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12 HEALTH DEFENSE, CALIFORNIA CHAPTER,
13 and PROTECTION OF THE EDUCATIONAL
14 RIGHTS OF KIDS
15 (P.E.R.K.)

16 **SUPERIOR COURT COUNTY OF LOS ANGELES**
17 **UNLIMITED JURISDICTION**

18 **CHILDREN’S HEALTH DEFENSE-**
19 **CALIFORNIA CHAPTER**, a California 501(c)(3)
20 non-profit corporation, on its own and on behalf of
21 its members, and **PROTECTION OF THE**
22 **EDUCATIONAL RIGHTS OF KIDS (P.E.R.K.)**,
23 a California 501(c)(3) non-profit corporation, on its
24 own behalf and on behalf of its members;

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Petitioners,

18 **LOS ANGELES UNIFIED SCHOOL**
19 **DISTRICT**, a local educational agency and school
20 district for the County of Los Angeles; **MEGAN**
21 **REILLY**, in her official capacity as Superintendent
22 of Los Angeles Unified School District; **GEORGE**
23 **MCKENNA**, **MONICA GARCIA**, **SCOTT**
24 **SCHMERELSON**; **NICK MELVOIN**, **JACKIE**
25 **GOLDBERG**, **KELLY GONEZ**, **TANYA ORTIZ**
26 **FRANKLIN**, each in his or her official capacity as a
27 member of the LAUSD Board of Education; and
28 **DOES 1 through 10**, inclusive, Respondents.

Case No.: 21STCP03429

**VERIFIED FIRST AMENDED PETITION
FOR WRIT OF MANDATE AND
COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

1 **INTRODUCTION**

2 1. In March of 2020, California was the first state to lock down its citizens in response to
3 a declared pandemic for a novel coronavirus, COVID-19. Nearly two years later, California continues
4 to be one of the most restrictive states in its “public health” response to the self-declared crisis.¹ Despite
5 this, “cases” of COVID-19 remain higher in California than in many states with far less restrictive
6 measures, while in certain parts of the country, life has returned to nearly normal for most people,
7 including schoolchildren, who are able to attend school without forced masking, weekly PCR testing,
8 or new vaccination requirements.² COVID-19 has become accepted as “endemic” in such places, and
9 the leaders and citizens in those states have chosen to normalize and move on.

10 2. In the Los Angeles Unified School District (“LAUSD”), however, the district’s COVID-
11 19 response endures and prospers. Students are now required to be masked both indoors and out and are
12 still subjected to weekly genetic testing and broad-sweeping, irrational quarantine policies. LAUSD
13 students are also among the unfortunate California students burdened with an additional and unlawful
14 localized COVID-19 vaccine requirement for a product failing every metric needed to justify it.

15 3. Beginning in December of 2020, three vaccine manufacturers, Pfizer-BioNtech, Johnson
16 & Johnson, and Moderna (hereinafter collectively “Vaccine Manufacturers”) produced COVID-19
17 vaccine products and were issued emergency use authorization (“EUA”) on various dates to allow
18

19 _____
20 ¹ Specifically, California is among the few remaining states with an ongoing “state of emergency,” and is one of
21 only 8 states to continue to enforce a state-wide mask mandate. *See* [https://www.nashp.org/governors-prioritize-
22 health-for-all/](https://www.nashp.org/governors-prioritize-health-for-all/). Unprecedented restrictions on individual freedom clearly have an impact on citizens’ well-
23 being, and as this map illustrates, migration from restrictive states to less restrictive states in the last two years
24 has been unprecedented, with over 300,000 Californians leaving the state. *See, e.g.*
25 [https://cdn.substack.com/image/fetch/f_auto,q_auto:good,fl_progressive:steep/https%3A%2F%2Fbucketeer-
26 e05bbc84-baa3-437e-9518-adb32be77984.s3.amazonaws.com%2Fpublic%2Fimages%2F36f5558e-6e27-46f9-
27 946d-c2cc8256a82e_2048x1225.jpeg](https://cdn.substack.com/image/fetch/f_auto,q_auto:good,fl_progressive:steep/https%3A%2F%2Fbucketeer-e05bbc84-baa3-437e-9518-adb32be77984.s3.amazonaws.com%2Fpublic%2Fimages%2F36f5558e-6e27-46f9-946d-c2cc8256a82e_2048x1225.jpeg).

28 ² One might reasonably believe that we are living in alternative realities in this country, as many states pack
football stadiums to capacity with tens of thousands of boisterous mask-less fans each weekend, while citizens
in California endure extended state-wide indoor mask requirements, and LAUSD schoolchildren are ordered
into more restrictive N95s and surgical masks for 6-8 hours a day in response to the CDC’s belated admission
that cloths masks are essentially “facial decorations.” The further fact that Los Angeles itself can host a
Superbowl and the Governor can pose mask free with celebrities in a stadium fully packed with 70,000 fans
while insisting we are still in a “state of emergency” further erodes any legitimacy of the “public health” need to
mask and treat our schoolchildren so abusively. *See also*
<http://publichealth.lacounty.gov/acd/ncorona2019/masks/>(“It is important for everyone to continue to wear
masks indoors and in crowded outdoor places.”).

1 distribution of their COVID-19 vaccine products for certain age spans.³ To date, the only COVID-19
2 vaccine product to be given full FDA approval is the BioNtech “Comirnaty” vaccine for ages 16 years
3 and older. However, Comirnaty is not currently available for public distribution or consumption in the
4 United States. This means that all COVID-19 vaccine products available to persons of any age, including
5 *all* students within LAUSD, are emergency used authorized, only.

6 4. The Vaccine Manufacturers and state and federal public health officials all acknowledge
7 that none of the existing COVID-19 vaccine products prevent infection or transmission of COVID-19
8 or any of its variants.⁴ Recent data suggests that those vaccinated with these COVID-19 vaccine
9 products may, in fact, be more likely to transmit certain variants than those unvaccinated.⁵ In addition,
10 although the Vaccine Manufacturers originally claimed that their COVID-19 vaccine products would
11 help “lessen the severity of the symptoms of the disease,” emerging international evidence suggests that
12 this may also not be the case.⁶

13 5. Despite evidence that these COVID-19 vaccine products cannot stop the spread of the
14 virus or any of its variants, or protect recipients from severe illness, hospitalization, or death, certain

15
16 ³ The current EUAs by age-span are: 16 and up, 12-15, and 5-11. Currently, Pfizer is the only Vaccine
17 Manufacturer granted EUA for distribution of its COVID-19 vaccine product to anyone under 16 years of age.

18 ⁴ See e.g., CDC Director Walensky stating “what [the COVID-19 vaccines] can’t do anymore is prevent
19 transmission.” <https://twitter.com/CNNSitRoom/status/1423422301882748929>. See also
20 <https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htmof> (74% of those infected were fully vaccinated for
21 Covid-19); <https://www.cdc.gov/media/releases/2021/s0730-mmwr-covid-19.html> (statement from CDC
22 Director Rochelle P. Walensky, MD, MPH on Today’s MMWR, Media Statement For Immediate Release:
23 Friday, July 30, 2021 (stating that because vaccine doesn’t prevent transmission, even fully vaccinated must
24 continue to wear masks);

25 https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8481107/pdf/10654_2021_Article_808.pdf (“Increases in
26 Covid-19 are unrelated to levels of vaccination across 68 countries and 2947 counties in the United States”).

27 ⁵ Specifically, some of the most highly vaccinated countries are now experiencing record numbers of cases,
28 hospitalizations, and death post-vaccination and even post-booster. See e.g.,
29 <https://pubmed.ncbi.nlm.nih.gov/34596015/> (“high transmissibility of the SARS-CoV-2 delta variant among
30 twice vaccinated and masked individuals”); <https://www.medrxiv.org/content/10.1101/2021.07.31.21261387v6>,
31 Shedding of Infectious SARS-CoV-2 Despite Vaccination, Riemersma et al., Nov. 2021;

32 [https://www.thelancet.com/journals/laninf/article/PIIS1473-3099\(21\)00648-4/fulltext](https://www.thelancet.com/journals/laninf/article/PIIS1473-3099(21)00648-4/fulltext), Community transmission
33 and viral load kinetics of the SARS-CoV-2 delta (B.1.617.2) variant in vaccinated and unvaccinated individuals
34 in the UK: a prospective, longitudinal, cohort study, Lancet Infect Dis., Hakki, Dunning et al., Oct. 2021;

35 <https://www.medrxiv.org/content/10.1101/2021.12.20.21267966v3.full.pdf>, Vaccine effectiveness against
36 SARS-CoV-2 infection with the Omicron or Delta variants following a two-dose or booster BNT162b2 or
37 mRNA-1273 vaccination series: A Danish cohort study, Hansen et al, Dec., 2021;

38 <https://www.medrxiv.org/content/10.1101/2021.08.19.21262111v1>;

39 <https://metatron.substack.com/p/hospitalisations-by-covid-19-vaccination>, Gloucestershire Hospitals NHS
40 Foundation Trust: 06-Sep-20 to 12-Dec-21, Jan. 2, 2022.

41 ⁶ *Id.*

1 decision-makers appear undeterred in their desire to mandate them. Governor Newsom has now
2 mandated that certain state and county workers and all healthcare workers be vaccinated with a COVID-
3 19 product, and several cities within California have implemented digital proof of vaccination systems
4 that require persons to show proof of COVID-19 vaccination in order to participate in everyday
5 activities.

6 6. Amidst this unprecedented enthusiasm for a product that now requires multiple
7 “boosters” to “work,” and in the middle of an ongoing fall term, a number of California school districts
8 took it upon themselves to disregard science, medicine and existing state vaccination law to issue a
9 COVID-19 vaccine requirement for students within their districts as a condition to continuing to receive
10 in-person services from their respective districts. Respondent LAUSD was among them.

11 7. On September 9, 2021, Respondent LAUSD Board Members held a special board
12 meeting with less than forty-eight hours’ notice, to adopt a district-wide COVID-19 vaccine requirement
13 for all “eligible”⁷ LAUSD students as a condition to continuing to receive in-person services from
14 LAUSD (the “Requirement”). Per the terms of the Requirement, students not complying by certain
15 enumerated fall deadlines would be first excluded from participation in all extracurricular activities and
16 various other in-person services and privileges enjoyed by the preferred “vaccinated” students, and
17 ultimately involuntarily removed to the independent study program run through the City of Angels
18 beginning in January 2022.

19 8. Respondents, however, had no actual legal authority to enact this Requirement, as state
20 law expressly provides that only the Legislature, or the California Department of Public Health
21 (“CDPH”), exercising properly delegated authority from the Legislature, can require students to get a
22 new vaccine to commence or continue in person schooling.

23 9. State law also expressly prohibits a school district from placing a student involuntarily
24 into an independent study program and requires that students be allowed to return to in-person schooling
25

26 ⁷ “Eligible students” are defined as students over the age of 12 without a valid exemption (**Exhibit B**). According
27 to LAUSD’s Covid FAQ website, LAUSD families are told that “state law does not recognize religious or
28 personal belief exemptions for student immunizations.” This is a serious misstatement of the law when it comes
to any new vaccines added to the childhood immunization schedule that are not already on the enumerated list.
See <https://achieve.lausd.net/covidfaq>; Health & Safety Code, § 120338.

1 at any time. Additionally, students in independent study programs must be granted the same access to
2 in-person services as all other students enrolled in the same district.

3 10. On October 13, 2021, Petitioners filed their Verified Petition for Writ of Traditional and
4 Administrative Mandate (“Petition”) against Respondents on the basis that Respondents lack any legal
5 authority to mandate a new COVID-19 vaccination requirement as a condition to students’ in-person
6 learning and benefits within LAUSD.

7 11. On December 14, 2021, after it was clear to Respondents that at least 34,000 of
8 LAUSD’s “eligible” students had not yet complied with the Requirement, Respondent Board Members
9 voted to “delay implementation” of their plan to involuntarily place non-complying students into
10 independent study until the Fall of 2022.⁸

11 12. Respondents insisted, however, that their unlawful Requirement would remain in place,
12 and that LAUSD students not complying would continue to be subject to exclusion from extracurricular
13 activities, as well as other unlawful practices and punitive measures, including coercive, harassing,
14 discriminatory and retaliatory practices to “address vaccine hesitancy.”⁹

15 13. On December 20, 2021, Judge Meyer of the Superior Court for the County of San Diego
16 agreed that school districts are not the proper authority to impose any new vaccination requirements on
17 students as a condition to in-person instruction in California, and enjoined San Diego Unified School
18 District’s (“SDUSD”) parallel unlawful attempt to mandate a COVID-19 vaccine requirement. (*See Let*
19 *Them Choose v. San Diego Unified School District*, Case No. 37-2021-43172-CU-WM-CTL (S.D. Sup.
20 Ct. December 20, 2021) (“SDUSD Decision”). A true and correct copy of this SDUSD Decision is
21 attached hereto as **Exhibit “A”** and fully incorporated herein.

22 14. This honorable Court should rule similarly to the San Diego court and declare
23 Respondents’ Requirement null and void because Respondents’ Requirement (1) was enacted in excess
24 of Respondents’ jurisdiction to act, where only the Legislature or the CDPH may require students to

25 ⁸<http://laschoolboard.org/sites/default/files/Tab%20%20-%20Board%20Report%20No.%20158%20.pdf>.

26 ⁹ For example, as part of its efforts to address “vaccine hesitancy,” LAUSD sends agents to the communities
27 and homes of unvaccinated children offering to vaccinate these children on the spot, in flagrant violation of
28 these students’ Constitutional right to privacy. Other modes of unsolicited “encouragement” include: teachers
publicly identifying, singling out, and shaming the unvaccinated students during class time, doling out food
truck and/or pizza party benefits only to the preferred vaccinated students, and one-on-one “counseling” of
unvaccinated students to get them vaccinated without parental consent.

1 get a new vaccine in order to attend in-person schooling in California, and Respondents were not
2 delegated any power or authority by either state entity to determine school vaccination requirements;
3 and (2) is inconsistent with, directly conflicts with, and is fully-pre-empted by the existing statutory
4 scheme governing school vaccinations as well as other existing state and federal laws, including laws
5 and regulations regarding independent study, laws prohibiting discrimination, and federal emergency
6 use authorization law.

7 15. Additionally, even if this Court finds that Respondents had authority to act, Respondents
8 acted arbitrarily and capriciously in adopting their Requirement. Respondents did not consider whether
9 the Requirement was medically necessary or how long it would have to be in place. They did not
10 consider that COVID-19 vaccine products do not prevent – and may actually increase – infection, spread,
11 severe illness, hospitalization, and death. Respondents also did not consider that all of the COVID-19
12 vaccine products may create a higher risk of myocarditis or any other harm to school children, or whether
13 less restrictive safety measures could have been implemented to keep students safe and healthy while
14 remaining on campus. In fact, Respondents did not engage in any legitimate risk/benefit decision-
15 making process or factfinding, much less the reasoned decision-making process that agencies must
16 follow when exercising quasi-legislative authority.

