

**URGENT REQUEST TO GOVERNOR GAVIN NEWSOM TO RESCIND THE
COVID-19 VACCINE MANDATE FOR PUBLIC AND PRIVATE K-12 STUDENTS AS A
REQUIREMENT FOR IN-PERSON INSTRUCTION**

WHEREAS, The _____ School District (____ city____), serving over (____ number of students ____) students in (____ city____), has been a leader in getting students back in the classroom while; and

WHEREAS, on October 1, 2021, California Governor Gavin Newsom directed the California Department of Public Health (CDPH) to add COVID-19 vaccines to others required for in-person school attendance pursuant to Cal.Health and Safety Code (HSC) section 120335(b)(11), pursuant to which the COVID-19 vaccines would require FDA approval and would, under HSC section 120338 be subject to personal belief exemptions; and

WHEREAS, on January 24, 2022, Senate Bill 871 was proposed by Senator Richard Pan to repeal HSC 120338 regarding personal belief exemptions entirely and add “COVID-19” to the diseases against which immunization would be required as a condition for in-person school attendance, without requiring that such immunization be FDA-approved; and

WHEREAS, also on January 24, 2022, Senate Bill 866 was proposed by Senators Scott Weiner and Richard Pan to enable a minor 12 years of age or older to consent to receipt of an FDA-approved vaccine without the consent of the parent or guardian of the minor; and

WHEREAS, as the Board of Trustees for the (_____) School District, we are bound to protect the health and well-being of our students pursuant to the doctrine of Loco Parentis wherein school officials “stand in the place of parents, to their students, with similar powers and responsibilities.” (Hoff v. Vacaville Unified School Dist. (1998) 19 Cal.4th 925, 935.) Thus, school districts may take such action as “reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning.” (Austin B. v. Escondido Union School Dist. (2007) 149 Cal.App.4th 860, 874, citing Ed. Code, § 44807.) Furthermore, the child’s physical safety is

entrusted to the school and to the teacher, who thus become legally liable for the child's safety, insofar as negligence can be proved against them. The common law of Loco Parentis further defines that the duty to protect students includes a duty to *anticipate foreseeable dangers* and to *take responsible steps to protect those students from that foreseeable danger*; and

WHEREAS, Education Code section 35160 imbues boards of education with the authority to “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.” (Ed. Code, § 35160.) This broad grant of decision-making authority flows from an amendment to the California Constitution which had “the effect of allowing the Legislature to delegate increased decision-making authority to local school boards.” (Mendoza, supra, 149 Cal.App.4th at 1042 fn. 4; see also, Cal. Const., art. IX, § 14 [“The Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes for which school districts are established”].) “Prior to the effective date of section 35160, local school districts possessed little, if any, power to act (Hartzell v. Connell (1984) 35 Cal.3d 899, 915.) The Legislature made an affirmative effort to vest governing boards of school districts with extensive decision-making authority. The health and welfare of public schools are inarguably within the scope of a school district's educational responsibility and well within the ambit of the purpose for which school districts are established; and

WHEREAS, the California Constitution itself obligates school districts to provide a safe school environment. (Cal. Const., art. I, § 28(a)(7) & (f)(1).) Beyond its constitutional obligations, a school district may adopt measures which not only impact its schools but are consistent with the health and welfare of the wider school community, a community which has a direct impact on the students themselves; and

WHEREAS, pursuant to the Center for Disease Control (“CDC”), the survival rate of children ages 0-18 years with COVID-19 is 99.99997% (<https://covid.cdc.gov/covid-data-tracker/#demographics>) and, since January 2020, those children that did regrettably pass all had pre-

existing conditions pursuant to by a study conducted by Dr. Marty Makary of John's Hopkins Hospital (<https://www.medpagetoday.com/opinion/marty-makary/93029>). In other words, not one healthy child has died from COVID-19 to date; and

WHEREAS, pursuant to the CDC and its Director, COVID vaccines do not prevent infection or transmission of COVID-19. (August 6, 2021) <https://www.cnn.com/2021/08/05/health/us-coronavirus-thursday/index.html>; <https://www.youtube.com/watch?v=TKFWGvvIVLI>). Pursuant to a study conducted by Harvard School of Public Health, published on September 30, 2021, increases in vaccinated people did not reduce occurrences of COVID-19 as seen in 68 countries and 2947 counties in the United States. In fact, the study found that the countries that had higher rates of vaccination also had higher rates of COVID-19 cases suggesting a causal relationship that vaccines may be causing increases in the spread of COVID-19. (<https://link.springer.com/article/10.1007/s10654-021-00808-7>; See also, San Diego Study yielding similar results: <https://www.nejm.org/doi/full/10.1056/NEJMc2112981>). Accordingly, because the vaccines do not prevent transmission of COVID-19, they are not promoting public health or safety. Hence, the vaccines are no more than a personal medical treatment and the Federal and State Constitutions prohibit any governing body from mandating them or enforcing such mandate by any other governing body. [People have an inalienable right to choose their own medical treatment; *Cruzan v. Director, Missouri Department of Health*, 497 U.S. 261 (1990)].

