

Dear \_\_\_\_\_,

I understand from my Princeton student that in the Fall, those with vaccines will have privileges that others will not have. You are instituting a caste system. No one will want to be in the lower caste, especially those paying hundreds of thousands to attend Princeton in person. Be advised that de facto mandates are just as illegal as requiring your students to get COVID shots, as they are based on coercive tactics. De facto mandates include granting privileges to the vaccinated and not allowing those privileges for those who cannot or do not want COVID shots.

Schools are not hospitals, and medical interventions should be for medical reasons, not to grant passes or privileges to those who submit to a medical treatment with known risks.

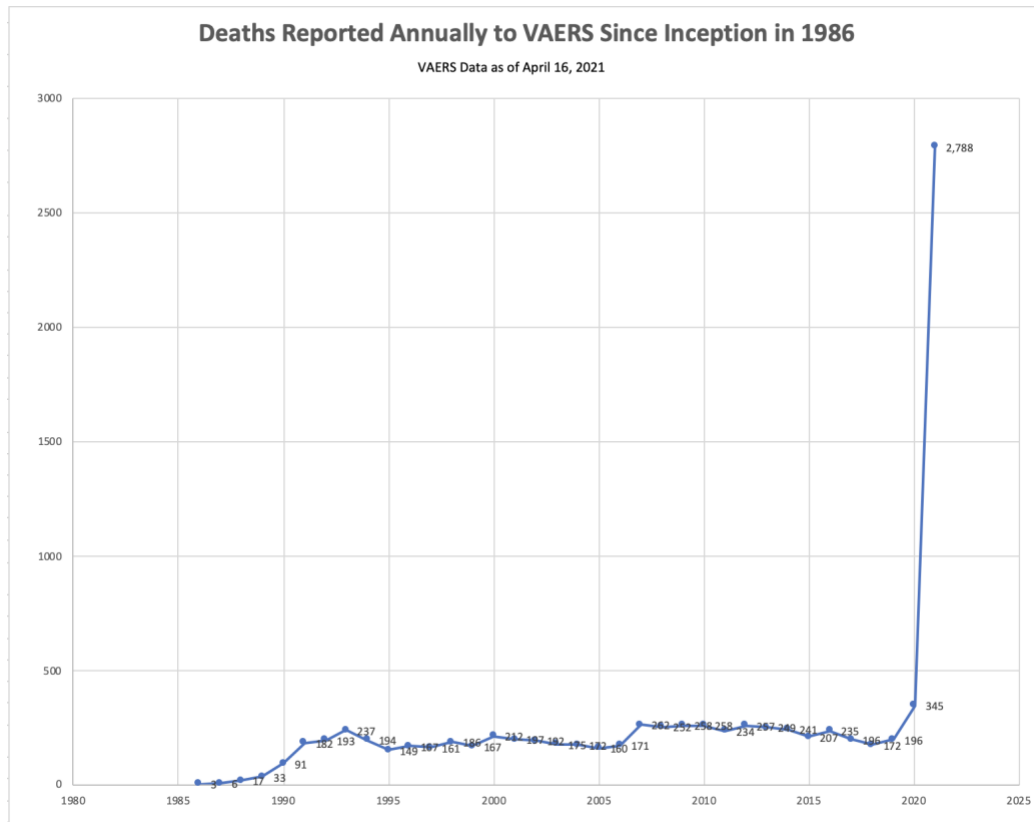
## COVID Science

To illustrate how risky the experimental COVID shots are, the graph below shows deaths reported after all vaccines to the U.S. Vaccine Adverse Events Reporting System (VAERS)<sup>1</sup>, an under-utilized surveillance system, known to contain only 1% of all adverse events occurring after vaccination, and only 1 to 13% of serious adverse events that occur after vaccination. (Lazarus, 2010)<sup>2</sup> Almost 2,800 deaths have been reported to VAERS so far in 2021, compared to the average year of about 200 deaths reported after any vaccination. If this rate of death reporting continues throughout the year, 2021 will have almost 10,000 death reports, about 50x more than any other year, and representing an actual rate of 77,000 to 1 million deaths reported after all vaccines administered in 2021.

