

# The 2021-22 Budget: Public School Restrooms Feminine Hygiene Products Mandate

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The Commission on State Mandates (the Commission) recently found new requirements to offer feminine hygiene products in public school restrooms to be a reimbursable mandate. In this post, we provide background on state mandates and the Commission’s recent decision, share our assessment, and provide an associated recommendation. This post fulfills a requirement for our office to analyze new mandates, as specified in Section 17562 of the Government Code.

## Background

### ***Constitution Requires the State to Reimburse Local Governments for Mandated Activities.***

State law tasks the Commission with determining whether new state laws or regulations affecting local governments create state-reimbursable mandates. Typically, the process for determining whether a law or regulation is a state-reimbursable mandate takes several years. State law further requires our office to analyze any new mandates identified by the Commission as a part of our annual analysis of the state budget. In particular, state law directs our office to report on the annual state costs for new mandates and make recommendations to the Legislature as to whether the new mandates should be repealed, funded, suspended, or modified. Below, we discuss the Public School Restrooms, Feminine Hygiene Products mandate.

### ***Districts Receive Reimbursement Through Mandates Claims Process or Block Grant.***

The state reimburses school districts and county offices of education (COEs) for mandated activities either through a claims-based process or from the K-12 mandates block grant. Under the state’s traditional mandate reimbursement process, districts submit claims for the actual cost of performing each mandated activity. The State

Controller’s Office (SCO) pays claims from funds appropriated in the state budget. The SCO audits some claims and reduces payments accordingly. As an alternative to the claims-based process, the state in 2012-13 created a K-12 mandates block grant. The block grant provides upfront per-student funding in lieu of submitting claims. Currently, all active K-12 mandates are included in the block grant. Most districts and COEs participate in the block grant rather than the traditional claims-based process. The per-student rates vary, with funding per K-8 student (\$32.18) roughly half of the rate for high school students (\$61.94). The higher high school rate is in recognition that the most expensive K-12 mandate—related to graduation requirements—is specific to high school programs.

***The Commission Recently Found New Feminine Hygiene Product Requirements in Public School Restrooms to Be a Mandate.*** In May 2019, the Commission found that requirements added by Chapter 687 of 2017 (AB 10, C. Garcia) impose a reimbursable state-mandated program, beginning January 1, 2018. The mandate requires certain schools to stock 50 percent of restrooms with feminine hygiene products (defined as tampons and sanitary napkins) at all times at no cost to students. The mandate applies to schools that enroll any students from grades 6-12 and have a student body where more than 40 percent of students are low income. In order to comply with the mandate, schools can file reimbursement claims for costs related to (1) stocking 50 percent of restrooms with feminine hygiene products, and (2) purchasing and installing (or retrofitting or repairing) dispensers for feminine hygiene products, to the extent that the school is not already equipped with a sufficient number of dispensers in their restrooms to comply with the mandate.

**Commission Estimates Ongoing Statewide Mandate Costs of \$2.2 Million.** In December 2020, the Commission published a statewide cost estimate that projects the ongoing costs of the mandate. The estimate uses claims data submitted to the State Controller for 2017-18 (reflecting a half-year of costs) and 2018-19. The data consisted of 169 reimbursement claims (97 for 2017-2018 and 72 for 2018-2019) submitted by 115 school districts and COEs, representing a total of 1,410 eligible schools. The Commission estimates ongoing costs to be \$2.36 per female student in grades 6-12 (the target student group). This estimate includes the following components:

- **Stocking Restrooms With Feminine Hygiene Products.** For 2018-19, the Commission found the cost of stocking restrooms with feminine hygiene products to be \$1.90 per female student in grades 6-12. The Commission’s estimates assume these costs continue in future years.
- **Purchasing and Installing Dispensers.** For 2018-19, districts submitted claims for purchasing and installing suitable dispensers for feminine hygiene products equivalent to \$3.70 per female student in grades 6-12. Given that these claims incorporate upfront implementation costs—related to ensuring sufficient restrooms have dispensers installed—these first-year costs will decline in future years. The Commission found that districts that filed claims for this activity in both 2017-18 and 2018-19 had a roughly 90 percent reduction in costs in the second year. Accordingly, the Commission estimates the ongoing costs to be \$0.37—10 percent of the costs reported by school districts.
- **Indirect Costs.** The Commission found that indirect costs associated with complying with the mandate were 4 percent of total costs—equivalent to \$0.09 per pupil.

To develop a statewide estimate for ongoing costs, starting in 2019-20, the Commission applies the \$2.36 rate to its estimate of female students in grades 6-12 at schools with 40 percent or more low-income students (about 919,000), for total statewide costs of \$2.2 million.

## Assessment

**Commission’s Adjustments to Installation Costs Are Reasonable.** We find the Commission’s adjustment to installation costs—which assume that the first year of claims will be much higher than ongoing costs—to be a reasonable approach for projecting ongoing mandate costs. The dispensers purchased for this purposes tend to have a relatively long shelf life and can be used for many years. Thus, district costs will likely be much lower than the amounts claimed in 2017-18 and 2018-19.

**Reported Costs May Be Slightly Overstated.** The Commission used per-student cost estimates from 2018-19 claims data as the basis for developing an ongoing statewide estimate. In reviewing the unaudited claims data from the Controller, however, we found numerous districts with per-student claims that far exceed the averages. For example, the 15 percent of claims with the highest per-pupil costs were more than three times the average of all claims. Given these numbers, we think the average costs reported by districts filing initial claims is likely higher than the average cost incurred by all districts required to undertake the mandated activities. Removing these higher claims from the data reduces the per-student costs by roughly 25 percent.

**Commission Undercounts Female Student Enrollment in Applicable Schools.** To extrapolate its ongoing per-pupil costs statewide, the Commission multiplies its per-student rates by its estimate of female student enrollment in grades 6-12 at schools with 40 percent or more low-income students (about 919,000). Their estimates were developed using school-level data from the California Department of Education (CDE) that includes the share of low-income students in each school, but does not include school-level enrollment by gender. To calculate total enrollment of female students at eligible schools, the Commission applied the statewide share of K-12 enrollment attributed to female students in grades 6-12 (27 percent in 2019-20) to total enrollment in eligible schools. Using more detailed CDE data that allowed us to see school level enrollment by gender, we found that eligible female pupil enrollment for 2019-20 was 1,150,000. This higher enrollment number suggests that the Commission’s calculations underestimate statewide costs.

***We Estimate Statewide Costs of \$2.1 Million.***

To develop our cost estimate, we begin with the Commission’s estimate—\$2.36 for each female student in grades 6-12—and make a 25 percent reduction given some claims appear overstated. This results in a rate of \$1.86 per student. We then multiply this rate by our estimate of 2019-20 enrollment data for female students in grades 6-12 (about 1,150,000). This results in total statewide costs of \$2.1 million.

**Recommendation**

***Add Mandate and \$2.1 Million to K-12 Mandates Block Grant.*** Given the intent of Chapter 687 was to ensure students in certain

schools have access to feminine hygiene projects free of charge, we recommend the Legislature add the mandate to the K-12 mandates block grant. In tandem, we recommend increasing the block grant funding by \$2.1 million based on our statewide cost estimate. To derive the new per-student block grant rates, we recommend increasing the high school rate more than the K-8 rate, as the mandate applies to all high school grades but only a portion of grades K-8. Accordingly, we recommend increasing the high school block grant funding rate by \$0.47 per student and the K-8 rate by \$0.29 per student.

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This report was prepared by Michael Alferes, and reviewed by Edgar Cabral and Anthony Simbol. The Legislative Analyst’s Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.