17 16. Instead, on information and belief, Respondents appear to have imposed – and continue
18 to impose – their unlawful Requirement and other “COVID-19 safety measures” for financial, rather
19 than legitimate health and safety, reasons. Specifically, Respondents appear to have adopted their
20 Requirement to receive the significant cash-for compliance funding given to school districts through the
21 federal American Rescue Plan (ARP) Act, and more specifically the Elementary and Secondary School
22 Relief Funds (“ESSER”), which condition a local school district’s receipt of billions of dollars in
23 “COVID relief funding” upon a school districts’ compliance with forced masking, genetic testing,
24 quarantine, contact tracing, and vaccination protocols.¹⁰

25 17. Petitioners now file this Verified First Amended Petition for Writ of Mandate and
26 Complaint for Declaratory and Injunctive Relief (“Amended Petition”) and ask that this Court

27 ¹⁰ See www.ncsl.org for more information on the cash-for-compliance conditions and ESSER Fund payouts
28 given to California schools, and LAUSD, in particular. See also <https://edsources.org/2021/california-districts-and-charter-schools-get-covid-relief-funding-under-american-rescue-plan-act/650922>.

1 immediately vacate Respondents' Requirement by issuing a writ of mandate pursuant to California *Code*
2 *of Civil Procedure* sections 1085 and/or 1094.5, and/or by granting Petitioners both a Preliminary and
3 Permanent Injunction, finding that the Requirement is fully pre-empted by the existing statutory scheme,
4 and directly conflicts with this statutory scheme and other laws of this state. Petitioners further request
5 that this Court issue declaratory and injunctive relief finding that Respondents' Requirement violates
6 Petitioners' rights under state law, as well as the California and United States Constitution, and directing
7 Respondents to act in accordance with such laws.

8 **PARTIES**

9 18. Petitioner CHILDREN'S HEALTH DEFENSE-CALIFORNIA CHAPTER ("CHD-
10 CA") is a California 501(c)(3) nonprofit corporation incorporated under the laws of the State of
11 California, and headquartered in Ross, California. CHD-CA was founded in 2020 as the California
12 branch of Children's Health Defense ("CHD"), a national non-profit organization headquartered in
13 Peachtree, Georgia. CHD-CA has over 7,000 members throughout California, consisting predominately
14 of parents whose children have been negatively affected by environmental and chemical exposures,
15 including unsafe vaccines. CHD-CA represents the interests of thousands of children and families across
16 California. CHD-CA has members who reside within the boundaries of the LAUSD and are either
17 students themselves attending school within LAUSD school who have not complied with the
18 Requirement and/or who have requested and been denied an exemption otherwise allowed by existing
19 state law and who now face denial of in-person services or other benefits given to other students within
20 LAUSD and/or involuntary placement into independent study, or they are parents with children
21 attending school within LAUSD who have not complied with the Requirement and/or who have
22 requested or been denied an exemption otherwise allowed by existing state law who now face denial of
23 in-person services or other benefits given to other students within LAUSD and/or involuntary placement
24 into independent study. As described herein, Respondents' actions have or will soon deprive many of
25 these California children access to superior in-person public education and services and their
26 constitutionally protected right to a K-12 education within the LAUSD.

27 19. CHD-CA meets all organizational standing requirements for prosecuting this action.
28 CHD-CA is a nonprofit established to advocate, including through litigation, for the protection of the

1 health of children in California. The interests CHD-CA seek to protect in this action are therefore
2 germane to its fundamental purpose and CHD-CA has members negatively impacted by the
3 Requirement who reside within the offending school district; therefore CHD-CA further meets all
4 associational standing requirements for prosecuting this action.

5 20. Petitioner PROTECTION OF THE EDUCATIONAL RIGHTS OF KIDS (hereinafter
6 “PERK”) is a California 501(c)(3) nonprofit corporation headquartered in California, whose mission is
7 to protect children’s rights to an education. PERK has over 15,000 members throughout California,
8 consisting predominately of parents of children attending school, grades K through 12 in California.
9 PERK has members who reside within the boundaries of the LAUSD and are either students themselves
10 attending school within LAUSD school who have not complied with the Requirement and/or who have
11 requested and been denied an exemption otherwise allowed by existing state law and who now face
12 denial of in-person services or other benefits given to other students within LAUSD and/or involuntary
13 placement into independent study, or they are parents with children attending school within LAUSD
14 who have not complied with the Requirement and/or who have requested or been denied an exemption
15 otherwise allowed by existing state law who now face denial of in-person services or other benefits
16 given to other students within LAUSD and/or involuntary placement into independent study. As
17 described herein, Respondents’ actions have or will soon deprive many of these California children
18 access to superior in-person public education and services and their constitutionally protected right to a
19 K-12 education within the LAUSD.

20 21. PERK meets all organizational standing requirements for prosecuting this action. PERK
21 is a nonprofit established to advocate, including through litigation, for the protection of the educational
22 rights of children in California. The interests PERK seeks to protect in this action are therefore germane
23 to its fundamental purpose and PERK has members negatively impacted by the Requirement who reside
24 within the offending school district, therefore PERK further meets all associational standing
25 requirements for prosecuting this action.

26 22. Respondent Los Angeles Unified School District (“LAUSD”) is the school district and
27 local educational agency established for the County of Los Angeles as well as an agency of the state for
28 purposes of implementing the educational requirements of state law within the geographical boundaries

1 of the County of Los Angeles. It the second largest school district in the United States, enrolling more
2 than 600,000 students from pre-kindergarten through adult education.

3 23. Respondent MEGAN REILLY (hereinafter referred to as “Respondent Reilly” is the
4 Interim Superintendent of the LAUSD. As such, she is responsible for the daily operations of the
5 LAUSD, including during the time period relevant to Respondents’ consideration and adoption of the
6 Requirement. Specifically, Respondent Reilly is the individual who is vested with the power of
7 enforcement of LAUSD’s policies and protocols challenged herein. Respondent Reilly is sued herein
8 solely in her official capacity.

9 24. Respondents GEORGE MCKENNA, MONICA GARCIA, SCOTT SCHMERELSON,
10 NICK MELVOIN, JACKIE GOLDBERG, KELLY GONEZ, and TANYA ORTIZ FRANKLIN,
11 respectively, are members of the LAUSD Board of Education (collectively, the “Board Members”).
12 Each of the Board Members are sued herein solely in their official capacities. Upon information and
13 belief, all of the Board Members are residents of Los Angeles County. The Board Members collectively
14 possess the legal authority and duty to adopt, amend, revise, rescind, and oversee all policies and
15 procedures of the LAUSD, in a manner consistent with state law.

16 25. Petitioners do not know the true names and capacities of DOES 1 through 10, inclusive,
17 and therefore Petitioners sue said Respondents under fictitious names. Petitioners are informed and
18 believe, and thereon allege, that each of such DOE Respondents is under a legal duty to act in the manner
19 sought herein. Petitioners will amend this Petition to name these Respondents in their true names and
20 capacities if and when so ascertained.

21 **JURISDICTION AND VENUE**

22 26. This Court has jurisdiction to issue writs of mandate pursuant to California *Code of Civil*
23 *Procedure* sections 1085 and 1094.5.

24 27. This Court has personal jurisdiction over Respondents. The Respondent Board Members
25 and Respondent Reilly are governmental actors that conduct business in and maintain operations in this
26 county on behalf of Respondent LAUSD.

27 28. This Court is the proper venue for this action because the Respondents either reside in
28 or maintain executive offices in this County, a substantial portion of the transactions and wrongs

1 complained of herein took place in this County, including Respondents’ primary participation in the acts
2 detailed herein, and Petitioners’ injuries occurred in this County. (*See Code Civ. Proc.*, § 393(b)).

3 29. Petitioners have a clear, present, and beneficial right to, and clear, present and beneficial
4 interest in, the proper performance of the law by Respondents.

5 30. Petitioners have no plain, speedy, and adequate remedy at law.

6 31. Petitioners have not exhausted administrative remedies because there are no applicable
7 remedies to exhaust. Specifically, there is no adequate administrative remedy to curtail actions of
8 Respondents that are without, or in excess of, their legal jurisdiction and authority. Even if there were
9 such a remedy, an extended delay in resolving this controversy due to utilization of such administrative
10 remedy would result in irreparable injury to Petitioners and would be futile. Petitioners also gave notice
11 to Respondents prior to the enactment of the offending Requirement that the proposed Requirement was
12 improper, illegal, and in excess of authority, but the notice went unheeded.

13 LEGAL BASIS

14 32. Administrative agencies have only the powers conferred on them by Constitution or
15 statute, and any actions exceeding those powers are null and void *ab initio*. (*Ferdig v. State Personnel*
16 *Bd.* (1969) 71 Cal.2d 96, 103).

17 33. Determining whether to impose immunization requirements on children as a condition to
18 in-person learning is a fundamental policy determination of the California Legislature. (*Abeel v. Clark*
19 (1890), 84 Cal. 226, 230) *see also* Ed. Code, § 49405 [“The control of smallpox is under the direction
20 of the State Department of Health Services, *and no rule or regulation on the subject of vaccination shall*
21 *be adopted by school or local health authorities.*” (emphasis added)]. The Legislature may only
22 delegate this fundamental decision-making authority to other agencies under specific conditions to avoid
23 violating the non-delegation doctrine. (*Carson Mobilehome Park Owners’ Assn. v. City of Carson*
24 (1983) 35 Cal.3d 184, 190).

25 34. In this regard, the California Legislature created a complete and comprehensive statutory
26 scheme for determining and adding childhood immunization requirements as conditions for in-person
27 instruction throughout the state of California, and this comprehensive statutory scheme is codified in
28 over 155 provisions contained in the California Health and Safety Code and administered by the CDPH.

1 (*See Health & Safety Code*, §§ 120325-120480) (the “existing statutory scheme”).

2 35. The existing statutory scheme is specifically concerned with required immunizations for
3 in-person instruction and services and does not apply to home-based or independent study instructional
4 programs. (*See Health & Safety Code*, § 120335(f)).

5 36. Under this existing statutory scheme, there is an enumerated list of the ten (10) childhood
6 immunizations currently required for in-person admittance or advancement in California public and
7 private schools. (*Health & Safety Code*, §120335(b)(1)-(10)).

8 37. COVID-19 immunizations are not currently on this enumerated list.

9 38. This existing statutory scheme expressly provides that any new immunization
10 requirements other than the ten enumerated immunizations currently listed in section 120335(b)(1)-(10)
11 may only be added by the CDPH pursuant to Health and Safety Code section 120335(b)(11).

12 39. Further, under Health and Safety Code section 120338, if any new vaccine *is* added to
13 the childhood schedule by the CDPH, both medical and personal belief exemptions must be allowed.

14 40. The legislative history of this section of the statutory scheme addressing the ten
15 childhood immunizations required for in-person classroom instruction, any new immunization
16 requirements for in-person instruction, and the required allowance of the medical and personal belief
17 exemptions for any such new immunization requirements, specifically indicated that school vaccination
18 requirements should be applied state-wide, and not district-by-district or community-by-community.
19 (Sen. Jud. Com. Analysis of Sen. Bill No. 277 (2015-2016 Reg. Sess.) (April 22, 2015), pp. 13, 18).

20 41. Under Title 17 of the California *Code of Regulations* section 6025, a school shall
21 unconditionally admit or allow continued attendance when a student has either complied with all of the
22 enumerated immunizations required by *Health & Safety Code* section 120335(b) of the existing statutory
23 scheme, or has been granted medical or personal belief exemptions, as applicable and as permitted by
24 existing state law.

25 42. Pursuant to the California Administrative Procedure Act (APA), as an administrative
26 agency of the executive branch of California state government, the CDPH also must engage in
27 significant rulemaking and provide public notice and opportunity to comment prior to adding any new
28 vaccine to this childhood immunization schedule. (*Govt. Code*, § 11340 *et. seq.*)

1 43. A school board is not the agency charged or endowed with any delegated statutory
2 authority to *add* a new vaccine to this schedule, but rather is merely the subordinate “governing
3 authority” charged with *collecting documentation* of the immunizations required by the Legislature
4 under section 120335(b)(1)-(10).

5 44. Neither the Legislature nor the CDPH expressly or impliedly delegated any authority to
6 local school districts to determine fundamental school vaccination policy decisions or to add new
7 vaccinations as conditions to in-person instruction at the local district level.

8 45. California *Education Code* section 35160 permits a governing board of any school
9 district to carry on a program or act in any manner as long as it is **not** in conflict with or inconsistent
10 with, or pre-empted by, any law.

11 46. A local regulation is pre-empted by state law if the local regulation duplicates,
12 contradicts, or enters into a field fully occupied by the state law, either expressly or impliedly. (*Sherwin-*
13 *Williams Co. v. City of Los Angeles* (1993), 4 Cal. 4th 893, 898).

14 47. Under *Education Code* section 51746, a student placed into an independent study
15 program must be granted the same access to in-person existing services and resources in the school in
16 which the student is enrolled as is available to all other students in the school.

17 48. Under *Education Code* section 51747, a student’s participation in an independent study
18 program “must be voluntary” and students participating in an independent study program must have the
19 right to return to regular classroom instruction at any time.

20 49. Under *Education Code* section 51749.5(a)(9), a local educational agency must develop a
21 plan to return students in independent study wishing to return to in-person learning within five days of
22 the request.

23 50. Under *Education Code* section 51749.5(a)(12), a student shall not be required to enroll
24 in independent study courses.

25 51. Under *Education Code* section 51749.6, a student and a parent or legal guardian must
26 review and approve any independent study plan for any student under 18 years of age before an
27 independent study program can commence.

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1 52. Under title 5, section 11700 of the California *Code of Regulations*, “Independent study
2 is an optional educational alternative in which no pupil may be required to participate.”

3 53. Additionally, title 5 section 11700 of the California *Code of Regulations* provides that “a
4 pupil’s...choice to commence, or to continue in, independent study, must not be coerced.” (*Cal. Code.*
5 *Regs.*, tit. 5, § 11700, subs (d)(2)(A)).

6 54. Under *Government Code* section 11135, “no person in the state of California shall, on
7 the basis of sex, race, color, religion, ancestry, national origin, ethnic group identification, age, mental
8 disability, physical disability, medical condition, genetic information, marital status, or sexual
9 orientation” be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to
10 discrimination under, any program or activity that is conducted, operated, or administered by the state
11 or by any state agency, is funding directly by the state, or receives any financial assistance from the
12 state.” (*Govt. Code*, § 11135).

13 55. Under federal law, emergency use authorized (“EUA”) products are not fully approved
14 by the Food and Drug Administration (“FDA”) and are considered to be experimental. (*See* 21 U.S.C. §
15 360bbb-3, *see also* 45 C.F.R. § 46 *et seq*). EUA products require informed consent and the right to refuse
16 the product without coercion. (*See* 21 U.S.C. § 360bbb-3, *see also* 45 C.F.R. § 46 *et seq*).

17 56. California K-12 students also have the fundamental right to a free public education under
18 the California Constitution. (Cal. Const., Art. IX § 5).

19 57. California citizens, including schoolchildren, also enjoy a robust right to privacy under
20 the California Constitution, which includes, among other rights: (a) the right to be left alone; (b) the
21 right to bodily autonomy; and (c) the right to refuse unwanted medical treatments. (*See* Cal. Const., Art
22 I. § 1; *see also e.g, Robbins v. Super. Ct.* (1985) 38 Cal.3d 199, 212; *Bartling v. Super. Ct.* (1984), 163
23 Cal.App.3d 186,195).

24 58. Under the Equal Protection Clause of the California Constitution, a person may not be
25 denied the equal protection of the laws, and citizens or classes of citizens may not be granted privileges
26 or immunities not granted on the same terms to all other citizens. (Cal. Const., Art. I, § 7, subd. (b)).

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1 GENERAL ALLEGATIONS

2 A. LAUSD’s COVID-19 Vaccine Requirement

3 59. On March 4, 2020, Governor Newsom declared a “state of emergency” in response to a
4 novel coronavirus, COVID-19.