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<sup>1</sup> <https://wonder.cdc.gov/vaers.html>

<sup>2</sup> <https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf>



Since VAERS reports are only temporally correlated and do not prove causation, it is useful to compare the deaths reported to other datasets in the same database. The US administers about 40 – 50 million doses per month of COVID shots and 40-50 million doses per month of non-COVID shots, so while the number of doses given may have doubled, the number of injuries and deaths reported after vaccines has most obviously skyrocketed.

Here is but one illustration of how these shots are not without risk, and how you are putting Princeton at extreme risk of being sued. You are not protected if students and staff feel that Princeton's urging and frequent communications felt like a mandate. For example, this teenage boy "wanted a shot" and is now paralyzed.<sup>3</sup>

COVID shots do not prevent COVID and do not prevent transmission.<sup>4</sup> To say these shots somehow "fight COVID" or "protect the community" is false advertising.

Latent injuries and deaths from COVID shots in human subjects are totally unknown at this time. A study of Respiratory Syncytial Virus (RSV) vaccine in infants caused 80% to be hospitalized and 10% to die upon natural re-exposure the virus.<sup>5</sup> Known latent conditions upon re-exposure include pathogenic priming<sup>6</sup> – an autoimmune condition - and antibody-dependent

<sup>3</sup> [https://childrenshealthdefense.org/defender/teen-guillain-barre-covid-vaccine/?utm\\_source=salsa&eType=EmailBlastContent&eId=29da8e5a-0d9e-4bd2-b9ae-a65b2e2e7b15](https://childrenshealthdefense.org/defender/teen-guillain-barre-covid-vaccine/?utm_source=salsa&eType=EmailBlastContent&eId=29da8e5a-0d9e-4bd2-b9ae-a65b2e2e7b15)

<sup>4</sup> <https://www.bmj.com/content/371/bmj.m4037>

<sup>5</sup> <https://academic.oup.com/aje/article-abstract/89/4/422/198849?redirectedFrom=fulltext>

<sup>6</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7142689/>

enhancement<sup>7</sup> – a condition characterized by over-production of cytokines which can cause death or disability. Here is a summary of some animal studies where animals were vaccinated for related viruses and then re-exposed, with terrible outcomes:

- SARS/vaccinia (smallpox) recombinant vaccine in ferrets (2004) gave 100% of them hepatitis<sup>8</sup>
- SARS spike in mice (2005) had adverse outcomes<sup>9</sup>
- Synthesized spike in civets (2005) led to ADE in most or all<sup>10</sup>
- SARS CoV in mice (2012) caused lung eosinophil infiltration in most or all<sup>11</sup>
- MERS CoV in mice (2016) caused lung immunopathology - 100%<sup>12</sup>

Due to these risks, is it far more risky to vaccinate someone for COVID-19 if they already have antibodies to the SARS CoV-2 virus. Some scientists are recommending those with recent exposure or positive antibody tests not be vaccinated at all, as it is both unnecessary and risky.

## EUA Law

Since Princeton, like most educational institutions, does not seem to be familiar with EUA law, mandates, and de facto mandates, please review the following fact-checked and referenced information.

### Emergency Use Authorization (EUA) Law<sup>13</sup>

Mandating employees, students or others to use products that have been approved only conditionally for emergency use violates federal and state law.<sup>14</sup> Federal and state law are clear: mandates are illegal for EUA products. The prohibition on EUA mandates has been upheld in court.<sup>15</sup> The RT-PCR test, COVID vaccines, and certain face coverings are not FDA-approved; they are available only under an EUA.<sup>16</sup>

The EUA statute explicitly states that administration of all EUA products must "**ensure that individuals to whom the product is administered are informed ... of the option to accept or refuse administration of the product.**"<sup>17</sup> 21 U.S.C. Sec. 360bbb-3(e)

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<sup>7</sup> <https://www.nature.com/articles/s41564-020-00789-5>

<sup>8</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC525089/>

<sup>9</sup> <https://www.nature.com/news/2005/050110/full/050110-3.html#B1>

<sup>10</sup> <https://www.pnas.org/content/102/3/797>

<sup>11</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3335060/>

<sup>12</sup> <https://www.tandfonline.com/doi/full/10.1080/21645515.2016.1177688?scroll=top&needAccess=true&>

