

Dear Los Angeles Unified School District Superintendent and Board Members:

This letter is in response to the upcoming Board Members Meeting scheduled for tomorrow, Thursday, September 9, 2021, to discuss a resolution of mandating COVID-19 vaccines for all students 12 years and older in order to be able to participate in in-person education within the Los Angeles Unified School District (LAUSD).

As a resident of Los Angeles County, I sincerely object, on a legal, scientific, and moral basis, to such a proposed COVID-19 vaccine requirement, and ask LAUSD to reject this proposed resolution immediately.

**California Health & Safety Codes:** First and foremost, LAUSD does not have the legal authority under California law to mandate a new vaccine as a condition for in-person school attendance. Specifically, there is a list of ten childhood immunizations required in order for students to gain admittance to public or private schools in California at certain stages of their education, and this list does not include any COVID-19 vaccines. See Cal. Health & Safety Code § 120335(a)(1)-(10). Under California Health & Safety Code § 120335(a)(11), only the California Department of Public Health (CDPH) can add a new vaccine to this childhood immunization schedule, and at this time, CDPH has not done so. California law does not allow individual public schools or school districts to unilaterally decide which additional vaccines its students must take prior to being allowed to enjoy an in-person public education, an education guaranteed by our California Constitution, Article IX.

Moreover, even if the CDPH elected to mandate a COVID-19 vaccine under Section 120335(a)(11) for all relevant California public schools, California law also requires that both medical and personal belief exemptions be allowed. See Cal. Health & Safety Code § 120338. Accordingly, any unilateral COVID-19 mandate that LAUSD purports to impose on its students, and particularly without allowance for medical and personal belief exemptions, is illegal under California law and is also unconstitutional on its face.

**Emergency Use Authorization and Liability:** Second, while neither CDPH nor our state legislature has mandated any COVID-19 vaccine for public or private school attendance, neither authority can do so while the vaccines are still under emergency use authorization. 21 U.S.C. § 360-bbb-3. This EUA statute explicitly states that anyone to whom an EUA product is administered must be informed of the option to refuse the product, as well as the risks and benefits of receiving it. Although the FDA has purportedly approved one of the mRNA vaccines, in reality, the approved vaccine, the Pfizer Comirnaty vaccine, is not available or in widespread circulation in the United States. Instead, the only COVID-19 vaccines being offered to members of the public in California, including students 12 years of age or older, are still under emergency use authorization, including the Pfizer Biontech COVID-19 vaccine product. There is consequently no full approval of any COVID-19 vaccine that is available for students of any age in California. In addition, all COVID-19 vaccines, including the Pfizer Comirnaty vaccine, remain authorized only under emergency use for ages 12-15, and thus no public entity can mandate such an experimental vaccine for students in that age

range. If neither CDPH nor our state legislature can currently mandate these vaccines due to federal EUA law and federal pre-emption issues, clearly LAUSD cannot unilaterally mandate an experimental use COVID-19 vaccine for its students either.

Finally, it should be noted that under the Federal Public Readiness and Emergency Preparedness (PREP) Act, all COVID-19 vaccine makers are provided immunity from liability for their products. However, LAUSD and any schools attempting to mandate an experimental use vaccine or even an FDA approved vaccine that such school lacks authority to mandate under our Health & Safety code will certainly open themselves up for lawsuits if a student is injured by an unlawfully mandated COVID-19 vaccine.

It is also unclear why LAUSD believes that mandating a COVID-19 vaccine will do anything to prevent the spread of COVID-19 on school grounds. As clearly stated in all COVID-19 vaccine manufacturers' materials, the vaccine clinical trial endpoints for all three vaccines were to reduce hospitalization and death by reducing the symptoms of the disease in the person taking the vaccine product. None of these vaccine products were analyzed for transmission or prevention of SARS-COV-2 infection. The delta variant is now the dominant variant in California. The CDC has made it clear in recent weeks that vaccinated persons can transmit the delta variant and might even possess higher viral loads than those who were not vaccinated, particularly those who have already naturally recovered from COVID-19. Since none of the vaccine products prevent infection or transmission, choosing to get a COVID-19 vaccine must remain an individual and personal health choice. Indeed, prior to the start of the 2021-2022 school year, LAUSD decided to continue its regular surveillance and COVID testing on all LAUSD students, **vaccinated and unvaccinated**. The Los Angeles Public Health department mandates masks at indoor venues, **vaccinated people included**. LAUSD obeyed this local health order as well. Clearly, LAUSD believes that vaccinated students also pose risks to both become infected with COVID and to spread to others, or it would not require that vaccinated persons wear masks indoors or engage in testing. Accordingly, there is no clear benefit for imposing an experimental vaccine that does not prevent infection or transmission onto otherwise perfectly healthy children.

At this point, those who are vaccinated have presumably protected themselves against severe COVID or death. Because the vaccines do not prevent infection or transmission, those who have made the choice not to get vaccinated are no different from those who are vaccinated in terms of risks to others. The only *alleged* benefit to the child user would be lesser symptoms if they were to get the disease. Yet, as numerous studies indicate, and public health authorities acknowledge, children are at little risk of developing severe COVID-19. Accordingly, requiring any COVID-19 vaccine, especially among student populations in middle and high school, is not the answer, and it appears to be an unethical and unscientific way to use children as a shield to protect segments of the adult population – who already have the option to be vaccinated.

In conclusion, we ask LAUSD to reconsider any intention to try to mandate experimental COVID-19 vaccines on our children. Mandating these vaccines may result in prompt legal action against this school district for exceeding its lawful authority.