

June 20, 2023

Mr. Kris Cook
Department of Finance
915 L Street, 10th Floor
Sacramento, CA 95814

Mr. David Olney
Hesperia Unified School
District
15576 Main Street
Hesperia, CA 92345

Mr. Arthur Palkowitz
Law Offices of Arthur
Palkowitz
12807 Calle de la Siena
San Diego, CA 92130

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date

Public School Restrooms: Feminine Hygiene Products II, 22-TC-04
Statutes 2021, Chapter 664, Sections 1, 3 (AB 367); Education Code Section 35292.6; effective January 1, 2022
Hesperia Unified School District, Claimant

Dear Mr. Cook, Mr. Olney, and Mr. Palkowitz:

On May 12, 2023, the Hesperia Unified School District (claimant) filed the above-captioned Test Claim. Upon review, Commission on State Mandates (Commission) staff found the Test Claim to be incomplete, and on May 23, 2023, notified the claimant. On June 9, 2023, the claimant filed documents to cure the Test Claim. Upon review, Commission staff finds that this Test Claim is complete and that it retains the original filing date of May 12, 2023, in accordance with section 1183.1(f) of the Commission's regulations (California Code of Regulations, Title 2).

The Commission is now requesting parties, interested parties, and interested persons to comment on the Test Claim as specified below.

Review of Test Claim

Parties, interested parties, and interested persons receiving this letter are requested to analyze the merits of the Test Claim and to file written comments not later than **5:00 p.m. on July 20, 2023** in accordance with sections 1183.2 and 1181.3 of the Commission's regulations. 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.) 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.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹ Hearsay evidence (such as declarations not based on personal knowledge but on information and belief alone) may be used for the purpose of

¹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.²

Claimants' Rebuttal

Written rebuttals to written comments concerning this Test Claim may be filed and served in accordance with section 1181.3 of the Commission's regulations not later than 5:00 p.m. 30 days from service of the written comments. (Cal. Code. Regs., tit. 2 § 1183.3.) 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 §§ 1183.3 and 1187.5.) If new representations of fact are made, they must be supported with documentary evidence filed with the rebuttal. (Cal. Code. Regs., tit. 2 §§ 1183.3 and 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.³ Hearsay evidence (such as declarations not based on personal knowledge but on information and belief alone) may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.⁴

Process for Filing Comments

The Commission's regulations require that written materials filed with the Commission be electronically filed (e-filed) in an unlocked legible and searchable PDF file, using the Commission's Dropbox. (Cal. Code Regs., tit. 2, 1181.3(c)(1).) Refer to <https://www.csm.ca.gov/dropbox.php> on the Commission's website for electronic filing instructions. If e-filing would cause the filer undue hardship or significant prejudice, filing may occur by first class mail, overnight delivery or personal service only upon prior approval of a written request to the executive director. (Cal. Code Regs., tit. 2, 1181.3(c)(2).)

If you would like to request an extension of time, please refer to section 1187.9(a) of the Commission's regulations.

² Title 2, California Code of Regulations, section 1187.5.

³ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

⁴ Title 2, California Code of Regulations, section 1187.5.

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Tentative Hearing Date

The public hearing on this claim has been tentatively scheduled for **January 26, 2024**. The Draft Proposed Decision will be issued for comment at least eight weeks prior to the public hearing.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heather Halsey". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Heather Halsey
Executive Director

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 June 20, 2023, I served the:

- **Notice of Complete Test Claim, Schedule for Comments, and Notice of Tentative Hearing Date issued June 20, 2023**
- **Test Claim filed by the Hesperia Unified School District on May 12, 2023**

Public School Restrooms: Feminine Hygiene Products II, 22-TC-04
Statutes 2021, Chapter 664, Sections 1, 3 (AB 367); Education Code Section 35292.6; effective January 1, 2022
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 June 20, 2023 at Sacramento, California.



Jill L. Magee
Commission on State Mandates
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 6/13/23

Claim Number: 22-TC-04

Matter: Public School Restrooms: Feminine Hygiene Products II

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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