<sup>13</sup> <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization#abouteuas>

<sup>14</sup> 21 USC Sec 360bbb-3(e)(1)(A)(ii)(III)

and Doe v. Rumsfeld [341 F.Supp.2d 1 (2004)]; see also CA Health & Safety Code Sec 24172

<sup>15</sup> Id

<sup>16</sup> <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization#covid19euas>

<sup>17</sup> 21 U.S.C. § 360bbb-3(e)

Federal and state law on this rests on the first principle of the Nuremberg Code, requiring that the human subject be “so situated as to be able to exercise **free power of choice without undue inducement or any element of force, fraud, deceit, duress or other forms of constraint or coercion.**” This is a bright line that cannot be blurred. The consent of the individual is “absolutely essential.”<sup>18</sup>

In the letter we sent to schools, we officially put them on notice that if they illegally or irresponsibly mandate products on students or employees, we may take legal action. Children’s Health Defense has initiated a suit in New York against the NYC Department of Education and Mayor de Blasio for coerced PCR testing as a condition to in-person learning privileges.<sup>19</sup> (*Aviles, et al. V. de Blasio, et al. 20-CV-09829 (PGG)*)

A number of additional federal regulations, notably the National Research Act [Title II, Public Law 93-348],<sup>20</sup> Regulations for the Protection of Human Subjects of Biomedical and Behavioral Research [45 CFR 46]<sup>21</sup> and revisions of various other regulations, rules, and laws ([21 CFR 50]<sup>22</sup>, [21 CFR 56]<sup>23</sup>, [45 CFR 46 Subpart D]<sup>24</sup>, [10 CFR 745]<sup>25</sup>, [45 CFR 46 Subpart B]<sup>26</sup>, [45 CFR 46 Subpart D]<sup>27</sup>), specifically and permanently guarantee that all persons in the United States are entitled to exercise the right of informed consent to accept or to refuse to enroll in any medical experiment.

The CDC correctly stated it is illegal and unethical to mandate EUA testing or vaccination in schools.<sup>28</sup> The FDA and courts have found the federal preemption doctrine prevents states, and therefore public schools, from going outside the bounds of the Emergency Use Authorization law.<sup>29</sup> This was also confirmed again last year at a CDC Advisory Committee on Immunization Practices (ACIP) meeting in August 2020, where ACIP Executive Secretary Amanda Cohn, MD stated:

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<sup>18</sup> [https://en.wikipedia.org/wiki/Nuremberg\\_Code](https://en.wikipedia.org/wiki/Nuremberg_Code)

<sup>19</sup> <https://childrenshealthdefense.org/defender/chd-sues-nyc-dept-of-education/?fbclid=IwAR3edISvDa2QMqNAoCO5pSj4am0OPz9o-V9SMGkkTrdPoZJ-iFBD1lQmtOI>

<sup>20</sup> <https://www.govinfo.gov/content/pkg/STATUTE-88/pdf/STATUTE-88-Pg342.pdf#page=5>

<sup>21</sup> <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=83cd09e1c0f5c6937cd9d7513160fc3f&pid=20180719&n=pt45.1.46&r=PART&ty=HTML>

<sup>22</sup> <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcr/CFRSearch.cfm?CFRPart=50&showFR=1&subpartNode=21:1.0.1.1.20.1>

<sup>23</sup> <https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfCFR/CFRSearch.cfm?CFRPart=56>

<sup>24</sup> <https://www.hhs.gov/ohrp/regulations-and-policy/guidance/special-protections-for-children/index.html>

<sup>25</sup> <https://www.govinfo.gov/app/details/CFR-2011-title10-vol4/CFR-2011-title10-vol4-part745>

<sup>26</sup> <https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=83cd09e1c0f5c6937cd9d7513160fc3f&pid=20180719&n=pt45.1.46&r=PART&ty=HTML#sp45.1.46.b>

<sup>27</sup> <https://www.hhs.gov/ohrp/regulations-and-policy/guidance/special-protections-for-children/index.html>

<sup>28</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-testing.html>

<sup>29</sup> <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/emergency-use-authorization-medical-products-and-related-authorities>

