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RECEIVED
January 26, 2024
Commission on
State Mandates

January 26, 2024

Heather Halsey
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Re: Test Claim: Public School Restrooms:
Feminine Hygiene Products II (22-TC-04)

Dear Ms. Halsey:

Hesperia Union School District (“Claimant”) has reviewed the Department of Finance (“Finance”) comments dated January 26, 2024, in response to the Test Claim 22-TC-04, submitted to the Commission on State Mandates (Commission) draft proposed decision to approve the aforementioned test claim. Claimant provides the following rebuttal comments.

A. Introduction

The test claim alleges state-mandated, reimbursable costs associated with Chapter 664, Statutes of 2021 (AB 367), that requires public schools maintaining any combination of classes from grades 6 to 12, inclusive, to stock all women’s and all-gender restrooms, and at least one men’s restroom, with an adequate supply of menstrual products, defined as menstrual pads and tampons, that are available and accessible, and free of cost, at all times.

Claimant withdraws request for reimbursement for the following activities:

- (i) Developing and implementation of internal policies, training, procedures relating to the purchase, installation, stocking of menstrual products.
- (ii) Train certificated, classified and other personnel to administer the availability of menstrual products in the district’s restrooms.

Finance fails to provide any evidence supporting their “concerns with the costs identified.” The costs submitted by the claimant meet the threshold to approve the test claim. Other issues of costs may be addressed during the parameters and guidelines process.

Claimant has submitted admissible evidence of the purchase and installation of menstrual product dispensers, for every women’s and all-gender restrooms, and at least one men’s restroom to ensure statutory requirements set by Education Code section 35292.6 are met. Finance concerns that costs may be overstated in the test claim are not supported by admissible evidence and are speculative.

Finance’s Comments Fail To Comply With Statutory Requirements.

Oral or written representations of fact offered by any person *shall* be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant’s personal knowledge, information, or belief. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) (emphasis added.) If representations of fact are made, they *must* be supported with documentary evidence filed with the comments on the test claim. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) (emphasis added.)

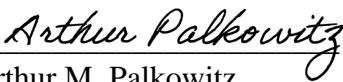
Finance comments fail to include the required oath and affirmation. Nor were the comments supported with documentary evidence. Accordingly, Commission shall disregard comments submitted by Finance.

Claimant submits the attached declaration in support of their test claim.

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 based on information and belief and that I am authorized and competent to do so.

January 26, 2024


Arthur M. Palkowitz
Representative for the Claimant

Test Claim: Public School Restrooms:

Feminine Hygiene Products II (22-TC-04)

Claimants: Hesperia Unified School District

Section: 6 Declaration –Dr. George Landon, Deputy Superintendent, Business Service,
Hesperia Unified School District

SECTION NUMBER: 6
Heading: DECLARATION

I, Dr. George Landon, Deputy Superintendent, Business Service, Hesperia Unified School District (“District”) declare as follows:

1. I am currently employed with the District, and I have personal knowledge of the actual and estimated costs incurred by the District for the Test Claim Public School Restrooms: Feminine Hygiene Products II (22-TC-04) (“FHP II”) program commencing on July 1, 2022. The information contained in my declaration is from preparing and reviewing District business records, my personal knowledge and information or belief pertaining to the FHP II program.

2. Test Claim Public School Restrooms: Feminine Hygiene Products II (22-TC-04) requires the Claimant to stock the school’s restrooms at all times with an adequate supply of menstrual products, available and accessible, free of cost, in all women’s restrooms and all-gender restrooms, and in at least one men’s restroom. (Assembly Bill No. 367; Statutes 2021, Chapter 664 Section 3 (a),(b),(c),(d) and Education Code Section 35292.6 (a),(b),(c),(d).)

3. The requirement to stock the school’s restrooms at all times with an adequate supply of menstrual products, available and accessible, free of cost, in all women’s restrooms and all-gender restrooms, and in at least one men’s restroom requires the Claimant to install dispensers in restrooms as a reasonable delivery method to provide an adequate supply of menstrual products and appropriately configured dispensers is reasonably necessary for the performance of the state-mandated activity. If some schools were already equipped with a sufficient number of suitable dispensers in their restrooms, they would not need to incur increased costs to buy new dispensers. In addition, some schools may have existing dispensers, including coin dispensers, that can be repaired or modified to provide the feminine hygiene products at no cost to the pupils and at a fraction of the cost to purchase new dispensers. Under these circumstances, it would only be necessary to repair or retrofit the dispensers to comply with the mandate and would not be necessary to incur increased costs to buy all new dispensers.

4. The selection of dispensers was determined by the Claimant’s Director of Risk Management and third-party vendor as the most efficient and cost-effective method for delivering the menstrual products.

Test Claim: Public School Restrooms:

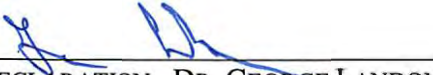
Feminine Hygiene Products II (22-TC-04)

Claimants: Hesperia Unified School District

Section: 6 Declaration –Dr. George Landon, Deputy Superintendent, Business Service,
Hesperia Unified School District

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 based on information and belief and that I am authorized and competent to do so.

Dated: January 23, 2023



DECLARATION –DR. GEORGE LANDON
DEPUTY SUPERINTENDENT, BUSINESS SERVICE,
HESPERIA UNIFIED SCHOOL DISTRICT

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 January 31, 2024, I served the:

- **Current Mailing List dated January 29, 2024**
- **Claimant's Comments on the Draft Proposed Decision filed January 26, 2024**

Public School Restrooms: Menstrual Products, 22-TC-04
Statutes 2021, Chapter 664, Sections 1 and 3 (AB 367);
Education Code Section 35292.6
Hesperia 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 January 31, 2024 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
980 Ninth Street, Suite 300
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(916) 323-3562

COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 1/29/24

Claim Number: 22-TC-04

Matter: Public School Restrooms: Menstrual Products

Claimant: Hesperia 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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