5 60. Following protracted school closures as a result of Governor Newsom’s state of
6 emergency orders, all schools in Los Angeles County were permitted to reopen on February 15, 2021.
7 Reopening of all California schools was not conditioned upon any students taking a COVID-19 vaccine,
8 despite the availability of a Pfizer-Biontech EUA vaccine for ages 12 and older as of December 11,
9 2020.

10 61. Following a summer recess, all schools within the LAUSD system reopened for the 2021-
11 2022 school year at various staggered dates in August of 2021. Although students returning to in-person
12 education were required to engage in certain COVID-19 protocols, including masking and polymerase
13 chain reaction (“PCR”) testing, students within LAUSD were not subjected to any COVID-19 vaccine
14 requirement as a condition to returning to in-person education. With no COVID-19 vaccine requirement
15 prior to starting the fall term, LAUSD students did not experience severe COVID-19 cases,
16 hospitalizations, or death.

17 62. Nevertheless, on September 9, 2021, after a month of successful in-person learning,
18 Respondent Board Members of the LAUSD took it upon themselves as a “local educational agency and
19 agency of the state,” to adopt a local COVID-19 vaccine requirement (“Requirement”), which requires
20 LAUSD students 12 years of age and older, as a condition to students continuing their already
21 commenced in-person education within LAUSD, to obtain a COVID-19 vaccine by specified dates
22 during the fall term. A true and correct copy of the Requirement is attached hereto as “**Exhibit B**” and
23 fully incorporated herein by reference.

24 63. The Requirement imposed dosage compliance deadlines beginning as early as October
25 3, 2021 and ending on January 10, 2022. Per the terms of the Requirement, students failing to comply
26 with the fall deadlines would be immediately prohibited from in-person extracurricular activities and
27 other benefits and services mid-term. Students would also ultimately be removed from campus and
28 involuntarily placed into independent study at the City of Angels, for failing to be completely vaccinated

1 by January 10, 2022.

2 64. The September 9, 2021, special school board meeting was held remotely, and public
3 participation was severely curtailed. In fact, despite hundreds of requests from parents to speak at this
4 board meeting in opposition to the proposed COVID-19 vaccine requirement in the middle of a school
5 term, only three parents were allowed to voice their opinions. Many LAUSD family members reported
6 having difficulties even getting through the phone lines to register to speak, or to participate in the
7 discussion once registered, on this issue of critical importance.

8 65. Nevertheless, numerous LAUSD families submitted written objections to the COVID-19
9 vaccine proposal prior to Respondents' vote, informing Respondents of their lack of legal authority to
10 require a new vaccine under the existing state statutory scheme and applicable federal EUA law.

11 66. Respondent Board Members ignored these objections and adopted the Requirement at
12 its September 9, 2021 board meeting.

13 67. Although Respondents vaguely claimed they had a "constitutional mandate obligation
14 to deliver the highest-quality instruction in the safest environment possible," the Requirement did not
15 cite the precise statutory basis of authority for imposing a new vaccination requirement that was not
16 contained on the mandatory childhood immunization list as a condition for in-person learning.

17 68. Specifically, the Requirement provides that: (a) all students who are 12 years of age and
18 older and part of any in-person extracurricular programs must receive their first vaccine dose no later
19 than October 3, 2021 and their second dose no later than October 31, 2021; (b) all other students who
20 are not enrolled in any extracurricular programs and who are 12 years of age or older must receive their
21 first COVID-19 vaccine dose by no later than November 21, 2021 and their second dose by no later than
22 December 19, 2021; and (c) all other students who are not yet 12 years old must receive their first
23 COVID-19 vaccine dose no later than 30 days after their twelfth birthday and their second dose by no
24 later than 8 weeks after their twelfth birthday. All eligible students must provide proof of COVID-19
25 vaccination by uploading documentation to LAUSD's Daily Pass program before January 10, 2022 in
26 order to be permitted to continue to access any LAUSD school facilities. (**Exhibit B**).

27 69. Respondents' Requirement does not allow students to claim a personal belief exemption,
28 as the Requirement specifically refers to "LAUSD's existing immunization policies" which incorrectly

1 indicate that “personal belief exemptions are not allowed under state law.”

2 70. Existing state law specifically requires the allowance of personal belief exemptions for
3 any new vaccination requirements that are not currently on the existing school vaccination childhood
4 list. (*Health & Safety Code*, §§ 120335(b)(11), 120338).

5 71. Respondents’ Requirement also indicates that it will follow LAUSD’s existing policies
6 regarding “conditional admittances,” which allow certain classes of students to continue with in-person
7 schooling and to enjoy other in-person benefits without the need to comply with the Requirement. These
8 classes of students include children who are homeless, from migrant families, foster children, and
9 children of military parents.¹¹

10 72. After receiving notice of the new Requirement, many LAUSD families were left
11 scrambling to determine whether and when to get their child vaccinated, obtain an exemption, remove
12 them from school, transfer them to another school district, enroll in private school, commence home
13 schooling, and myriad other considerations and options.

14 73. For many LAUSD families, and lower-income families in particular, many of these
15 options are not feasible.

16 74. For LAUSD families and students who are unable to take or are opposed to taking a
17 COVID-19 vaccine product, whether due to medical or religious reasons or personal beliefs,
18 Respondents’ Requirement has already caused significant educational, social, emotional and
19 psychological disruption. It has also caused many students and parents to feel coerced and given a
20 Hobbesian choice of either submitting to a medical treatment the student does not want or need, or forced
21 into an independent study program the student also does not want or need.

22 **B. LAUSD’S Defiance of Governor Newsom’s State-Wide Mandate**

23 75. In the midst of the fall term chaos caused by Respondents’ Requirement, on Friday,
24 October 1, 2021, Governor Newsom announced that he had just “directed the [CDPH] to follow the
25 procedures established by the Legislature to add the COVID-19 vaccine to other vaccinations required
26 for in-person school attendance – such as measles, mumps, and rubella—pursuant to the *Health & Safety*
27 *Code*.” (Hereinafter the “Governor’s Directive”). A true and correct copy of the Governor’s Directive

28 ¹¹ <https://achieve.lausd.net/covidfaq>

1 is attached hereto as “**Exhibit C**” and fully incorporated herein by reference.

2 76. Pursuant to the Governor’s Directive, the CDPH would begin the process of adding the
3 COVID-19 vaccine to the childhood immunization schedule following the procedures established by the
4 Legislature to add a vaccine to the schedule, including applicable procedures regarding adding new
5 immunization requirements under the *Health & Safety Code* provisions of the existing statutory scheme
6 and the California APA.

7 77. The Governor’s Directive indicated that no COVID-19 vaccine requirement would be
8 imposed on students as a condition for in-person education for any student age span until a COVID-19
9 vaccine product was fully FDA approved for that age span.

10 78. The Governor’s Directive also specifically indicated that both medical and personal
11 belief exemptions would be allowed, as required by the existing statutory scheme.

12 79. Despite the Governor’s Directive regarding a state-wide mandate that would follow all
13 required procedures of the existing statutory scheme, Respondents continued to enforce the local
14 Requirement.

15 80. On October 31, 2021, LAUSD students in extracurricular programs who had not
16 complied with the Requirement’s applicable dosage deadlines were immediately excluded from ongoing
17 extracurricular activities and denied other in-person services and benefits given to other students,
18 including students who complied with the Requirement, any students granted a medical exemption,
19 and/or students in the class of students given conditional admissions.

20 81. LAUSD’s exclusion and expulsion from extracurricular activities appears to be purely
21 punitive, with no rational basis connection to a “public health” concern, as students were excluded from
22 extracurricular activities that have no greater risk of person-to-person contact than other activities that
23 such students were still allowed to participate in. For example, students not complying with the
24 Requirement were expelled from enjoyable activities such as “Yearbook,” yet still allowed to participate
25 in regular educational classes having the same level or more of close contact with other students.
26 Similarly, athletes not complying with the Requirement were excluded from their enjoyable
27 extracurricular sports teams, yet still required by law to participate in “physical education” classes to
28 advance or graduate.

1 82. By early December, a reported 34,000 students within LAUSD schools had still not
2 complied with Respondents' Requirement and were facing imminent involuntary removal to
3 independent study. However, it was clear that the City of Angels' independent study program was
4 already unable to handle the vast number of LAUSD students participating in its program due to
5 COVID-19 related issues.

6 83. On December 8, 2021, Petitioners sought a preliminary injunction against Respondents
7 to prevent students not complying with the Requirement from being removed involuntarily to
8 independent study or otherwise discriminated against. Although Judge Beckloff denied the request for
9 a preliminary injunction, he cautioned that LAUSD had "some problems" with the independent study
10 alternative under existing state law.

11 84. Two days later, on December 10, 2021, Respondent Board Members announced it would
12 hold a special board meeting to consider delaying the forced placement of students not complying with
13 the Requirement into independent study.

14 85. On December 14, 2021, Respondent Board Members voted to "delay implementation"
15 of the involuntary removal of students from in-person learning to independent study until Fall of 2022.

16 86. Respondents made it clear, however, that the Requirement remained in place and those
17 students not complying with the Requirement would continue to be treated differently than the preferred
18 "vaccinated" students, with respect to other benefits and services offered within LAUSD schools or as
19 part of an LAUSD education.¹²

20 87. On December 20, 2021, Judge Meyer of the Superior Court for the County of San Diego
21 ruled that school districts are not the proper authority to impose any new vaccination requirements on
22 students as a condition to in-person instruction in California, and that any local vaccine mandate is fully
23 pre-empted by the existing statutory scheme, and enjoined SDUSD's unlawful attempt to mandate a
24 COVID-19 vaccine. (**Exhibit A**).

25 88. Despite the announcement of the state-wide mandate, the recent SDUSD Decision,
26 Respondent LAUSD's own decision to stay implementation of the forced independent study aspect of

27 _____
28 ¹² See e.g., <https://spectrumnews1.com/ca/la-west/education/2021/12/15/lausd-delays-enforcement-of-covid-vaccine-mandate-for-students>.

1 the unlawful Requirement until Fall of 2022, Respondents continue to use their Requirement to harass,
2 intimidate, discriminate against, and otherwise exclude students who have not complied with their
3 unlawful Requirement.

4 89. Respondents have continued to prevent students not complying with the illegal
5 Requirement from participating in extracurricular activities and/or other in-person benefits within
6 LAUSD. Respondents have also indicated that, as of February 1, 2022, Respondent LAUSD intends
7 to PCR test only unvaccinated students weekly, despite widespread evidence and public health officials'
8 admissions that: (a) vaccinated students can be infected with and spread COVID-19 and/or its variants
9 just as much as unvaccinated students, and (b) many of LAUSD's unvaccinated students have already
10 recovered from COVID-19 infection and have more robust immunity than students "vaccinated."

11 90. Respondents in this case have knowingly acted wholly without legal authority and in
12 excess of their jurisdiction as a "governing authority" under the existing statutory scheme and have
13 exceeded their lawful authority to act even under *Education Code* section 35160 because their
14 Requirement is fully pre-empted by and in direct conflict with the existing statutory scheme and existing
15 state law regarding independent study, non-discrimination, and federal EUA law as cited above.

16 **C. LAUSD's Failure to Engage in Reasoned Decision-Making**

17 91. Even if Respondents had any legal authority to act, Respondents' decision to impose an
18 EUA COVID-19 vaccine product on LAUSD students rather than to allow students to make their own
19 medical decisions also lacked thoughtful fact-finding and reasoned decision-making.

20 92. Specifically, in adopting the Requirement, Respondents failed to consider the
21 following:

- 22 a. All the available COVID-19 vaccines are still in clinical trial stages and thus remain
23 experimental;
- 24 b. None of the COVID-19 vaccine products prevent infection or transmission of
25 COVID-19 or any of its variants;
- 26 c. Using a COVID-19 vaccine product has been shown to increase risk of transmission
27 of newer variants, such as Delta and Omicron;
- 28 d. Using a COVID-19 vaccine product has been shown to increase risk of severe

1 illness, death, and hospitalization;

- 2 e. Children are at very little risk of severe COVID-19, and typically have mild to no
3 symptoms at all to the disease;
- 4 f. Schoolchildren and schools are not primary, or even significant, vectors of COVID-
5 19 transmission;
- 6 g. Many LAUSD students at the time of enactment of the Requirement already
7 possessed natural immunity from previous recovery to COVID-19 infection; and
- 8 h. COVID-19 vaccine products have already caused significant adverse effects to
9 some individuals taking them, including individuals between the ages of 5-18 years
10 old.

11 93. Most significantly, none of the available COVID-19 vaccine products, including any
12 vaccine product required by Respondents, are fully-approved by the FDA.

13 *a. No Available COVID-19 Vaccine Is FDA-Approved and Cannot Be Mandated.*

14 94. Rather, on December 11, 2020, FDA issued its first EUA for the Pfizer-BioNtech
15 COVID-19 vaccine product for use in individuals ages 12 and older. On December 18, 2020, FDA issued
16 an EUA to Moderna for its COVID-19 vaccine product for individuals 18 years and older. On February
17 27, 2021, FDA issued an EUA to Johnson & Johnson for its COVID-19 vaccine product for individuals
18 ages 18 years and older. On October 29, 2021, FDA issued an EUA for the Pfizer-BioNtech COVID-19
19 vaccine product for use in individuals ages 5-11 years old.

20 95. On August 28, 2021, FDA gave FDA approval to BioNtech for its “Comirnaty” COVID-
21 19 vaccine product for individuals 16 years old and older. However, this Comirnaty product is not yet
22 available for distribution or use in the United States, making all COVID-19 vaccine products available
23 to anyone in the United States, including students of all ages within LAUSD, authorized for emergency
24 use, only.

25 96. EUA products require informed consent and the right to refuse the product without
26 coercion. (21 U.S.C. § 360bbb-3(a)(2)).

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1 97. In addition, given the obvious waning efficacy of the COVID-19 vaccine products,¹³
2 where record numbers of vaccinated persons are now experiencing “breakthrough” cases, the FDA has
3 also recently issued additional EUAs for “booster” shots of these same failing products.

4 98. The “booster” COVID-19 vaccine products do not contain any additional ingredients or
5 utilize delivery mechanisms distinguishable from the original COVID-19 vaccines products. They are
6 simply additional doses of the same, original COVID-19 vaccine products.

7 *b. None of the Currently Available COVID-19 Products Prevent Transmission and are*
8 *Therapeutics Designed to Lessen Symptoms, which Every Person, Regardless of Age,*
9 *Has the Right to Refuse.*

10 99. The Vaccine Manufacturers and global, national, state, and local public health officials
11 all admit that none of the available COVID-19 vaccine products, including booster shots, serve to
12 prevent infection or transmission of COVID-19 or any of its variants.¹⁴ In fact, recent studies have
13 indicated that vaccinated individuals may be both more at risk of infection from the latest variants,
14 particularly Delta and the currently dominant strain, Omicron, and may be more likely to transmit these
15 variants to others.¹⁵

16 100. Because none of these so-called COVID-19 “vaccine” products prevent transmission or
17 confer sterilizing immunity, they are actually not immunizations or vaccines at all, but are more properly
18 considered biologics or therapeutics – medical treatments intended to address the symptoms of a

19
20
21 ¹³ See e.g. Chemaitelly et. al, *Waning of BNT162b2 Vaccine Protection Against SARS-CoV-2 Infection in Qatar*
(October 6, 2021).