"I just wanted to add that, just wanted to remind everybody, that under an Emergency Use Authorization, an EUA, vaccines are not allowed to be mandatory. So, early in this vaccination phase, individuals will have to be consented and they won't be able to be mandated."<sup>30</sup>

In conclusion, the law is clear that states, and therefore schools, cannot mandate experimental products and are preempted from mandating any EUA products.<sup>31</sup>

### EEOC Guidance: Anti-Discrimination Laws Apply

Regarding current testing and vaccine mandates for teachers and school staff, the Equal Employment Opportunity Commission (EEOC) issued updated pandemic guidance on December 16, 2020.<sup>32</sup> This guidance makes clear that *all* workplace anti-discrimination laws continue to apply during the time of COVID, including:

- the Americans with Disabilities Act (ADA),
- the Rehabilitation Act (including the requirement for reasonable accommodations and non-discrimination based on disability as well as strict rules about employer-mandated or employer-led medical examinations and inquiries),
- Title VII of the Civil Rights Act (which prohibits discrimination based on race, color, national origin, religion, and sex, including pregnancy),
- the Age Discrimination in Employment Act (which prohibits discrimination based on age, 40 or older),
- the Genetic Information Nondiscrimination Act, and
- other federal, state and local laws that may provide employees with additional protections.

As the National Law Review Journal reported in an article last month, the “EEOC guidance [...] includes a variety of cautionary instructions for employers, including, for example, potential restrictions on disability-related questions and recognized protections that must be afforded to employees seeking exemption from vaccination [or other] requirements due to medical conditions or sincerely held religious beliefs.”<sup>33</sup>

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<sup>30</sup> US Centers for Disease Control (September 2020), *August 2020 ACIP Meeting - COVID-19 vaccine supply & next steps*, available at: [https://www.cdc.gov/vaccines/videos/low-res/acipaug2020/Covid-19Supply-NextSteps\\_3\\_LowRes.mp4](https://www.cdc.gov/vaccines/videos/low-res/acipaug2020/Covid-19Supply-NextSteps_3_LowRes.mp4) (@1:14:40)

<sup>31</sup> See e.g., *Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525, 570-71 (2001)

<sup>32</sup> *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws; Technical Assistance Questions and Answers*, updated on December 16, 2021, available at: <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

<sup>33</sup> *EEOC Says Employers May Mandate COVID-19 Vaccinations – Subject to Limitations*, January 20, 2021, available at: <https://www.natlawreview.com/article/eeoc-says-employers-may-mandate-covid-19-vaccinations-subject-to-limitations>

However, the EEOC guidance also provides information that is in direct conflict with the plain language of the EUA authorizing statute. The EEOC guidance suggests that employers *may* have the authority to mandate these EUA products on their employees. *That is absolutely false.* Again, both federal and state law are explicit: it is illegal to mandate any EUA products. Period.

Regardless, even employers considering adopting *voluntary* programs to distribute EUA products to employees must proceed very carefully. Sections A, D, G and K of the EEOC guidance lay out in some detail the procedures that all employers must follow with respect to setting up programs to distribute EUA products for use by employees.<sup>34</sup>

First, for any program, employers would have to implement appropriate procedures to process disability and religious accommodation requests; this is an extensive process that, if mishandled, can easily expose employers to liability. Second, given that both the investigational vaccines and PCR tests are only available under EUA, requirements related to full disclosure, informed consent and accommodations associated with mandates for these not fully approved products can be even more onerous on employers than for fully approved products. Risks associated with EUA products are also generally much more significant than for fully approved products.

Nevertheless, some small but significant percentage of employers are rolling out or have already implemented illegal employee mandate programs. Many of these employers are already being sued. Beyond the legal liability exposure, employers who choose to mandate experimental, controversial and demonstrably risky products will face pushback in the court of public opinion and likely suffer losses due to impacts on employee and customer morale and commitment. Employer vaccine mandates in particular present a number of serious ethical, medical, economic and legal risks. Class action lawsuits brought by members of racial minorities are the most vulnerable to harm and the type of plaintiff class that employers likely do not want to defend against.

