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**Commission on
State Mandates**

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

***Re: Response to Draft Proposed Decision 18-TC-01, Public School Restrooms:
Feminine Hygiene Products***

Dear Ms. Halsey:

Please be advised the following is a response to the Draft Proposed Decision dated March 5, 2019 regarding the aforementioned Test Claim.

Commission staff has concluded that Education Code section 35292.6, as added by Statutes 2017, chapter 687, constitutes a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution, beginning January 1, 2018, for school districts with schools identified below to stock 50 percent of the school's restrooms with feminine hygiene products (defined only as tampons and sanitary napkins) at all times at no cost to pupils. This mandate applies to those schools that meet the following criteria:

- Maintain any combination of classes from grade 6 to grade 12, inclusive; *and*
 - Meet the 40 percent pupil poverty threshold required to operate a schoolwide program pursuant to section 6314(a)(1)(A) of Title 20 of the United States Code, in that the school is eligible for Title I, Part A funds, and not less than 40 percent of the children enrolled in the school are from low-income families.
- (Draft Proposed Decision (“DPD”); page 8)

However, Commission Staff has rejected the Test Claim requesting reimbursement of the new activities that included costs related to the purchase and installation of dispensers as well as school policies and procedures. Section 35292.6 states the following:

(a) A public school maintaining any combination of classes from grade 6 to grade 12, inclusive, that meets the 40- percent pupil poverty threshold required to operate a schoolwide program pursuant to Section 6314(a)(1)(A) of Title 20 of the United States Code *shall stock at least 50 percent of the school's*

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Restrooms: Feminine Hygiene Products**

restrooms with feminine hygiene products at all times. (DPD 18)

Legislative history acknowledges that the mandate would result in school districts incurring costs to purchase and install dispensers and the claimant has filed evidence supporting that cost. Commission staff has ignored the legislative intent in recommending that these activities and costs are not reimbursable. (DPD p. 6) Nor does the DPD decision state any method or means for students to access the feminine hygiene products that are to be stocked at all times.

Desert Sands Unified School District (“Claimant”) contends that the legislative intended to reimburse for installation of dispensers. 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. (emphasis added; Assembly Analysis September 6, 2017) The precise cost can vary from anywhere as low as several hundred dollars to as high as two to three thousand dollars. (Senate Rules Committee; September 1, 2017)*

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.)

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

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 March 28, 2019, I served the:

- **Finance's Comments on the Draft Proposed Decision filed March 26, 2019**
- **Claimant's Comments on the Draft Proposed Decision filed March 26, 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 March 28, 2019 at Sacramento, California.



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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 3/22/19

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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