22 ¹⁴ See *supra* notes 5 and 6. See also [https://trialsitenews.com/ontario-canada-sets-record-for-new-covid-19-](https://trialsitenews.com/ontario-canada-sets-record-for-new-covid-19-cases-most-fully-vaccinated/)
23 [cases-most-fully-vaccinated/](https://trialsitenews.com/ontario-canada-sets-record-for-new-covid-19-cases-most-fully-vaccinated/), Ontario, Canada Sets Record for New COVID-19 Cases: Most Fully
24 [Vaccinated, Dr-Ron-Brown, Trial Site News, Dec. 23, 2021. See also](https://trialsitenews.com/ontario-canada-sets-record-for-new-covid-19-cases-most-fully-vaccinated/)
[https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/adhocs/1](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/adhocs/14114coronaviruscovid19infectionsurveyukcharacteristicsrelatedtohavinganomicroncompatibleresultinthosewhotestpositiveforcovid1923december2021)
[4114coronaviruscovid19infectionsurveyukcharacteristicsrelatedtohavinganomicroncompatibleresultinthosewh](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/adhocs/14114coronaviruscovid19infectionsurveyukcharacteristicsrelatedtohavinganomicroncompatibleresultinthosewhotestpositiveforcovid1923december2021)
[otestpositiveforcovid1923december2021.](https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/adhocs/14114coronaviruscovid19infectionsurveyukcharacteristicsrelatedtohavinganomicroncompatibleresultinthosewhotestpositiveforcovid1923december2021)

25 ¹⁵ See *supra* notes 5, 6, and 12. See also [https://doctors4covidethics.org/wp-content/uploads/2021/12/end-](https://doctors4covidethics.org/wp-content/uploads/2021/12/end-covax.pdf)
26 [covax.pdf](https://doctors4covidethics.org/wp-content/uploads/2021/12/end-covax.pdf), *On COVID vaccines: why they cannot work, and irrefutable evidence of their causative role in*
27 [deaths after vaccination, Sucharit Bhakdi, MD and Arne Burkhardt, MD, Dec. 10, 2021, Doctors for Covid](https://doctors4covidethics.org/wp-content/uploads/2021/12/end-covax.pdf)
[Ethics Symposium Presentation; https://www.canadiancovidcarealliance.org/wp-](https://doctors4covidethics.org/wp-content/uploads/2021/12/end-covax.pdf)
28 [content/uploads/2021/12/The-COVID-19-Inoculations-More-Harm-Than-Good-REV-Dec-16-2021.pdf,](https://www.canadiancovidcarealliance.org/wp-content/uploads/2021/12/The-COVID-19-Inoculations-More-Harm-Than-Good-REV-Dec-16-2021.pdf)
[Canadian Covid Care Alliance, Dec. 16, 2021;](https://www.canadiancovidcarealliance.org/wp-content/uploads/2021/12/The-COVID-19-Inoculations-More-Harm-Than-Good-REV-Dec-16-2021.pdf)
<https://www.medrxiv.org/content/10.1101/2021.05.03.21256520v1.full.pdf>, *The BNT162b2 mRNA vaccine*
[against SARS-CoV-2 reprograms both adaptive and innate immune responses, May 6, 2021.](https://www.medrxiv.org/content/10.1101/2021.05.03.21256520v1.full.pdf)

1 disease.¹⁶

2 101. A bedrock principle of bioethics is “medical necessity”: no one can or should be forced
3 to receive medical treatment or consume medical products they do not need.¹⁷

4 102. In addition, all citizens of the United States – including citizens of California – have the
5 right to refuse unwanted medical treatments under the U.S. and state constitutions and state and federal
6 laws.

7 103. Children between the ages 0-17 years of age are at little risk of severe COVID-19 disease
8 and do not need these therapeutics or medical treatments.

9 104. According to the CDC, children infected with COVID-19 or any of its variants have
10 typically mild or no symptoms at all and are at a statistically zero risk of death.¹⁸

11 105. In fact, the mortality risk for children is lower for COVID-19 than it is for seasonal flu.¹⁹

12 106. In California, as of January 21, 2022, the mortality rate for children ages 0-17 with
13 COVID-19 was 0.01%.²⁰

14 c. Children Do Not Have to Sacrifice Their Health or Lives Protect Adults Who Can – and
15 Have – Protected Themselves.

16 107. Another bedrock principle of bioethics prohibits the sacrificing of one individual to save
17 the life of another.

18 ///

19 ///

20 _____
21 ¹⁶ Indeed, in a highly questionable move, on September 1, 2021, the CDC quietly rewrote the definition of a
22 “vaccine” from: “a product that stimulates a person’s immune system to produce immunity to a specific disease,
23 protecting the person from that disease” to: “a preparation that is used to stimulate the body’s immune response
24 against diseases.” See *Immunization, the Basics*, Centers for Disease Control and Prevention, available at
<https://www.cdc.gov/vaccines/vac-gen/imz-basics.htm>.

25 ¹⁷ See e.g., Nuremberg Code (1947), 313 BMJ 1448 (1996) (“The voluntary consent of the human subject is
26 absolutely essential. This means that the person...[is] able to exercise free power of choice, without the
27 intervention of any element of...coercion.”); see also UNESCO Universal Declaration on Bioethics and Human
28 Rights, Article 6(1).

¹⁸ Makary, *Think Twice Before Giving the COVID Vax to Healthy Kids – Based on the data to date, there’s no
compelling case for it now* (June 10, 2021) MedPage Today, available at:
<https://www.medpagetoday.com/opinion/marty-makary/93029>.

¹⁹ See e.g., <https://www.cdc.gov/flu/about/burden/2017-2018-h1n1.htm>; <https://www.cdc.gov/flu/spotlights/2019-2020/2019-20-pediatric-flu-deaths.htm>.

²⁰ California Department of Public Health, Cases and Deaths Associated by Age Group, December 30, 2021,
available at: <https://covid19.ca.gov/state-dashboard/>.

1 108. Neither schoolchildren nor schools are a primary source of COVID-19 spread.²¹ As the
2 CDC acknowledges, “staff-to-student and student-to-student transmission” is “not the primary means of
3 exposure to SARS-Cov-2” among infected children, and numerous studies indicate that school children
4 are not the primary sources of exposure to SARS-CoV-2 among adults in school settings.²²

5 109. In this case, because children are at admittedly little risk of experiencing more than mild
6 symptoms to COVID-19, Respondents enacted their Requirement to “protect the lives” of adults within
7 the LAUSD community by unethically using children as a shield.

8 110. However, by September 9, 2022, at the time of enactment of the Requirement, all adults
9 working within the LAUSD community had either been vaccinated or had ample opportunity to be
10 vaccinated themselves if they wanted to be, and many of them presumably had acquired natural
11 immunity through prior COVID-19 exposure.

12 111. If taking the COVID-19 vaccine products themselves do not protect adults from children,
13 it is difficult to understand how forcing children to take the same failing to protect product would serve
14 any public health purpose at all.

15 *d. Vaccines Are Not Necessary where the Recipient Has Acquired Natural Immunity.*

16 112. In addition, in California, it is estimated that at least 20% of the population has already
17 had and recovered from COVID-19, and thus already possess robust natural immunity.²³

18 113. Numerous studies confirm that natural immunity to COVID-19 gained from previous
19 infection is far superior to any potential and temporary vaccine-conferred immunity from any of the
20 COVID-19 vaccine products.²⁴

21 _____
22 ²¹ National Center for Immunizations and Respiratory Diseases (NCIRD), Division of Viral Diseases: Science
23 Brief: Transmission of SARS-CoV-2 in K-12 Schools and Early Care and Education Programs – Updated
(updated July 9, 2021), available at: https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/transmission_k_12_schools.html.

24 ²² *Id.*

25 ²³ <https://covid19.ca.gov/state-dashboard/> (as of January 30, 2022).

26 ²⁴ See e.g., Gazit et. al, *Comparing SARS-CoV-2 natural immunity to vaccine induced immunity: reinfections*
27 *versus breakthrough infections* (Aug. 25, 2021), available at:

28 <https://www.medrxiv.org/content/10.1101/2021.08.24.21262415v1.full.pdf>. See also

<https://palexander.substack.com/p/breaking-news-while-vaccines-fail>; <https://noorchashm.medium.com/a-letter-of-warning-to-fda-and-pfizer-on-the-immunological-danger-of-covid-19-vaccination-in-the-7d17d037982d>; Heba Altarawneh et al., *Protection afforded by prior infection against SARS-CoV-2 reinfection with the Omicron variant*, Jan. 6, 2022, available at:

1 114. Despite this, Respondent LAUSD did not and does not provide any exemptions to the
2 Requirement for students with natural immunity against COVID-19.

3 115. In addition, although the Vaccine Manufacturers themselves used the presence of
4 antibodies found in their COVID-19 vaccinated trial participants as a key indicator of efficacy – i.e.,
5 that their vaccine products produced an antibody immune response – Respondent LAUSD also does not
6 allow a naturally COVID-19 recovered student to establish the presence of antibodies in his/her body to
7 show natural immunity to the virus. Respondent LAUSD simply assumes that “vaccinated students”
8 have some type of protection or immunity simply for taking a COVID-19 vaccine product and does not
9 require vaccinated students to test for any presence of antibodies, even though recent studies have shown
10 that antibodies wane quickly in the months following COVID-19 vaccination.

11 116. The foundation-less assumptions and disparate treatment between vaccinated and
12 naturally recovered but unvaccinated students continue, despite widespread evidence that the COVID-
13 19 vaccine products are not at all working as intended.

14 e. Schoolchildren Are Particularly Susceptible to Life-Altering and Dangerous Medical
15 Conditions after COVID-19 Injection.

16 117. Worse, Respondents ignored all evidence available at the time Respondents enacted their
17 Requirement showing that COVID-19 vaccine products presented a potentially serious risk of harm to
18 students’ age cohort, including myocarditis and other heart-related issues.²⁵

19 _____
20 <https://www.medrxiv.org/content/10.1101/2022.01.05.22268782v1>, (concluding that “[p]rotection afforded by
21 prior infection in preventing symptomatic reinfection with Alpha, Beta, or Delta is robust, at about 90%.
22 While such protection against reinfection with Omicron is lower, it is still considerable at nearly 60%. Prior-
23 infection protection against hospitalization or death at reinfection appears robust, regardless of variant”).

24 ²⁵ See, e.g., <https://pubmed.ncbi.nlm.nih.gov/34849657/>, Epidemiology of Acute Myocarditis/Pericarditis in
25 Hong Kong Adolescents Following Comirnaty Vaccination, Chua et al., Clin Infect Dis Nov. 28, 2021
26 (“There is a significant increase in the risk of acute myocarditis/pericarditis following Comirnaty vaccination
27 among Chinese male adolescents, especially after the second dose”); [https://www.bmj.com/content/375/bmj-
28 2021-068665](https://www.bmj.com/content/375/bmj-2021-068665), SARS-CoV-2 vaccination and myocarditis or myopericarditis: population based cohort study,
Husby et al., British Medical Journal, Nov. 30, 2021 (“Vaccination with mRNA-1273 was associated with a
significantly increased risk of myocarditis or myopericarditis in the Danish population, primarily driven by an
increased risk among individuals aged 12-39 years, while BNT162b2 vaccination was only associated with a
significantly increased risk among women”); [https://jessicar.substack.com/p/a-report-on-myocarditis-adverse-
events](https://jessicar.substack.com/p/a-report-on-myocarditis-adverse-events), A Report on Myocarditis Adverse Events in the U.S. Vaccine Adverse Events Reporting System
(VAERS) in Association with COVID-19 Injectable Biological Products, Jessica Rose PhD, MSc, BSc and
Peter A. McCullough MD, MPH, Nov 2, 2021;
<https://www.ahajournals.org/doi/10.1161/CIRCULATIONAHA.121.056583>;
<https://www.medrxiv.org/content/10.1101/2021.08.30.21262866v1>.

1 118. Numerous studies indicated that young males under 30 years old have a far greater risk
2 of myocarditis from the COVID-19 vaccine products than from the virus itself.

3 119. In other countries, some COVID-19 vaccine products have already been halted for
4 individuals under 30 years of age due to this acknowledged risk of myocarditis or other heart-related
5 damage.²⁶

6 120. Other risks of harms from COVID-19 vaccine products known at the time of
7 Respondents' enactment of the Requirement included blood clots, concerning menstrual cycle
8 disruptions, thrombocytopenia, organ damage, and death.²⁷

9 121. Even if such adverse effects were considered "rare" at the time of the Requirement's
10 enactment, evidence now suggests that such adverse effects are admittedly occurring far more
11 commonly than originally suspected.

12 122. According to the Vaccine Adverse Event Reporting System ("VAERS"), the
13 CDC's/FDA's own system for reporting vaccine related adverse events, there are over 21,000 deaths
14 attributed to COVID-19 vaccines and hundreds of thousands more of reported adverse events as of early
15 January 2022. Moreover, these staggering numbers do not even account for the significant and
16 acknowledged underreporting factor for VAERS.²⁸

17
18 ²⁶ <https://medicalxpress.com/news/2021-10-iceland-halts-moderna-jabs-heart-inflammation.html>;
19 <https://medicalxpress.com/news/2021-10-sweden-halts-moderna-vaccine-young.html>;
20 <https://medicalxpress.com/news/2021-11-germany-moderna-jab-under-30s>;
21 <https://medicalxpress.com/news/2021-11-france-moderna-under-30s-rare-heart.html>;

22 ²⁷ See e.g., <https://www.nih.gov/news-events/news-releases/covid-19-vaccination-associated-small-temporary-increase-menstrual-cycle-length-suggests-nih-funded-study>; https://www.canadiancovidcarealliance.org/wp-content/uploads/2021/06/2021-06-15-children_and_covid-19_vaccines_full_guide.pdf (fertility concerns); .
23 <https://www.sciencedirect.com/science/article/pii/S2213333X21003929> (thromboembolism in women after vaccine). See also <https://globalcovids Summit.org/news/thousands-of-physicians-and-scientists-reach-consensus-on-vaccinating-children-and-natural-immunity>, Over 15,000 Physicians and Scientists Reach Consensus on Vaccinating Children and Natural Immunity, Dec. 9, 2021 (Physicians and Medical Scientists Update Rome COVID Declaration with Overwhelming Evidence on Vaccinating Children and Natural Immunity, with links to multiple studies.

24 ²⁸ See <https://vaersanalysis.info/2021/12/13/using-cms-whistleblower-data-to-approximate-the-under-reporting-factor-for-vaers/>, Using CMS Whistleblower Data to Approximate the Under-Reporting Factor for VAERS, Dec. 13, 2021; <https://vaersanalysis.info/2021/12/14/using-cms-whistleblower-data-to-approximate-the-under-reporting-factor-for-vaers-part-ii/>, Using CMS Whistleblower Data to Approximate the Under-Reporting Factor for VAERS — Part II, Dec. 14, 2021 (describing VAERS underreporting factor of 44.64); <https://www.skirsch.com/covid/Deaths.pdf>, Estimating the number of COVID vaccine deaths in America, By Steve Kirsch, Dr. Jessica Rose PhD, Mathew Crawford, Last update: December 24, 2021 (describing VAERS underreporting factor of 41); <https://i-do-not->

1 123. Despite evidence of significant harm, Respondents have still not vacated their
2 Requirement, nor have they considered any less restrictive means for keeping the LAUSD community
3 safe, other than forcing unapproved COVID-19 vaccine products on children who do not want or need
4 them and for many of whom these products are demonstrably unsafe and ineffective.

5 *f. Respondents Are Requiring COVID-19 Vaccines in order to Satisfy the Conditions of*
6 *Their Receipt of Federal Funds.*

7 124. Casting an even darker shadow on Respondents' decision to impose experimental
8 COVID-19 vaccines on its students is Respondents' receipt of billions of dollars in ESSER funding,
9 which was specifically conditioned receipt upon implementation of certain COVID-19 safety measures,
10 including forced masking, genetic testing, data collection, quarantining, contact tracing, and COVID-19
11 vaccination.

