant has submitted substantial evidence that is included in the record of the one-time related costs of purchasing and installing dispensers for reimbursement.

### CERTIFICATION

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or information and belief.



Arthur M. Palkowitz  
Attorney for Claimant  
Desert Sands Unified School District

AMP:kaf

CONCURRENCE IN SENATE AMENDMENTS

AB 10 (Cristina Garcia)

As Amended September 1, 2017

Majority vote

ASSEMBLY: 68-6 (May 31, 2017) SENATE: 39-0 (September 6, 2017)

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Original Committee Reference: **ED**.

**SUMMARY:** Requires a public school serving students in any of grades 6 to 12, that meets the 40% pupil poverty threshold required to operate a federal Title I schoolwide program, to stock at least 50% of the school's restrooms with feminine hygiene products at all times and to provide those products at no charge.

**The Senate amendments** specify that schools may not charge students for menstrual products and add co-authors.

**FISCAL EFFECT:** According to the Senate Appropriations Committee:

- 1) One-time state reimbursable mandated costs, ranging from the millions to tens of millions of dollars in Proposition 98 General Fund, for the bill's requirement for Title I schools serving grades 6 to 12 to stock at least 50% of their restrooms with feminine hygiene products. The precise cost will depend on the actual number of bathrooms that will require dispensers to be installed as well as the installation cost for each dispenser, which can vary from anywhere as low as several hundred dollars to as high as two to three thousand dollars.
- 2) Ongoing state reimbursable mandated costs, likely in the hundreds of thousands of dollars in Proposition 98 General Fund, to stock the dispensers at no charge.

**COMMENTS:** According to the author, "Feminine hygiene products are a necessity for the health, well-being, and full participation for those who menstruate. No person who menstruates should ever need to worry about access to tampons or sanitary pads. These products are medical necessities for half of our population and as a state California should not wait to lead the country to increase access to these products."

**Analysis Prepared by:** Debbie Look / ED. / (916) 319-2087

FN: 0001774

1 We believe that it is intended to be part of it,  
2 based on the legislative history, and also the Senate  
3 Appropriation looking at that issue.

4 The code section that was amended states the  
5 feminine hygiene products shall be stocked in the  
6 restrooms. We believe that the dispensers are a  
7 reasonable method of doing that. The code section, on  
8 its face, does not say the feminine products will be  
9 placed there or laid down there or someone will  
10 personally distribute them. So we feel that it is  
11 appropriate that the dispensers be reimbursed.

12 And if the process is to have that done during the  
13 Parameters and Guidelines, we look forward to that  
14 opportunity.

15 CHAIRPERSON MILLER: I appreciate that. Thank you,  
16 sir.

17 With that, are there questions from members?

18 MEMBER OLSEN: I will move the staff  
19 recommendation.

20 CHAIRPERSON MILLER: Ms. Stowers, did you have a  
21 question?

22 MEMBER STOWERS: I will second that motion. But I  
23 want to make a comment as well. I just want to -- I  
24 appreciate the analysis, providing that these products  
25 are a part of the test claim. And I look forward to

20

1 reading the P&G and having, you know, a reasonableness  
2 to include the dispensers. Also looking forward, the  
3 overall cost should be decreased as we are looking to  
4 have these items to be excluded from sales tax. So  
5 thank you to everyone.

6 CHAIRPERSON MILLER: Great. Thank you,  
7 Ms. Stowers.

8 Any other questions?

9 MEMBER RAMIREZ: I just want to say --

10 CHAIRPERSON MILLER: Oh -- please.

11 MEMBER RAMIREZ: I just want to say, it's about  
12 time, as well.

13 (Laughter)

14 CHAIRPERSON MILLER: I appreciate that.

15 MS. GEANACOU: Yes, thank you from Finance.

16 We support the staff analysis, and we'll address  
17 any cost or reimbursable activities at the Parameters  
18 and Guidelines phase.

19 CHAIRPERSON MILLER: Great. I appreciate that.  
20 Thank you.

21 Ms. Olsen, did you have a comment?

22 MEMBER OLSEN: I am moving the recommendation with  
23 great pleasure.

24 MEMBER STOWERS: Second.

25 CHAIRPERSON MILLER: Moved by Ms. Olsen; seconded

21

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

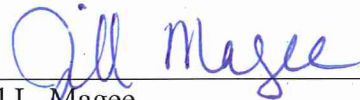
On September 19, 2019, I served the:

- **Claimant's Late Comments on the Proposed Decision and Parameters and Guidelines filed September 18, 2019**

*Public School Restrooms: Feminine Hygiene Products*, 18-TC-01  
Education Code Section 35292.6; Statutes 2017, Chapter 687 (AB 10)  
Desert Sands Unified School District, Claimant

By making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 19, 2019 at Sacramento, California.



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Jill L. Magee  
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# COMMISSION ON STATE MANDATES

## Mailing List

**Last Updated:** 8/13/19

**Claim Number:** 18-TC-01

**Matter:** Public School Restrooms: Feminine Hygiene Products

**Claimant:** Desert Sands Unified School District

### TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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