

VIA FEDERAL EXPRESS

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Dr. Victoria Greer, Superintendent of Cambridge Public Schools
CPS Administrative Offices
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Re: Request to Eliminate Cambridge Public Schools COVID-19 Vaccine Mandate

Dear Superintendent Greer:

On behalf of our client, Informed Consent Action Network (“ICAN”) and its supporters who live in Massachusetts, we write regarding the Cambridge Public School’s (“CPS”) COVID-19 Vaccine requirement. CPS requires all students ages 5 and older to be fully vaccinated in order to participate in CPS-sponsored before and afterschool activities, including athletics, clubs, visual and performing arts programs, and school-sponsored social events.¹ For the following reasons, we request CPS immediately rescind this illegal vaccine mandate. Failure to do so will result in a lawsuit to strike down this mandate in the same manner that our firm brought a lawsuit which resulted in the rescission of the illegal flu shot mandated implemented in 2020 by the Massachusetts Department of Public Health.²

I. CPS’S COVID-19 VACCINE REQUIREMENT IS NOT LEGALLY AUTHORIZED

The authority for school vaccination requirements is derived from Section 15, Chapter 76 of the Massachusetts General Laws (ALM GL ch. 76, § 15), and implemented by the Code of Massachusetts Regulations, 105 CMR 220, *et seq.* ALM GL ch. 76, § 15 provides as follows:

No child shall, except as hereinafter provided, be admitted to school except upon presentation of a physician’s certificate that the child has been successfully immunized **against diphtheria, pertussis, tetanus, measles and poliomyelitis and such other**

¹ See <https://www.cpsd.us/studentvax> (“CPS requires all students ages 5+ to be fully vaccinated in order to participate in CPS-sponsored before and afterschool activities, including athletics, clubs, visual and performing arts programs, and school-sponsored social events.”).

² See *Massoyan-Artinian and Schiltz v. Bharel et al.*, Superior Court Civil Action No. 2084-cv-02924.

communicable diseases as may be specified from time to time by the department of public health.

(Emphasis added).

The Massachusetts Legislature has not listed COVID-19 as one of the diseases against which a vaccine is required and, therefore, it may not be mandated for school children.

Moreover, the regulations provide:

No student shall attend a preschool, elementary school or secondary school program without a certificate of immunization documenting that the child has been **successfully immunized in accordance with current Department required immunization schedules**, developed in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, or any successor committee serving a comparable function.

105 Mass. Reg. 220.500(A) (emphasis added). Notably, the Massachusetts Department of Health does not require the COVID-19 vaccine, as per its Immunization Requirements for School Entry resource.³

Given the fact that a COVID-19 vaccine is neither required by the legislature nor by the Massachusetts Department of Public Health, CPS's COVID-19 vaccine mandate is without legal authority and must be rescinded immediately.

II. COVID-19 VACCINES DO NOT PREVENT TRANSMISSION AND THEREFORE THERE IS NO GOVERNMENT COMPELLING INTEREST TO MANDATE

The data are, and have been, incontrovertibly clear for over a year and a half that COVID-19 vaccines do not protect against infection or transmission. In fact, in July 2021, the CDC Director, Dr. Rochelle P. Walensky, admitted that vaccinated individuals had similarly high viral loads of SARS-CoV-2 as unvaccinated individuals and thus could still contract and spread the Delta variant.⁴ This has been confirmed by countless studies since.⁵ In Feb 2022, a study was published

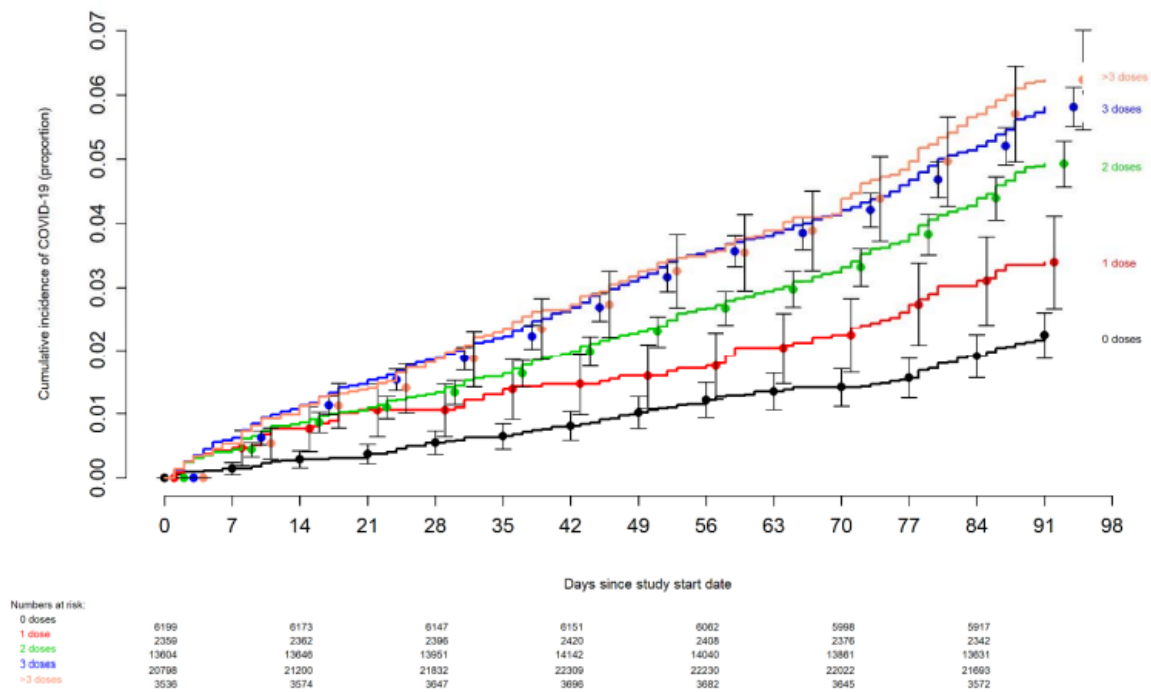
³ Immunization Requirements for School Entry, School Immunizations – Mass.gov, (Last Updated March 4, 2022), <https://www.mass.gov/info-details/school-immunizations#school-and-camp-requirements->.