12 125. To date, LAUSD has received over \$4 billion dollars in ESSER Funds.

13 126. The lack of any significant health benefit to students from these products, coupled with
14 the known risks of harm and clear financial incentive presented by the ESSER funds, indicates that
15 Respondents did not engage in any thoughtful, reasoned decision-making process at all, let alone the
16 thoughtful reasoned process required for an agency engaging in quasi-legislative rule-making.

17 127. The Requirement is not supported by any credible substantial evidence or rational
18 evidentiary basis.

19 128. Furthermore, in enacting their Requirement that forces LAUSD students to choose
20 between an unlawful vaccination mandate that infringes upon their fundamental right to bodily
21 autonomy or lose the right to a full and free public education, Respondents have violated rights of their
22 students guaranteed under the California Constitution, including their right to education, privacy, bodily
23 integrity, personal liberty, and equal protection under the law.

24 129. Respondents' Requirement must be immediately declared unlawful and Respondents'
25 actions in attempting to enforce it enjoined.

26 _____
27 consent.netlify.app/media/Pharmacovigilance%20VAERS%20paper%20FINAL_OCT_1_2021.pdf, Critical
28 Appraisal of VAERS Pharmacovigilance: Is the U.S. Vaccine Adverse Events Reporting System (VAERS) a
Functioning Pharmacovigilance System?, Jessica Rose, PhD, MSc, BSc, , J, for Clinical and Transl. Res., Oct.
2021 (describing delayed and deleted VAERS reports and other issues).

1 **FIRST CAUSE OF ACTION**

2 **(Writ of Mandate for Violation of Mandatory Duty, Proceeding Without or in Excess of**
3 **Jurisdiction, Abuse of Discretion for Failure to Proceed in the Manner Required by Law,**

4 **Code of Civ. Proc., §§ 1085, 1094.5)**

5 ***(All Petitioners v. All Respondents)***

6 130. Petitioners hereby incorporate by reference all preceding paragraphs as though set forth
7 in full herein.

8 131. A writ of traditional and/or administrative mandate is necessary in this case to bring
9 Respondents' actions into conformance with the law.

10 132. Respondents have acted in violation of their mandatory, ministerial statutory duties and
11 wholly without, outside the scope of, and in excess of their lawful jurisdiction and authority, and have
12 abused their discretion by failing to proceed in the manner required by law.

13 133. California law, as codified in the Health and Safety Code, provides an enumerated list of
14 ten (10) childhood immunizations required for in-person admittance or advancement in California public
15 and private schools. COVID-19 vaccines are currently not on this enumerated list.

16 134. Any new immunization requirements other than the ten enumerated immunizations
17 currently listed in section 120335(b)(1)-(10) may only be added by the CDPH pursuant to Health and
18 Safety Code section 120335(b)(11).

19 135. Further, under Health and Safety Code section 120338, if any new vaccine is added to
20 the childhood schedule by the CDPH, both medical and personal belief exemptions must be allowed.

21 136. Pursuant to the California APA, as an administrative agency of the executive branch of
22 California state government, the CDPH also must engage in formal rulemaking, including providing
23 public notice and opportunity to comment prior to adding any new vaccine to this childhood
24 immunization schedule and an initial and final Statement of Reasons for the regulation.

25 137. As a school district, or the governing board of a school district, Respondents are merely
26 a "governing authority" as defined under *Health & Safety Code* section 120335(a), relegated to
27 collecting the *documentation* necessary to establish that the relevant students have taken the
28 immunizations required by *Health & Safety Code* section 120335(b)(1)-(10) or, once properly added by

1 the CDPH, section 120335(b)(11), with related ministerial duties under section 120375.

2 138. Respondents have no legal authority to add a new vaccine requirement as a condition for
3 in-person education within the LAUSD, nor were they delegated that authority by the Legislature or
4 CDPH.

5 139. Respondents, by their actions in enacting and enforcing the Requirement against LAUSD
6 students, have exceeded their lawful authority as a subordinate “governing authority,” as defined under
7 *Health & Safety Code* section 120335(a), by acting contrary to, and in violation of, their mandatory,
8 ministerial duties and without, or in excess of, their statutory jurisdiction and authority.

9 140. Respondents have also acted in violation of *Health & Safety Code* section 120338, which
10 requires that both medical and personal belief exemptions be allowed for any new vaccine requirements
11 added to the student immunization schedule.

12 141. In addition, Respondents cannot regulate childhood immunizations at the local level
13 because the Requirement is fully pre-empted by and in direct conflict with the procedural and substantive
14 requirements of the existing statutory scheme and attempts to regulate in an area fully occupied by the
15 existing statutory scheme.

16 142. Petitioners and their members within LAUSD who have not submitted to the
17 Requirement and do not intend to submit to the Requirement have been, are being, and will continue to
18 be harmed by Respondents’ actions by, *inter alia*, being denied or actively threatened with the denial of
19 their ongoing in-person education and removal to independent study involuntarily in the fall of 2022,
20 denial of in-person participation in extracurricular activities, and exclusion from many other benefits
21 and services attached to in-person education within LAUSD that are otherwise given to other students
22 within LAUSD who have complied with the Requirement or who are conditionally admitted without
23 need to comply with the Requirement. They have no administrative remedy and no adequate remedy at
24 law and will be irreparably harmed if the Court does not grant the requested writ relief and enjoin
25 Respondents from enforcing the Requirement.

26 143. Petitioners and their members within LAUSD for whom they bring their lawsuit have no
27 administrative remedy and no adequate remedy at law.

28 ///

1 to the Requirement have been, are being, and will continue to be harmed by Respondents’ actions by
2 being denied or threatened with denial of access to in-person education and removal to independent
3 study involuntarily in Fall of 2022, and excluded from other in-person services and activities granted to
4 other students who have complied with or are conditionally admitted without need to comply with the
5 Requirement.

6 151. Petitioners and their members within LAUSD for whom they bring their lawsuit have no
7 administrative remedy and no adequate remedy at law and will be irreparably harmed if the Court does
8 not grant the requested writ relief and enjoin Respondents from enforcing the Requirement.

9 152. This action is seeking to enforce an important right affecting the public interest.
10 Therefore, Petitioners should recover their costs and legal fees under section 1021.5 of the *Code of Civil*
11 *Procedure*.

12 **THIRD CAUSE OF ACTION**

13 **(Declaratory and Injunctive Relief, *Code Civ. Proc.*, §§ 527, 1060)**

14 **(Pre-emption and Conflicts with Existing Law)**

15 **(*All Plaintiffs v. All Defendants*)**

16 153. Petitioners hereby incorporate by reference all preceding paragraphs as though set forth
17 in full herein.

18 154. Respondents contend that they have the power under Article IX of the California
19 Constitution and section 35160 of the *Education Code* to require that students receive a COVID-19
20 vaccine to attend in-person schooling within LAUSD. Petitioners’ dispute that Respondents have this
21 authority and further contend that this authority was pre-empted by the detailed rules and procedures
22 regarding childhood immunizations for school attendance and admittance contained in the existing
23 statutory scheme and codified in the Health and Safety Code sections 120325 *et. seq.*

24 155. *Education Code* section 35160 allows governing boards of a school district “to initiate
25 and carry on any program, activity, or otherwise act in any manner,” however, it may only do so as long
26 as such actions are “not in conflict with or inconsistent with, or pre-empted by, any state law.”

27 156. When the state Legislature has spoken on a particular issue, local governments are not at
28 liberty to take a conflicting course of action. (*Costa Mesa City Employees Assn. v. City of Costa Mesa*

1 (2002) 209 Cal.App.4th 298, 310). Pre-emption exists where a local regulation duplicates, contradicts,
2 or enters an area fully occupied by general law, either expressly or impliedly. (*Sherwin-Williams*, 4
3 Cal.4th at 897-898). Local regulation enters an area fully occupied by general law when the Legislature
4 has expressly manifested its intent to fully occupy the subject matter at hand or when it has impliedly
5 done so. (*O’Connell v. City of Stockton* (2007) 41 Cal.4th 1061, 1068; *City of Los Angeles v. 2000 Jeep*
6 *Cherokee* (2008) 159 Cal. App. 4th 1272, 1276).

7 157. Here, the Legislature has created an existing statutory scheme, codified in over 155
8 provisions of the *Health & Safety Code*, which fully occupies the field of childhood immunizations as
9 requirements for in-person education. (*Health & Safety Code*, §§120225-120480; *see also* §120335(f)
10 [school vaccination requirements do not apply to home based or independent study programs])).

11 158. Indeed, the existing statutory scheme includes an express provision that governs the very
12 topic that Respondents seek to regulate by its local Requirement: that of adding a new vaccination
13 requirement as a condition for in-person schooling. (*Health & Safety Code*, §120335(b)(11). Section
14 120335(b)(11) already anticipates a time when a new vaccination requirement might be needed from
15 time to time, such as during an infectious disease outbreak like the current COVID-19 outbreak.

16 159. The Legislature has also indicated, both expressly and impliedly, its intent that the
17 existing statutory scheme fully occupy the area of vaccination requirements for in-person schooling,
18 leaving no room for local regulation on the same topic. (*See* Sen. Jud. Com. Analysis of Sen. Bill No.
19 277 (2015-2016 Reg. Sess.) (April 22, 2015), pp. 13, 18) (indicating that school vaccination
20 requirements should be applied state-wide, and not district-by-district or community-by-community);
21 Ed. Code § 49405 [“The control of smallpox is under the direction of the State Department of Health
22 Services, and no rule or regulation on the subject of vaccination shall be adopted by school or local
23 health authorities.” (Emphasis added)]; Cal. Code Regs. tit 17, § 6025) (requiring a student’ s
24 unconditional admission to in-person school if the student has complied with the required childhood
25 vaccination requirements of the statutory scheme or has provided documentation of an approved
26 exemption).

27 160. The Requirement is also fully pre-empted because it is inconsistent with and/or in direct
28 conflict with the requirements of the existing statutory scheme, including but not limited to specific

1 requirements set out in *Health and Safety Code*, sections 120335(b)(11) and 120338.

2 161. The Requirement is also inconsistent with and/or directly conflicts with *Education Code*,
3 sections 51746, 51747, 51749.5, 51749.6; *California Code of Regulations* title 5, section 11700, subs
4 (d)(2)(A), which regulate a student’s placement into independent study and indicate that independent
5 study must not be coerced; and *California Code of Regulations* title 17, section 6025, which provides
6 that schools shall give unconditional admittance to in-person schooling once a student complies with
7 the existing statutory scheme’s mandatory immunization requirements or has received the applicable
8 medical or personal belief exemptions as provided by law.

9 162. The Requirement is also inconsistent with the substantive and procedural agency fact-
10 finding and public participation requirements of the APA, which would need to be followed by the
11 CDPH as the sole agency having the authority to add a new vaccine requirement under the existing
12 statutory scheme.

13 163. The Requirement is further inconsistent with, in direct conflict with, and/or pre-empted
14 by state law and regulations that prohibit discrimination on the basis of medical condition, national
15 origin, or genetic information, including denial of full and equal access to the benefits any program or
16 activity funded by or receiving financial assistance from the state on the basis of such medical condition,
17 national origin, or genetic information. (*See, e.g. Govt. Code*, § 11135).

18 164. Finally, the Requirement is inconsistent with, in direct conflict with, and otherwise pre-
19 empted by federal EUA law, which requires the right to informed consent and the option to refuse EUA
20 and experimental products. (21 U.S.C. § 360bbb-3; 45 C.F.R. § 46 *et seq.*).

21 165. Despite these clear inconsistencies with, direct conflicts with, and pre-emption by
22 existing state and federal laws, as of the date of the filing of this Amended Petition, Respondent LAUSD
23 still has not vacated or rescinded its Requirement.

24 166. Respondents’ actions have already caused and will continue to cause irreparable harm to
25 Petitioners and their individual members within LAUSD who have not submitted to the Requirement
26 and do not intend to submit to the Requirement in that the unlawful Requirement denies or threatens to
27 deny in-person education and/or other benefits and privileges given to other students within LAUSD
28 who have complied with the Requirement, or who are conditionally admitted without need to comply

1 with the Requirement.

2 167. Petitioners and their members within LAUSD who have not submitted to the
3 Requirement and do not intend to submit to the Requirement have no administrative remedy or adequate
4 remedy at law and will suffer irreparable harm if the Court does not declare the Requirement unlawful.
5 Thus, Petitioners seek preliminary and permanent injunctive relief enjoining Respondents from
6 enforcing the Requirement.

7 168. Petitioners also seek a declaration from this Court that the existing statutory scheme
8 created by the Legislature to add a vaccine requirement as a condition to attend school fully occupies
9 the field of K through 12 vaccine requirements, precluding individual districts from unilaterally
10 requiring new vaccines for children outside of this scheme, as Respondents have done.

11 169. Petitioners further seek a finding and declaration from this Court that Respondents'
12 Requirement is inconsistent with and/or in direct conflict with, the existing statutory scheme's
13 Legislatively enacted requirements for allowance of both medical and personal belief exemptions for all
14 new vaccine requirements, and for satisfying the due process requirements of the APA.

15 170. Petitioners also request a declaration of school children's and their parents' / guardians'
16 rights to refuse involuntary placement in independent study programs (*Ed. Code*, §§ 51749.5, 51747;
17 51746; 51749.5; 51749.6; *Cal. Code Regs.*, tit 5, § 11700, subs (d)(2)(A)), and tit 17 § 6025); to informed
18 consent; and to refuse emergency authorized and experimental products under 21 U.S.C. section
19 360bbb-3 and related federal regulations.

20 171. Declaratory relief is proper to seek interpretation of statutes governing an administrative
21 agency, as opposed to review of specific agency decision, and an actual and present controversy exists
22 with respect to the disputes between Petitioners and Respondents as alleged above (*Code Civ. Proc.*, §
23 1060).

24 172. Absent declaratory relief, Respondents' actions will continue to cause irreparable harm
25 to Petitioners and their individual members within LAUSD who do not submit to Respondents' unlawful
26 Requirement.

27 173. This action is seeking to enforce an important right affecting the public interest.
28 Therefore, Petitioners should recover their costs and legal fees under section 1021.5 of the *Code of Civil*

1 *Procedure.*

2 **FOURTH CAUSE OF ACTION**

3 **(Declaratory and Injunctive Relief, *Code Civ. Proc.* §§ 527, 1060)**

4 **(Violation of Right to Privacy)**

5 **(*All Plaintiffs v. All Defendants*)**

6 174. Petitioners hereby incorporate the preceding paragraphs as though set forth fully herein.

7 175. Many of Petitioners' members have chosen not to comply with the unlawful Requirement
8 and do not intend to comply with the Requirement. They object to the forced medical treatments
9 themselves, and/or object to being compelled to have their children comply with the Requirement, which
10 may have dire health consequences for their otherwise young, healthy children, up to and including
11 death.

12 176. Individuals have a right to privacy under the California Constitution. This state law
13 privacy right, which was added to the California Constitution by voters in 1972, is far broader than the
14 right to privacy under the federal Constitution. It is the broadest privacy right in America and has been
15 interpreted by the California Supreme Court to protect both the right to informational privacy and to
16 bodily integrity. (*Robbins, supra*, 38 Cal.3d 199, 212).