It is always permissible for employers to offer vaccines or other experimental products to employees on a voluntary basis, provided employees' decision to answer questions is entirely voluntary regarding pre-screening, disability, or intent to get a COVID test or shot. Any such questions must not violate HIPPA laws, as well. Voluntary programs are far safer and more cost-effective for employers and provide the means to address workplace safety and operational concerns without the significant risks associated with mandatory programs — particularly mandates of products only available under an EUA. Of particular importance, even voluntary programs must follow EUA law regarding providing “informed consent” to anyone deciding whether or not to use or receive an EUA product like the RT-PCR test or a COVID shot, including:

That the Secretary has authorized the emergency use of the product; ...the significant known and potential benefits and risks of such use, and of the extent to which such benefits and risks are unknown; and ...OF THE OPTION TO ACCEPT OR REFUSE ADMINISTRATION OF THE PRODUCT [emphasis added,] of

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<sup>34</sup> *Id.*

the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks. [21 USC Sec 360bbb-3]<sup>35</sup>

### De Facto Mandates are Also Illegal

*De facto* mandates to get around the law are also illegal. A “voluntary” COVID shot or test is a *de facto* mandate if an organization or institution:

- Does not give information on the EUA mRNA injectables and recombinant vaccines or EUA test being voluntary - either by omission or commission;
- Does not fully inform potential recipients of the known and potential risks of the EUA mRNA injectables and recombinant vaccines or EUA test;
- Threatens to fire an employee if she does not submit to an EUA mRNA injectable, EUA recombinant vaccine or EUA test;
- Encourages and allows peer pressure, bullying or discrimination from community members – such as in schools or at organizations or companies - to get an EUA mRNA injectable, EUA recombinant vaccine or EUA test;
- Forces frequent EUA testing on those who cannot or do not want an EUA mRNA injectable or EUA recombinant vaccine;
- Does not keep EUA vaccine status or EUA test results confidential, violating HIPPA and FERPA;
- Coerces students and staff into taking EUA mRNA injectables, recombinant vaccines or tests by threatening to remove campus privileges, like dining hall, dorms, and in-person classroom learning;
- Falsely imprisons a student or employee in a home, dorm, hotel, other building, or even confines her to a geographic area, under duress of losing employment or privileges – such as on-site or cafeteria privileges -- for refusing an EUA mRNA injectable, recombinant vaccine or test;
- Imposes punitive measures for those who do not want an EUA mRNA injectable, recombinant vaccine, or EUA test, like masking, distancing, privileges, or separated learning, eating or working;
- Issues a reward or special community privilege to those who get an EUA mRNA injectable, recombinant vaccine or test, like the DailyPass app, a sticker, arm band, QR code, or an app dictating where someone can enter, creating a discriminatory environment for those who do not don the “reward” or show the pass;

If an EUA mRNA injectable, recombinant vaccine or test were to become fully licensed someday, any discrimination or double standards applied to those who refuse or cannot have the products would create disclosure of private medical information to that person’s community. This is a *de facto* violation of HIPPA laws. Americans with Disabilities Act laws would also apply, allowing exemptions without restrictions for medical disabilities.

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<sup>35</sup> <https://codes.findlaw.com/us/title-21-food-and-drugs/21-usc-sect-360bbb-3.html>

Since the vast majority of your school community members are unlikely to know that the EUA COVID mRNA injectables, recombinant vaccines and EUA tests are not fully approved and their use is therefore voluntary, you should consider surveying your school community to take their pulse on the issue. Since students are especially vulnerable to peer pressure and are less able to resist coercion and duress, you should consider instructing schools to survey students and staff.

I recommend issuing weekly electronic surveys until 90% or more of your school community understand the following about EUA COVID shots and tests:

- They are voluntary, by law;
- Potential recipients must be advised of all known and potential risks;
- There shall be no peer pressure, bullying, discrimination, incentives, duress or coercion based on testing or vaccine status;
- They understand specific cases, situations and actions so they can easily recognize peer pressure, bullying, discrimination, incentives, duress or coercion.

This may be the first time you have become acquainted with EUA law. It is fair to say that we have all experienced something of a crash course in many new things this last year. We need to do a much better job of working together to ensure that we use and apply the best and most accurate information — grounded in both law and science — to rebuild and restore our collective educational opportunities, health, mental health, social lives and economic viability.