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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Rutgers Defeats Challenge To COVID-19 Vaccine Mandate

By **Bill Wichert**

Law360 (September 22, 2022, 7:27 PM EDT) -- A New Jersey federal judge on Thursday tossed a lawsuit from Rutgers University students and **an anti-vaccine group** challenging the institution's COVID-19 vaccine mandate, finding that the school was permitted to implement the policy to help curb the spread of the disease.

U.S. District Judge Zahid N. Quraishi granted the university's **motion to dismiss** the first amended complaint from 10 named students, six anonymous ones and the nonprofit Children's Health Defense Inc. alleging that the policy of requiring students to be vaccinated against COVID-19 before returning to campus last fall was "illegal and unconstitutional."

The judge noted that vaccination requirements are "well established in the law, with approval from the United States and New Jersey Supreme Courts."

"Rutgers undoubtedly has a legitimate interest in protecting the members of its broad community from a potentially deadly disease and in trying to prevent more of the massive disruptions that COVID-19 caused for three semesters prior to Fall 2021," Judge Quraishi said in his **opinion**.

Among his findings, the judge rejected the plaintiffs' assertion that there isn't a state statute that allows Rutgers to require that students prove they received a COVID-19 vaccine in order to attend the school.

The judge cited a particular state statute and state regulation that he said requires the university to secure proof from students that they received certain immunizations and enables Rutgers to mandate other vaccines recommended by the federal Advisory Committee on Immunization Practices.

"Thus, by requiring COVID-19 vaccination as a condition to enrollment — less exemptions — Rutgers is not only looking at the best interests of its student population but is also required to do so by state law," Judge Quraishi said.

The judge cited such religious and medical exemptions available under the university's policy in brushing aside the plaintiffs' position that Rutgers is **coercing students** to accept "experimental vaccines."

The policy "simply requires students to either accept the COVID-19 vaccine or satisfy one of the policy's exemptions," the judge said.

"Students can thus get vaccinated, prove that they are exempted, or apply elsewhere," the judge said.

Further, Judge Quraishi concluded that the claims of each of the suing students except one are mooted because they received religious exemptions. Those plaintiffs "have not suffered any actual or imminent injury and instead base their claims on their fear of future potential harm," according to the judge.

A Rutgers representative did not immediately respond to a request for comment Thursday.

Julio C. Gomez of Gomez LLC, representing the plaintiffs, told Law360 on Thursday in a statement,

"We all have a fundamental right to informed consent and to refuse unwanted medical treatment, particularly jabs with experimental vaccines which are not effective at preventing infection or transmission of COVID-19 and were never proven safe. Plaintiffs are disappointed that the court ignored that right, ignored the allegations in the complaint that COVID vaccines do not work and are not safe, and ignored the real-world experience we now possess that vaccines did nothing to stop the spread of COVID-19 and have injured thousands of people."

"Colleges and universities do not and should not possess the legal authority to mandate experimental vaccines, especially those colleges and universities like Rutgers that have financial skin in the game and are working with the vaccine manufacturers to develop and test these experimental products with no liability and no accountability. Plaintiffs will appeal this decision," Gomez added.

The plaintiffs are represented by Julio C. Gomez of Gomez LLC, Susan C. Judge of Judge Law LLC and Mary Holland and Ray Flores of Children's Health Defense Inc.

Rutgers is represented by Jeffrey S. Jacobson, Andrew B. Joseph and W. Joshua Lattimore of Faegre Drinker Biddle & Reath LLP.

The case is Children's Health Defense Inc. et al. v. Rutgers, the State University of New Jersey et al., case number 3:21-cv-15333, in the U.S. District Court for the District of New Jersey.

--Editing by Kelly Duncan.

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