17 177. LAUSD students have a legally protected privacy interest in their bodily integrity and
18 their medical information. They also have the fundamental right to refuse unwanted medical treatments.
19 (*Bartling, supra*, 163 Cal.App.3d 186, 195; *see also Cruzan v. Dir. Mo. Dep't of Health* (1990), 497
20 U.S. 261, 278)).

21 178. LAUSD students' expectation of medical privacy, bodily autonomy, and freedom from
22 bodily invasion is reasonable.

23 179. Respondents' Requirement constitutes a serious invasion of those privacy rights, as
24 alleged above.

25 180. LAUSD students also have a fundamental right to a free public education under the
26 California Constitution. (Cal. Const., Article IX).

27 ///

28 ///

1 181. When receipt of a public benefit is conditioned upon the waiver of a constitutional right,
2 the government bears a heavy burden of demonstrating the practical necessity for the limitation.
3 (*Robbins, supra*, 38 Cal.3d 199, 212).

4 182. Although Respondents argue that the Requirement serves a compelling interest, there are
5 feasible and effective alternatives to controlling the spread of COVID-19 that have a lesser impact on
6 privacy interests, particularly where none of the COVID-19 vaccine products prevent infection or
7 transmission of COVID-19 or any of its variants and may even increase susceptibility to the Delta and
8 Omicron variants.

9 183. Petitioners desire a judicial declaration that the Requirement is unconstitutional because
10 it violates LAUSD students' right to privacy under the California Constitution.

11 184. A judicial determination of these issues is necessary and appropriate because such a
12 declaration will clarify the parties' rights and obligations, permit them to have certainty regarding those
13 rights and potential liability, and avoid a multiplicity of actions. An actual and present controversy
14 exists with respect to the disputes between Petitioners and Respondents as alleged above (*Code Civ.*
15 *Proc.*, § 1060).

16 185. Respondents have harmed and continue to harm Petitioners' members within LAUSD,
17 as alleged above.

18 186. Petitioners' members have no adequate remedy at law and will suffer irreparable harm if
19 the Court does not declare the Requirement unconstitutional. Thus, they seek preliminary and permanent
20 injunctive relief enjoining Respondents from enforcing the Requirement.

21 187. This action is seeking to enforce an important right affecting the public interest, justifying
22 an award of attorneys' fees under section 1021.5 of the California *Code of Civil Procedure*.

23 ///

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1 **FIFTH CAUSE OF ACTION**

2 **(Declaratory and Injunctive Relief, *Code Civ. Proc.*, §§ 527, 1060)**

3 **(Violation of Article IX of the California Constitution)**

4 **(*All Plaintiffs v. All Defendants*)**

5 188. Petitioners hereby incorporates each of the foregoing paragraphs as though fully set forth
6 herein.

7 189. Article IX, section 1, of the California Constitution provides: “A general diffusion of
8 knowledge and intelligence being essential to the preservation of the rights and liberties of the people,
9 the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and
10 agricultural improvement.”

11 190. Article IX, section 5 of the California Constitution provides: “The Legislature shall
12 provide for a system of common schools by which a free school shall be kept up and supported in each
13 district at least six months in every year.”

14 191. By implementing its Requirement, Petitioners are denying LAUSD students their
15 fundamental right to an education that provides a “general diffusion of knowledge and intelligence
16 essential to the preservation of the rights and liberties of the people” and ensures the opportunity to meet
17 the state of California’s standards, to develop the skills and capacities necessary to achieve economic
18 and social success, and to participate meaningfully in society.

19 192. By preventing unvaccinated students from either entering LAUSD campuses for in-
20 person instruction and/or participating in extracurricular activities or other in-person services and
21 benefits that form a fundamental part of a student’s education, Respondents have interfered, to the
22 detriment of California schoolchildren and their families, with the state’s “system of common schools
23 by which a free school shall be kept up and supported in each district at least six months in every year.”

24 193. The alleged government interest in protecting the LAUSD community against COVID-
25 19 or any of its variants does not justify this significant infringement on LAUSD students’ constitutional
26 right to a quality education. This is particularly true given the facts as alleged, above, that there are less
27 restrictive means of addressing this governmental interest, and that the COVID-19 vaccine products are
28 neither safe nor effective.

1 202. Under the Equal Protection Clause of the California Constitution, “[a] person may not be
2 ... denied equal protection of the laws.” (Cal. Const., Art. I, § 7, subd. (a).) Further, “[a] citizen or class
3 of citizens may not be granted privileges or immunities not granted on the same terms to all citizens.”
4 (Cal. Const., Art. I, § 7, subd. (b).)

5 203. Equal protection of the laws ensures that people who are similarly situated for purposes
6 of a law are generally treated similarly by the law. This means that a government actor may not adopt a
7 rule that affects two or more similarly situated groups in an unequal manner.

8 204. “The first prerequisite to a meritorious claim under the equal protection clause is a
9 showing that the state has adopted a classification that affects two or more similarly situated groups in
10 an unequal manner. This initial inquiry is not whether persons are similarly situated for all purposes, but
11 whether they are similarly situated for purposes of the law challenged.” (*Cooley v. Super. Ct.* (2002) 29
12 Cal.4th 228, 253; *Deese v. City of Lodi* (1937) 21 Cal.App.2d 631, 635 [holding health restrictions
13 applicable only to certain industries violated equal protection guarantees]; *DiMartile v. Cuomo*
14 (N.D.N.Y. 2020, No. 1:20-CV-0859 (GTS/CFH)), 2020 WL 4558711, at *10 [holding pandemic
15 restrictions violated equal protection guarantees]).

16 205. The government’s exercise of police power “cannot be so used as to arbitrarily limit the
17 rights of one class of people, and allow those same rights and privileges to a different class, where the
18 public welfare does not demand or justify such a classification.” (*Deese, supra*, 21 Cal.App.2d at 640.)

19 206. Respondents’ actions against students not complying with their unlawful Requirement
20 violate the Equal Protection Clause of the California Constitution because: (1) Respondents distinguish
21 between vaccinated and unvaccinated students, including “unvaccinated” students who already have
22 natural immunity from prior COVID-19 infection and pose very little danger to the LAUSD community;
23 (2) Respondents provide benefits and in-person services to vaccinated students and not to unvaccinated
24 students, without having any scientific basis for doing so, since both vaccinated and unvaccinated can
25 be infected by and spread COVID-19 and experience the same level of infection; (3) Respondents
26 completely ignore naturally acquired immunity, which has been shown in multiple peer-reviewed
27 studies to be superior to any temporary, incomplete “immunity” that vaccinated students may have, and
28 grant preferential treatment to vaccinated students without having any scientifically valid basis for doing

1 so; (4) Respondents treat unvaccinated migrant, foster, homeless, and military family members' children
2 more favorably than all other unvaccinated children, permitting migrant, foster, homeless, and military
3 family members' children to attend school in-person and to participate in extracurricular activities on
4 Respondents' school campuses, even if they are not vaccinated, thus severely undermining any public
5 health rationale for the disparate treatment between vaccinated and unvaccinated students.

6 207. Where a rule results in infringement of a fundamental right, such rule is subject to strict
7 scrutiny. (*Washington v. Harper* (1990) 494 U.S. 210, 223, 229).

8 208. Education is a fundamental right under the California Constitution (Cal. Const., Art. IX).

9 209. Any rule that deprives a person or group of equal access to education is subject to strict
10 scrutiny.

11 210. Strict scrutiny demands that the government actor establish (1) it has a compelling
12 interest that justifies the challenged rule; (2) the rule is necessary to further that interest; and (3) the rule
13 is narrowly drawn to achieve that end.

14 211. The alleged government interest in protecting the LAUSD community from transmission
15 of or infection by COVID-19 does not justify Respondents' Requirement or discriminatory policies
16 based on that Requirement. This is particularly true given the facts as alleged above that there are less
17 restrictive means of addressing this government interest, and that the COVID-19 vaccine products are
18 neither safe nor effective, particularly for children.

19 212. Respondents' Requirement and associated discriminatory policies are significantly
20 broader than necessary to serve the alleged government interest in protecting the LAUSD community
21 from COVID-19 and any of its variants.

22 213. Respondents' Requirement and discriminatory policies are not narrowly drawn to
23 minimize infringements on the fundamental rights of LAUSD students.

24 214. The distinction made by Respondents between vaccinated and unvaccinated children —
25 and even different classes of unvaccinated children (i.e., migrant, foster, homeless, and military family
26 members' children) — cannot survive strict scrutiny. These distinctions cannot survive even rational
27 basis scrutiny. Individuals who have been vaccinated for COVID-19 can and do still get infected with
28 COVID-19 and suffer the same if not worse symptoms. Naturally acquired immunity has been found to

1 be superior to any short-term vaccine-induced immunity or protection.

2 215. Respondents' preferential treatment of vaccinated individuals and certain classes of
3 unvaccinated individuals discriminates, without justification, against all other unvaccinated individuals,
4 including those with natural immunity. It also creates three classes of children: those who have been
5 vaccinated for COVID-19, those who have not been vaccinated for COVID-19 but fall within a certain
6 class of children subject to preferential treatment, and those children who have not been vaccinated for
7 COVID-19, but do not fall within one of the favored classes.

8 216. Respondents' Requirement also does not guarantee that all students who are vaccinated
9 will be free of COVID-19 when they are physically present at school such that the safety of other
10 students, teachers, staff, and their families will be ensured or even nominally improved.

11 217. Respondents' Requirement and associated discriminatory policies treat children who
12 have not been vaccinated and are who not members of a favored class as an inferior, in that those students
13 cannot participate in extracurricular and other activities, may be involuntarily removed from LAUSD
14 campuses and forced into independent study, while students who have been vaccinated or are a member
15 of an arbitrarily favored class are not.

16 218. Petitioners desire a judicial declaration that the Requirement is unconstitutional because
17 it violates LAUSD students' right to equal protection under the California Constitution.

18 219. A judicial determination of these issues is necessary and appropriate because such a
19 declaration will clarify the parties' rights and obligations, permit them to have certainty regarding those
20 rights and potential liability, and avoid a multiplicity of actions. An actual and present controversy
21 exists with respect to the disputes between Petitioners and Respondents as alleged above (*Code Civ.*
22 *Proc.*, § 1060).

23 220. Respondents have harmed and continue to harm Petitioners' members within LAUSD,
24 as alleged above.

25 221. Petitioners' members have no adequate remedy at law and will suffer irreparable harm if
26 the Court does not declare the Requirement unconstitutional. Thus, they seek preliminary and permanent
27 injunctive relief enjoining Respondents from enforcing the Requirement.

28 ///

- 1 3. A declaration that Respondents lack all authority to impose a COVID-19 vaccine requirement
2 on students within LAUSD;
- 3 4. A declaration that the existing statutory scheme as codified in the California Health and Safety
4 Code provisions fully occupies the field of K-12 vaccine mandates such that the Requirement
5 is fully pre-empted by the existing statutory scheme, and that the Requirement is in conflict
6 with and inconsistent with the existing statutory scheme and other state and federal laws;
- 7 5. A declaration that Respondents cannot exclude a student not complying with the Requirement
8 and cannot involuntarily disenroll or place students involuntarily into independent study;
- 9 6. A declaration that students and their parents have rights under California *Education Code*
10 sections 51747 and 51746, 51749.5, 51749.6 and California *Code of Regulations*, Title 5,
11 section 11700 *et seq.* and Title 17, sections 6025 *et seq.* to provide consent to placement in
12 independent study before such placement is made;
- 13 7. A declaration that students have the right to give informed consent and an option to refuse
14 emergency authorized and experimental products under 21 U.S.C. § 360bbb-3 and related
15 federal regulations and 45 C.F.R. § 46 *et seq.*;
- 16 8. A declaration that students have the right to privacy under the California Constitution, which
17 includes the right to bodily integrity and the right to refuse an unwanted medical treatment;
- 18 9. A declaration that students have the right to a free and public education under the California
19 Constitution, which cannot be conditioned upon the requirement of taking an unwanted and/or
20 experimental medical treatment;
- 21 10. A declaration that students have the right to equal protection under the law and cannot be
22 denied in-person educational benefits and other services given to other LAUSD students who
23 are vaccinated or who are part of an arbitrary class of students exempt from the Requirement
24 or any of its associated discriminatory policies;
- 25 11. A declaration that students have the right to be free of discrimination on the basis of their
26 medical condition, ancestry, national origin, or ethnic group identification under Government
27 Code section 11135;

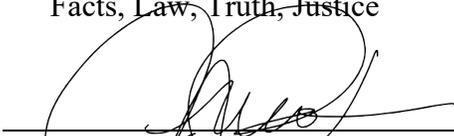
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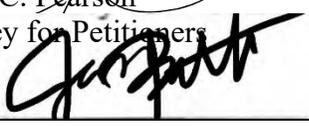
- 1 12. For an award of costs and attorneys' fees pursuant to the *Code of Civil Procedure* section
2 1021.5, and/or any other applicable provisions, as allowed by law; and
3 13. For such other relief as the Court deems just and proper.

4
5 Respectfully submitted,

6 Dated: February 1, 2022

7 LAW OFFICE OF NICOLE C. PEARSON
8 Facts, Law, Truth, Justice

9
10 
11 _____
12 Nicole C. Pearson
13 Attorney for Petitioners

14 
15 _____
16 Jessica R. Barsotti
17 Attorney for Petitioners

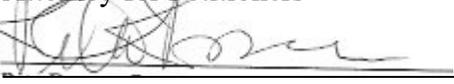
18 
19 _____
20 Rita Barnett-Rose
21 Attorney for Petitioners
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EXHIBIT A

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 12/20/2021

TIME: 09:00:00 AM

DEPT: C-64

JUDICIAL OFFICER PRESIDING: John S. Meyer

CLERK: Herlinda Chavarin

REPORTER/ERM: Donna E. Boulger CSR# 6162

BAILIFF/COURT ATTENDANT: T. Moore

CASE NO: **37-2021-00043172-CU-WM-CTL** CASE INIT.DATE: 10/12/2021

CASE TITLE: **Let Them Choose an initiative of Let Them Breathe vs San Diego Unified School District [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Writ of Mandate

EVENT TYPE: Motion Hearing (Civil)

APPEARANCES

Lee M Andelin, counsel, present for Plaintiff(s).

Aaron Siri, counsel, present for Guardian Ad Litem, Plaintiff(s).

Arie Spangler, counsel, present for Plaintiff(s).

Mark Bresee, specially appearing for counsel Amy W Estrada, present for Defendant(s).

The Court informs counsel it will read its tentative ruling and provide counsel a copy of its tentative ruling after it has been read. The Court states it will take a brief recess to allow counsel to review the tentative and then present oral argument.

The Court proceeds to read its tentative ruling on the record.

9:21 am Court is in recess.

10:20 am Court reconvenes with counsel present as noted above. The Court proceeds to hear argument by counsel on its tentative ruling.

The Court having heard argument by counsel, CONFIRMS its tentative ruling as follows:

In September 2021, Respondent San Diego Unified School District's (SDUSD) Board of Education voted to approve a "Vaccination Roadmap" (the Roadmap). The Roadmap requires all students eligible for a fully FDA approved COVID-19 vaccine to receive the vaccine in order to attend school in-person and participate in extra-curricular activities. Currently, only those students aged 16 and older fall within the mandate and must receive both doses of the vaccine by December 20, 2021. Students who do not comply will be placed into an independent study program beginning with the new semester. Petitioners Let Them Choose, an initiative of Let Them Breathe, and S.V., individually and on behalf of J.D. (collectively, Petitioners) seek a writ of mandate restraining SDUSD from implementing the Roadmap.