WHEREAS, the CDC lists the following serious adverse events from the COVID vaccine, predominantly present in adolescents and otherwise healthy children, including but not limited to Myocarditis, Pericarditis, Anaphylaxis, Thrombosis with Thrombocytopenia Syndrome, Guillain-Barré Syndrome (GBS), Bell's Palsy and Death; and (<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/adverse-events.html>). Pursuant to the World Health Organization ("WHO"), as of November 12, 2021, there have been 2,457,386 adverse events world-wide, which is over 1,000,000 more cases than all adverse events reported over the last fifty (50) years of all vaccines administered since 1968 combined (www.vigiaccess.org). In fact, people are at

least 1000% more likely to incur injury or die from the COVID vaccines than they are from COVID-19, especially children.

WHEREAS, many parents, including COVID vaccinated parents, do not wish to subject their children to the novel technology of the COVID vaccine for which there is no longitudinal data, yet known severe risks. Especially when children have a statistically 0% risk of injury or death from COVID-19, and the COVID vaccines have failed to prevent infection or transmission of the virus. Moreover, children are not vectors of this virus as all current statistical data shows transfer of the virus from adults to children. Regardless, many parents and Americans alike, refuse to use children to protect adults even if the inverse was true. Such parents have contended that they will not vaccinate their children in the event of the proposed legislative mandate; and

WHEREAS, we believe, given the uncertain risk and definitive lack of benefit of the COVID vaccine, parents should retain the right to exercise this personal medical decision on behalf of their children based on their child's medical background, their own religious and personal beliefs and their child's mental, physical, and sociological health should not be penalized by the State for exercising such freedoms and inalienable rights; and

WHEREAS, we, as a School Board, are prohibited by the California Constitution, as well as the common law doctrine of Loco Parentis, from taking any action that would endanger the health and safety of our students. Pursuant to the aforementioned data, the COVID vaccine poses no benefit, yet substantial risk to the health and safety of children and staff. As such, we cannot enforce the proposed vaccine mandate forcing our students to get the COVID vaccine; and

WHEREAS, we believe forcing our students to get the COVID vaccine constitutes negligence as there is a substantial likelihood of injury from the COVID vaccines to children, hence we could face considerable legal liability if we were to enforce the proposed vaccine mandate; and

WHEREAS, we have a duty to anticipate foreseeable dangers and to take responsible steps to protect those students from that foreseeable danger and we believe that it is foreseeable, based on current scientific data and real-time occurrences, that children may suffer great injury or death at the hands of the COVID vaccine and we cannot be complicit in its enforcement; and

WHEREAS, Education Code section 35160, the California Constitution and standing legal precedence have established that the health and welfare of our students are inarguably within the scope of our educational responsibility and well within the ambit of the purpose for which our school district has been established. Therefore, it is within our legal right to not comply with the proposed vaccine mandate as it conflicts with said duty and responsibility as it jeopardizes the health and safety of our students and refusing to comply with said mandate is reasonably necessary to protect the health and safety of our students; and

WHEREAS, we believe the proposed vaccine mandate will result in large numbers of families choosing to leave traditional in-person K-12 schools. This will significantly and negatively impact the quality of education for children. More importantly, it will cause substantial psychological and emotional damage to children who have already suffered so much during this pandemic and the forced lockdowns. Such injury is evidenced by the multitude of suicides during the past year in children 18 years of age and younger; and

WHEREAS, if families leave traditional K-12 schools, or leave the State of California due to the proposed vaccine mandate, public and private school staff jobs will be lost. Some parents will leave the workforce to provide homeschooling. If a significant number of jobs are disrupted in this manner, it could have a negative effect on the state economy, as it did during the months of “distance learning”; and

WHEREAS, the Governor and CUSD have acknowledged that the best academic and social, emotional outcomes for students come from traditional in-person classroom instruction; and

THEREFORE, BE IT RESOLVED, that while the Board of Trustees of the _____ understands and supports the goals of the Governor and the CDPH to stop the spread of COVID-19, we believe that the Governor’s proposed K-12 student vaccine mandate is ill-advised and in opposition to the educational and social-emotional goals of the State and this District, as well as legal responsibilities of this school board and

BE IT ALSO RESOLVED, that we urge the Governor to rescind the proposed vaccine mandate as a condition of in-person instruction in grades K-12, and

BE IT FINALLY RESOLVED, that the Superintendent of the (_____) School District is directed to transmit this Resolution to Governor Gavin Newsom; Director and State Public Health Officer CDPH, Dr. Tomas J. Aragon; Dr. Mark Ghaly, California Health and Human Services; (Orange County Board of Supervisors; Dr. Clayton Chao, Orange County Health Care Agency (OCHCA)); (Assemblywoman Cottie Petrie-Norris; Assemblywoman Janet Nguyen; Senator David Min; Senator Tom Umberg, and the Orange County Board of Education) to communicate our concerns.

- Add respective Board of Supervisors; County Health Care Agency; Assembly member; Senator; and Board of Education members for your district/county