SDUSD "may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established." (Educ. Code, § 35160, emphasis added; see *Hartzell v. Connell* (1984) 35 Cal.3d 899, 915–916.) Petitioners contend that the Roadmap field is preempted by Education Code section 120325 et seq. and directly conflicts with both California Code of Regulations, title 17, section 6025 and provisions of Education Code section 51745 et seq.

"Under the normal rules of preemption, a local ordinance that conflicts with state law is preempted by the state law and void. . . . Pursuant to preemption law, a conflict exists if the local legislation duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by legislative implication." (*Haytasingh v. City of San Diego* (2021) 286 Cal.Rptr.3d 364, 392; see generally *O'Connell v. City of Stockton* (2007) 41 Cal.4th 1061; *American Financial Services Assn. v. City of Oakland* (2005) 34 Cal.4th 1239.)

More than a century ago, the Legislature began regulating the field of school vaccination requirements. In 1890, the California Supreme Court upheld a "Vaccination Act" that required schools to exclude children who had not been vaccinated against smallpox. (*Abeel v. Clark* (1890) 84 Cal. 226, 227–228, 230.) The Court stated that vaccination, "being the most effective method known of preventing the spread of the disease referred to, it was for the legislature to determine whether the scholars of the public schools should be subjected to it." (*Id.* at p. 230, emphasis added.) The Legislature subsequently put control of smallpox under the direction of the State Department of Public Health (DPH) and provided that "no rule or regulation on the subject of vaccination shall be adopted by school or local health authorities." (Educ. Code, § 49405, emphasis added; see also Health & Saf. Code § 131052, subd. (3).) Between 1961 and 2010, the Legislature imposed a total of 10 vaccine requirements for school children-diphtheria, hepatitis B, haemophilus influenza type b, measles, mumps, pertussis, poliomyelitis, rubella, tetanus, and varicella. (Health & Saf. Code, §§ 120325, subd. (a)(1)–(10), 120335, subd. (b)(1)–(10); see Assem. Com. on Health, Analysis of Sen. Bill No. 277 (2015–2016 Reg. Sess.) as amended May 7, 2015, p. 4.) "Each of the 10 diseases was added to the California code through legislative action, after careful consideration of the public health risks of these diseases, cost to the state and health system, communicability, and rates of transmission." (*Love v. State Department of Education* (2018) 29 Cal.App.5th 980, 987, emphasis added.) A detailed statutory and regulatory scheme has been established to implement the school vaccine mandates. (See Health & Saf. Code, § 120325 et seq.; Cal. Code Regs., tit. 17, § 6000 et seq.) The scheme included exemptions for both medical reasons and personal beliefs. (See Health & Saf. Code, § 120370; former Health & Saf. Code, § 120365.)

In 2015, in response to decreasing vaccination rates and a rise in measles, the Legislature removed the "personal beliefs" exemption to these 10 school vaccination requirements. (Sen. Bill No. 277 (2015–2016) §§ 1, 4; see generally *Love, supra*, 29 Cal.App.5th 980; *Brown v. Smith* (2018) 24 Cal.App.5th 1135.) In doing so, the Legislature considered whether "the issue of public health could be addressed by mandating vaccines on a community by community or school district [by] school district basis," but concluded that "a statewide approach is the correct approach." (Sen. Com. on Judiciary, Analysis of Sen. Bill No. 277 (2015–2016) as amended Apr. 22, 2015, p. 18.) "To provide a statewide standard, allows for a consistent policy that can be publicized in a uniform manner, so districts and educational efforts may be enacted with best practices for each district. . . . Further in consultation with various health officers, they believe a statewide policy provides them the tools to protect all children equally from an outbreak." (*Ibid.*)

Recognizing the need for additional vaccine mandates that may arise in the future, the Legislature added a "number 11" mandating that school children be vaccinated against "[a]ny other disease deemed appropriate by the [State Department of Public Health], taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians." (Health & Saf. Code, §§ 120325, subd. (a)(11), 120335, subd. (b)(11); see also *id.* at § 131051, subd. (a)(3)(J).) However, because the addition of a new mandate via this "catch all" provision "disrupts the careful balancing of the various rights involved" in the legislative process, the Legislature decided to maintain the "personal beliefs" exemption for new vaccination requirements added by the DPH. (*Id.* at § 120338; Sen. Com. on Judiciary, Analysis of Sen. Bill No. 277 (2015–2016) as amended Apr. 22, 2015, pp. 17–18.)

The DPH is charged with adopting and enforcing regulations to carry out the vaccination requirements. (Health & Saf. Code, § 120330; see Cal. Code Regs., tit. 17, § 6000 et seq.) The DPH has not added COVID-19 as a required vaccine under the "catch all" provision, which would need to include a personal belief exemption. (Cal. Code Regs., tit. 17, § 6025; see Health & Saf. Code, § 120338.) Rather, DPH regulations state that a school "shall unconditionally admit or allow continued attendance" to any student who has either received each of 10 enumerated vaccines or obtained an exemption. (*Ibid.*, emphasis added; see also *Puerta v. Torres* (2011) 195 Cal.App.4th 1267, 1272 ["The term 'shall' is mandatory"].)

Vaccination requirements do not apply to students who are enrolled in an independent study program and not receiving classroom-based instruction. (Health & Saf. Code, § 120335, subd. (f).) However, the decision to participate in independent study must be voluntary. (See Educ. Code, §§ 51747, subds. (f), (g)(8), 51749.5, subd. (a)(9), (12), 51749.6, subd. (a)(6); Cal. Code Regs., tit. 5, § 11700, subd. (d).) Thus, if students have received all 10 vaccinations, a school district cannot force or coerce them into non-classroom-based independent study.

In light of the above, it is clear that SDUSD's Roadmap attempts to impose an additional requirement in a field that the Legislature fully occupies through Health and Safety Code section 120325 et seq. The Legislature intended a statewide standard for school vaccination requirements and established a detailed scheme. The Legislature expressly contemplated the addition of new vaccine mandates without further legislative action, but assigned that responsibility to the DPH, taking into account recommendations from other relevant agencies and organizations and mandating that those new mandates include a personal belief exemption. The statutory scheme leaves no room for each of the over 1,000 individual school districts to impose a patchwork of additional vaccine mandates, including those like the Roadmap that lack a personal belief exemption and therefore are even stricter than what the DPH could itself impose upon learned consideration.

SDUSD is correct that certain statutes contemplate school districts administering vaccines in cooperation with local health officers to help prevent and control communicable diseases in school age children, including "diseases that represent a current or potential outbreak as declared by a federal, state, or local public health officer," provided the district has received parental consent. (See Educ. Code, § 49403; see also Health & Saf. Code, §§ 120375, subd. (d), 120380.) However, the Roadmap was not enacted to cooperate with the local health officer, and more to the point, those statutes do not detract from the Legislature's intent to occupy the field of mandating a specific vaccine for school age children.

SDUSD's Roadmap also attempts to impose an additional requirement that directly conflicts with California Code of Regulations, title 17, section 6025 and the above referenced provisions of Education

Code section 51745 et seq. SDUSD is required to admit students and allow their continued in-person attendance as long as they have received the 10 enumerated vaccines. SDUSD's attempt to impose an additional vaccine mandate and force students (both new and current) who defy it into non-classroom-based independent study directly conflicts with state law.

The sole function of this Court is to determine whether the Roadmap is preempted by state law. SDUSD's Roadmap appears to be necessary and rational, and the district's desire to protect its students from COVID-19 is commendable. Unfortunately, the field of school vaccine mandates has been fully occupied by the State, and the Roadmap directly conflicts with state law. The addition of a COVID-19 vaccine mandate without a personal belief exemption must be imposed by the Legislature. Accordingly, this Court is compelled to **GRANT** the petitions for writ of mandate.

IT IS SO ORDERED:



Judge John S. Meyer

EXHIBIT B



Board of Education Report

File #: Rep-091-21/22, **Version:** 2

Proposed Resolution Requiring COVID-19 Vaccinations for Eligible Students

September 9, 2021

Office of the Superintendent

Action Proposed:

Approve the “Superintendent’s Resolution Requesting the Board of Education of the Los Angeles Unified School District to Require COVID-19 Vaccination for Eligible Students” (“Resolution”). The proposed Resolution would require all Los Angeles Unified School District (“LAUSD” or “District”) and charter school students on co-located LAUSD school facilities who are eligible to receive the COVID-19 vaccine, excluding those students with qualified and approved exemptions and conditional admissions, to become vaccinated and provide proof of vaccination pursuant to the timeline outlined below and within the Resolution as a mandatory precondition to accessing LAUSD school facilities. The proposed Resolution would ensure student vaccination records and information are maintained securely and confidentially; implement reasonably necessary measures to ensure equitable access to and accurate information about the COVID-19 vaccine; monitor LAUSD’s testing and vaccination data for allowable exemptions for vaccinated students to COVID-19 testing requirements; and be adopted as part of LAUSD’s policies and practices as they relate to LAUSD and co-located charter schools, and as part of LAUSD’s health, safety, and emergency procedures and requirements applicable to facilities and related operations. All references in this Board Report to “LAUSD and charter school students on co-located LAUSD school facilities” (or similar) means and applies to (1) students attending LAUSD schools, and (2) students attending charter schools on co-located LAUSD school facilities.

Background:

Los Angeles Unified School District is the second largest school district in the country, enrolling more than 600,000 students from Pre-K through the adult education, operating approximately 1,200 schools throughout the Los Angeles area, overseeing 278 affiliated and independent charter schools within its jurisdiction, and sharing LAUSD facilities with charter schools that serve tens of thousands of students in TK/K through grade 12.

The World Health Organization (WHO), United States Centers for Disease Control and Prevention (CDC), and the State of California including the California Department of Public Health (CDPH), and the Los Angeles County Department of Public Health (LACDPH) have recognized that the country, state, and county face a life-threatening pandemic caused by the COVID-19 virus. The COVID-19 pandemic and the national, state, and local orders responding to same have caused considerable challenges for public schools, including but not limited to the closure of all LAUSD school facilities for in-person instruction and resulting in distance learning program implemented by LAUSD through most of the 2020-21 school year. Although LAUSD has returned to in-person instruction for students who choose to return and has implemented high standard of multi-layered safety measures which are effective at mitigating the spread of COVID-19, including COVID-19 testing, masking, ventilation, screening, high quality sanitation measures, and requirement for all employees to be vaccinated, COVID-19 remains a material threat to the health and safety of all students within the LAUSD community, and is a further threat to continuous in-person instruction.

Recent CDC studies indicate that infection and hospitalization rates among unvaccinated persons were 4.9 and 29.2 times, respectively, than those in fully vaccinated persons and that authorized vaccines were protective against SARS-CoV-2 infection and severe COVID-19 during a period when transmission of the Delta variant was increasing.

According to a study published by the CDC using data from the Coronavirus Disease 2019-Associated Hospitalization Surveillance Network (COVID-NET), pediatric hospitalizations for adolescents aged 0-17 were evaluated from March 1, 2020-August 14, 2021, and showed that pediatric hospitalization rates were 5 times higher in August 2021 compared to June 2021, and further, that the hospitalization rate among *unvaccinated* adolescents (aged 12-17 years) was 10 times higher than that among fully vaccinated adolescents.

Further studies have shown that emergency department visits and hospital admissions are higher in states with lower population vaccination coverage and emergency department visits and hospital admissions are lower in states with higher vaccination coverage (Siegel DA, Reses HE, Cool AJ, et al. Trends in COVID-19 Cases, Emergency Department Visits, and Hospital Admissions Among Children and Adolescents Aged 0-17 Years - United States, August 2020-August 2021).

In addition to statements made by the State Superintendent of Public Instruction and the Los Angeles County Department of Public Health Director in support of COVID-19 vaccination among eligible students, Dr. Anthony Fauci has also made public statements in support of COVID-19 vaccination for eligible students as a safety measure in schools.

With the return to full-time, in-person instruction for all students choosing to return to LAUSD school facilities for the 2021-22 school year, continued high COVID-19 transmission rates due to the surge of the Delta variant and high rates of cases among school age children due to transmission, vaccination of all eligible and non-exempt students provides the strongest protection to the health and safety of all students and staff in the LAUSD school communities.

Expected Outcomes:

Should the Board of Education adopt the Resolution, Superintendent and her designees will implement reasonably necessary measures requiring all LAUSD and charter school students on co-located LAUSD facilities who are eligible to receive the COVID-19 vaccine, excluding those students with qualified and approved exemptions under LAUSD's existing immunization policies, to become vaccinated as a mandatory precondition to accessing LAUSD school facilities, as follows:

- All students who are 12 years of age and older and are part of in-person extracurricular programs must receive their first vaccine dose by no later than October 3, and their second dose by no later than October 31, 2021;
- All students who are 12 years of age and older must receive their first vaccine dose by no later than November 21, 2021 and their second dose by no later than December 19, 2021;
- All other students must receive their first vaccine dose by no later than 30 days after their 12th birthday, and their second dose by no later than 8 weeks after their 12th birthday.

Board Options and Consequences:

If the Board of Education adopts the Resolution, all LAUSD and charter school students on co-located District school facilities who are eligible to receive the COVID-19 vaccination, excluding those students with qualified and approved exemptions and as aligned with conditional admissions policies, will be required to become vaccinated and provide proof of vaccination as a mandatory precondition to accessing LAUSD school facilities. If the Resolution is not adopted by the Board of Education, the COVID-19 vaccination items in the Resolution will not be required at this time. Staff will continue all efforts to provide equitable access to COVID-19 vaccinations.

Policy Implications:

As a local educational agency and agency of the state, the District has the obligation to implement educational policies, operate public schools, and safeguard the educational, health and safety needs of all LAUSD students, staff and communities within its geographic boundaries. Further, LAUSD policies and practices relating to charter schools, and health, safety, and emergency procedures and requirements applicable to facilities and related operations, require co-located charter schools to comply with the Resolution as a condition of occupancy of LAUSD facilities. Student vaccination records and information will be maintained securely and confidentially in accordance with all laws governing the privacy of student health information and other student records.

Budget Impact:

Per CDC, the COVID-19 vaccine is available to everyone at no cost, regardless of insurance or immigration status. Administrative costs for implementing the requirement are covered within the existing Path to Recovery budget for the 2021-2022 fiscal year.

Student Impact:

Adoption of the Resolution will result in the safest school environments possible and minimize disruption to full-time, in-person instruction brought about by the COVID-19 pandemic.

Issues and Analysis:

The COVID-19 pandemic and the national, state, and local orders have caused considerable challenges for public schools, including but not limited to the closure of all LAUSD school facilities for in-person instruction and resulting in distance learning for most of the 2020-21 school year. Although LAUSD returned to full-time, in-person instruction for all LAUSD and charter school students choosing to return to LAUSD school facilities for the 2021-22 school year, COVID-19 continues to pose a material threat to the health and safety of all students within the LAUSD community despite the implementation of layered mitigation measures, including, but not limited to, COVID-19 testing and masking. The surge of the Delta variant and community transmission of COVID-19, including among school age children, has proven to be disruptive to full-time, in-person instruction and student learning. In light of the effectiveness and safety of the COVID-19 vaccines, the CDC, CDPH, and LACDPH have deemed the vaccine appropriate by unanimously recommending that all eligible persons be vaccinated, including children 12 years of age and older. Accordingly, although LAUSD has implemented the highest safety measures to mitigate the spread of COVID-19 at schools, vaccination of all eligible and non-exempt students provides the strongest protection to the health and safety of all students and staff in the LAUSD school communities.

Attachments:

Attachment A - Superintendent's Resolution Requesting the Board of Education of the Los Angeles Unified School District to Require COVID-19 Vaccination for Eligible Students.

Informatives:
Not Applicable.

Submitted:
9/9/2021

RESPECTFULLY SUBMITTED,



MEGAN K. REILLY
Interim Superintendent

APPROVED & PRESENTED BY:



PEDRO SALCIDO
Interim Deputy Superintendent
Office of the Deputy Superintendent

REVIEWED BY:



DEVORA NAVERA REED
General Counsel

Approved as to form.

REVIEWED BY:



TONY ATIENZA
Director, Budget Services and Financial Planning

Approved as to budget impact statement.

**LOS ANGELES UNIFIED SCHOOL DISTRICT
SUPERINTENDENT’S RESOLUTION REQUESTING THE BOARD OF EDUCATION
OF THE
LOS ANGELES UNIFIED SCHOOL DISTRICT TO REQUIRE
COVID-19 VACCINATION FOR ELIGIBLE STUDENTS**

WHEREAS, the Los Angeles Unified School District (LAUSD) is both a local educational agency as well as an agency of the state for purposes of implementing educational policy and operation of public schools to safeguard the educational, health and safety needs of Los Angeles Unified’s students and community as a whole within its geographic boundaries;

WHEREAS, LAUSD is charged by law to ensure appropriate public education for all students residing within its boundaries and is obligated to ensure the health and safety of all students within its schools and facilities;

WHEREAS, LAUSD has a constitutional mandate obligation to deliver the highest-quality instruction in the safest environment possible;

WHEREAS, the American Academy of Pediatrics recommend the COVID-19 vaccine for all persons over 12 years of age and stated that “Children learn best when physically present in the classroom. But children get much more than academics at school. They also learn social and emotional skills at school, get healthy meals and exercise, mental health support and other services that cannot be easily replicated online;”

WHEREAS, LAUSD is the second largest school district in the country, enrolling more than 600,000 students from Pre-K through its adult education program, operating approximately 1,200 schools throughout Los Angeles area, overseeing 278 affiliated and independent charter schools within its jurisdiction, and sharing LAUSD facilities with charter schools that serve tens of thousands of students in TK/K through grade 12;

WHEREAS, LAUSD has implemented high standard of multi-layered safety measures including COVID-19 testing, masking, ventilation, screening, high quality sanitation measures, and requirement for all employees to be vaccinated, to mitigate the spread of COVID-19 in the school community;

WHEREAS, the above safety measures are effective at mitigating the spread of COVID-19, but vaccination of all eligible and non-exempt students provide the strongest protection to the health and safety of all students and staff in the LAUSD school communities while further protecting against the disruption to full-time, in-person instruction;

WHEREAS, after closure of all LAUSD school facilities for in-person instruction and distance learning through most of the 2020-2021 school year, LAUSD has returned to full-time, in-person instruction for all students choosing to return to LAUSD school facilities for the 2021-22 school year subject to health and safety mitigation measures;

WHEREAS, the World Health Organization (WHO), United States Centers for Disease Control and Prevention (CDC), and the State of California including the California Department of Public Health (CDPH), and the Los Angeles County Department of Public Health (LACDPH) have recognized that the country, state, and county face a life-threatening pandemic caused by the COVID-19 virus;

WHEREAS, COVID-19 rates increased in July-August of 2021 due to the surge of the Delta variant including increasing rates of COVID-19 cases among school age children;

WHEREAS, in recent weeks, the percentage of children hospitalized after testing positive for COVID-19 has been disproportionately rising, indicating that children are at a greater risk from contracting the Delta variant due to high transmission rates with possibility of long-term symptoms from COVID-19;

WHEREAS, COVID-19 is a material threat to the health and safety of all students within the LAUSD community, and is a further threat to the successful return to continuous in-person instruction;

WHEREAS, several vaccines against COVID-19 have been developed that have been demonstrated to be effective in reducing the spread of COVID-19 as well as the severity of COVID-19 for breakthrough cases, preventing nearly all COVID-19 related hospitalizations; and recent CDC studies indicate that infection and hospitalization rates among unvaccinated persons were 4.9 and 29.2 times, respectively, than those in fully vaccinated persons; and, that authorized vaccines were protective against SARS-CoV-2 infection and severe COVID-19 during a period when transmission of the Delta variant was increasing;

WHEREAS, in light of the effectiveness and safety of the COVID-19 vaccines, the CDC, CDPH, and LACDPH have deemed the vaccine appropriate by unanimously recommending that all eligible persons be vaccinated, including children 12 years of age and older;

WHEREAS, the State Superintendent of Public Instruction and the Los Angeles County Department of Public Health Director support COVID-19 vaccination among all eligible and non-exempt students;

WHEREAS, LAUSD school facilities are shared with students who attend charter schools, which as a condition of occupancy and use are required to comply with, among other things, facilities agreements, applicable laws and regulations, LAUSD policies and practices relating to charter schools, and health, safety, and emergency procedures and requirements applicable to facilities and related operations; and,

WHEREAS, based upon the foregoing, the Superintendent brings forward this Resolution for Board of Education action to adopt the requirement that all eligible, non-exempt LAUSD students and charter school students in co-located LAUSD facilities receive the COVID-19 vaccination as a condition to accessing in-person instruction in order to best ensure the health and safety of all students, staff, and community and best protect against future disruptions to full-time, in-person instruction threatened by the COVID-19 pandemic.

IT IS HEREBY RESOLVED that to ensure the continued delivery of the highest-quality public instruction in the safest environment possible, the Board of Education approves the Superintendent to implement reasonably necessary measures requiring all LAUSD and charter school students on co-located school sites who are eligible to receive the COVID-19 vaccine, excluding those students with qualified and approved exemptions and conditional admissions under LAUSD's existing immunization policies, to become vaccinated against COVID-19 as a mandatory precondition to accessing LAUSD school facilities, as follows:

- All students who are 12 years of age and older and are part of in-person extracurricular programs must receive their first vaccine dose by no later than October 3, and their second dose by no later than October 31, 2021;
- All students who are 12 years of age and older must receive their first vaccine dose by no later than November 21, 2021 and their second dose by no later than December 19, 2021;
- All other students must receive their first vaccine dose by no later than 30 days after their 12th birthday, and their second dose by no later than 8 weeks after their 12th birthday.

IT IS FURTHER RESOLVED that the Superintendent is given approval by the Board of Education to require all students eligible to receive the COVID-19 vaccine and subject to the timeline outlined above to provide proof of vaccination uploaded and approved in LAUSD's Daily Pass program before January 10, 2022, in order to be permitted on LAUSD school facilities, except for those students with qualified and approved exemptions and conditional admissions.

IT IS FURTHER RESOLVED that the Board of Education approves the Superintendent, to ensure student vaccination records and information are maintained securely and confidentially in accordance with all laws governing the privacy of student health information and other student records.

IT IS FURTHER RESOLVED that the Board of Education and Superintendent are committed to ensuring all students have access to the COVID-19 vaccine and, therefore, the Board of Education directs the Superintendent to implement reasonably necessary measures to ensure equitable student access to the COVID-19 vaccine and provide LAUSD's students and families accurate information about the vaccine.

IT IS FURTHER RESOLVED that the Board of Education directs the Superintendent to monitor LAUSD's testing and vaccination data and determine when to allow an exemption for vaccinated students to LAUSD's current weekly COVID-19 testing requirement.

IT IS FURTHER RESOLVED that the Governing Board of the Los Angeles Unified School District adopts this Resolution as part of LAUSD's policies and practices as they relate to LAUSD and charter schools that are co-located on District sites, and as part of LAUSD's health, safety, and emergency procedures and requirements applicable to facilities and related operations.

IT IS FURTHER RESOLVED that all references in this Resolution to “LAUSD and charter school students on co-located LAUSD school facilities” (or similar) means and applies to (1) students attending LAUSD schools, and (2) students attending charter schools on co-located LAUSD school facilities.

ADOPTED, SIGNED and APPROVED by the Board of Education of the Los Angeles Unified School District on the ___ day of September, 2021, by the following vote:

Board Member	Ayes	Noes	Abstain	Absent
George McKenna				
Monica Garcia				
Scott Schmerelson				
Nick Melvoin				
Jackie Goldberg				
Kelly Gonez				
Tanya Ortiz Franklin				
Parishi Kanuga (advisory only)				
Total:				

President of the Board of Education of the
Los Angeles Unified School District

Attested to:

Clerk of the Board of Education of the
Los Angeles Unified School District

EXHIBIT C

California Becomes First State in Nation to Announce COVID-19 Vaccine Requirements for Schools

Published: Oct 01, 2021

After implementing first-in-the-nation school masking and staff vaccination measures, California becomes the first state to announce plans to require student vaccinations – adding the COVID-19 vaccine to list of vaccinations required for school, such as the vaccines for measles, mumps, and rubella

Students will be required to be vaccinated for in person learning starting the term following FDA full approval of the vaccine for their grade span (7-12 and K-6).

SAN FRANCISCO – At a school in San Francisco, Governor Newsom announced plans to add the COVID-19 vaccine to the list of vaccinations required to attend school in-person when the vaccine receives full approval from the Food and Drug Administration (FDA) for middle and high school grades, making California the first state in the nation to announce such a measure. Following the other [first-in-the-nation school masking and staff vaccination measures](#), Governor Newsom announced the COVID-19 vaccine will be required for in-person school attendance—just like vaccines for measles, mumps, rubella and more.

“The state already requires that students are vaccinated against viruses that cause measles, mumps, and rubella – there’s no reason why we wouldn’t do the same for COVID-19. Today’s measure, just like our first-in-the-nation school masking and staff vaccination requirements, is about protecting our children and school staff, and keeping them in the classroom,” said Governor Newsom. “Vaccines work. It’s why California leads the country in preventing school closures and has the lowest case rates. We encourage other states to follow our lead to keep our kids safe and prevent the spread of COVID-19.”

Thanks to the state’s bold public health measures, California continues to maintain the [lowest case rate in the entire country](#) and is one of only two states to have [advanced out of the CDC’s ‘high’ COVID transmission](#) category. More information about the announcement can be found [here](#).

The vast majority of school districts have reported that over 95% of students have returned to in-person instruction this school year, as can be seen on the state’s [Student Supports & In-Person Dashboard](#). Thanks to unprecedented resources and public health measures ([measures shown to be highly effective](#)), California is [leading national trends in preventing school closures](#) and keeping kids in classrooms, accounting for only 14 out of over 2,000 school closures nationwide, or roughly 0.7% – despite the fact that California educates an estimated 12% of the nation’s public school students. If California’s rates had aligned with national trends, the state would have seen upwards of 240 school closures.

In order to further protect students and staff and continue supporting a safe return to in-person instruction for all students, the Governor directed the California Department of Public Health (CDPH) to follow the procedures established by the Legislature to add the COVID-19 vaccine to other vaccinations required for in-person school attendance—such as measles, mumps, and rubella—pursuant to the Health and Safety Code. COVID-19 vaccine requirements will be phased-in by grade span, which will also promote smoother implementation.

Upon full FDA approval of age groups within a grade span, CDPH will consider the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians prior to implementing a requirement. Following existing statute, full approval of ages 12+ corresponds to grades 7-12, and full approval of ages 5-11 corresponds to grades K-6. Students who are under the age of full approval, but within the grade span, will be required to be vaccinated once they reach the age of full approval (with a reasonable period of time to receive both doses), consistent with existing procedures for other vaccines. The requirement will take effect at the start of the term following full approval of that grade span, to be defined as January 1st or July 1st, whichever comes first. Based on current information, the requirement is expected to apply to grades 7-12 starting on July 1, 2022. However, local health jurisdictions and local education agencies are encouraged to implement requirements ahead of a statewide requirement based on their local circumstances.

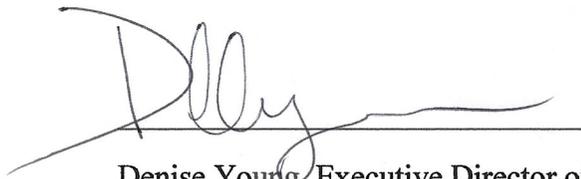
Governor Newsom’s historic [\\$123.9 billion Pre-K and K-12 education package](#) is providing an unprecedented level of school and student funding to transform the state’s public schools into gateways of equity and opportunity, supporting the potential of every California student by: achieving universal transitional kindergarten for four-year-olds by 2025, expanding afterschool and summer programs, providing universal free school nutrition, increasing the number of well-prepared staff per pupil, creating full-service community schools to support the mental and social-emotional well-being of students, and more.

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VERIFICATION

I, Denise Young, am the Executive Director of Petitioner Children's Health Defense, California Chapter and I am a resident of the County of Los Angeles, State of California. I have read the foregoing Verified Amended Petition for Writ of Traditional and Administrative Mandate and Complaint for Declaratory and Injunctive Relief, I have personal knowledge of the facts alleged herein, and I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 1 day of February 1, 2022, in Santa Monica California.



Denise Young, Executive Director of
Children's Health Defense, California
Chapter, Petitioner

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VERIFICATION

I, Amy Bohn, am the President of Petitioner Protection of the Educational Rights of Kids, Inc. (“PERK”) and I am a resident of the County of Ventura, State of California. I have read the foregoing Verified Amended Petition for Writ of Traditional and Administrative Mandate and Complaint for Declaratory and Injunctive Relief, I have personal knowledge of the facts alleged herein, and I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 1st day of February 2022, in Newbury Park, California.



Amy Bohn, President of Protection of the Educational Rights of Kids, Inc, Petitioner

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and
3 not a party to the within action. My business address is 3421 Via Oporto, Ste. 201, Newport Beach,
4 California 92663.

5 On February 1, 2022, I served the following documents on all interested parties in the following
6 manners(s): **FIRST AMENDED PETITION AND COMPLAINT**

7 Sue Ann Salmon Evans
8 Keith A. Yeomans
9 William G. Ash
10 DANNIS WOLIVER KELLEY
11 444 W. Ocean Blvd., Suite 1070
12 Long Beach, CA 90802
13 Tel: (562) 366-8500
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15 sevans@DWKesq.com
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17 wash@DWKesq.com

18 Counsel for Respondent *LAUSD*,
19 *Superintendent Reilly, Board Members*
20 *McKenna, Garcia, Schmerelson, Melvoin,*
21 *Goldberg, Gonez, Franklin*

22 Scott J. Street (SBN 258962)
23 JW HOWARD/ATTORNEYS,
24 LTD.
25 777 S. Figueroa Street, Suite 3800
26 Los Angeles, CA 90017
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Attorney for *Petitioners*
CHILDREN'S HEALTH
DEFENSE-CALIFORNIA
CHAPTER, a California 501(c)(3)
non-profit corporation; and
PROTECTION FOR THE
EDUCATIONAL RIGHTS OF
KIDS, a California 501(c)(3) non-
profits corporation

18 **/X/ Via Electronic Transmission.** ONLY BY ELECTRONIC TRANSMISSION. I caused to
19 be transmitted a true and correct copy of the above-entitled document(s) to recipients noted
20 via electronic service at the recipient's office. Electronic service is proper and authorized by
21 California Rule of Court 2.251 and *Code of Civil Procedure* § 1010.6. Hard copies will not
22 follow by mail, unless specifically requested.

23 **/ / By Personal Service.** I delivered such envelope by hand to the addressee on _____

24 **/X/ State.** I declare under penalty of perjury under the laws of the State of California that the
25 above is true and correct.

26 Executed on February 1, 2022, at Los Angeles, California.

27 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and
28 correct.

Michelle Cusumano _____