⁴ *Statement from CDC Director Rochelle P. Walensky, MD, MPH on Today's MMWR*, CDC News Room (July 30, 2021), <https://www.cdc.gov/media/releases/2021/s0730-mmwr-covid-19.html> [https://perma.cc/VR5V-E67A] (“Today, some of those data were published in CDC’s Morbidity and Mortality Weekly Report (MMWR), demonstrating that Delta infection resulted in similarly high SARS-CoV-2 viral loads in vaccinated and unvaccinated people. High viral loads suggest an increased risk of transmission and raised concern that, unlike with other variants, vaccinated people infected with Delta can transmit the virus.”).

⁵ See, e.g., Pnina Shitrit *et al.*, *Nosocomial outbreak caused by the SARS-CoV-2 Delta variant in a highly vaccinated population, Israel, July 2021*, *Eurosurveillance* (Sept. 30, 2021), <https://pubmed.ncbi.nlm.nih.gov/34596015/>;

regarding the infamous July 2021 SARS-CoV-2 Delta outbreak that occurred in Cambridge, Massachusetts. The study showed that the outbreak was driven mostly by vaccinated persons, who consisted of 74% of the cases.⁶ According to that study, “The Delta variant accounted for 99% of cases in this dataset . . . Genomic and epidemiological data supported multiple transmissions of Delta from and between fully vaccinated individuals.”⁷

In fact, the COVID-19 health outcomes for vaccinated individuals has only continued to decline. A recent study of approximately 50,000 workers in the Cleveland Clinic health care system shows, very clearly, that with each dose of COVID-19 vaccine, one’s risk of contracting SARS-CoV-2 increases steadily, as the below figure depicts.⁸ Note that the black line (0 doses) is lower than the red (1 dose), green (2 dose) lines, etc. This data makes it very apparent that **the receipt of each additional booster dose actually increases the risk of COVID-19**. The message could not be any clearer: more COVID-19 vaccines do not lead to better health outcomes and, consequently, CPS’s COVID-19 vaccine mandate for children is not scientifically sound and it lacks a compelling interest to mandate that children receive this product.



Riemersma, Kasen *et al.*, *Shedding of Infectious SARS-CoV-2 Despite Vaccination*, MedRxiv (Aug. 24, 2021), <https://www.medrxiv.org/content/10.1101/2021.07.31.21261387v4.full.pdf>.

⁶ Katherine J.Siddle *et al.*, *Transmission from vaccinated individuals in a large SARS-CoV-2 Delta variant outbreak*, Cell (Feb. 3, 2022), <https://www.sciencedirect.com/science/article/pii/S0092867421014902>.

⁷ *Id.*

⁸ Nabin K. Shrestha, *et al.*, *Effectiveness of the Coronavirus Disease 2019 (COVID-19) Bivalent Vaccine*, Medrxiv (Dec. 19, 2022), https://www.medrxiv.org/content/10.1101/2022.12.17.22283625v1.full.pdf?utm_source=substack&utm_medium=email.

III. COVID-19 VACCINES ARE UNDER EMERGENCY USE AUTHORIZATION FOR YOUNGER STUDENTS

The FDA’s Emergency Use Authorization (“EUA”) authorizations made clear that there is no evidence the COVID-19 vaccines can prevent recipients from becoming infected with and transmitting the virus.⁹ As the FDA explains, at the time of the EUA approval, the data was “not available to make a determination about how long the vaccine will provide protection, **nor is there evidence that the vaccine prevents transmission of SARS-CoV-2** [*i.e.*, the virus that causes COVID-19] **from person to person.**”¹⁰

In fact, the FDA Briefing Documents for the COVID-19 vaccines supporting the grant of an EUA list the following as still **unknown**:

- “[e]ffectiveness in individuals previously infected with SARS-CoV-2,”
- “effectiveness against asymptomatic infection,”
- “effectiveness against long-term effect of COVID-19 disease,”
- “effectiveness against mortality,” and
- “effectiveness against transmission of SARS-CoV-2.”¹¹

The FDA Briefing Documents make clear that there are other more concerning **unknowns** regarding the safety of these products, including,

- “[a]dverse reactions that are very uncommon,”
- adverse reactions “that require longer follow-up to be detected,” and
- whether the vaccines will cause “[v]accine-enhanced disease.”¹²

When responding to an inquiry regarding whether the COVID-19 vaccines can be required, the Executive Secretary of the CDC’s Advisory Committee on Immunization Practices, Dr. Amanda Cohn, publicly stated that “under an EUA, vaccines are **not allowed to be mandatory.**”¹³ Given that the vaccines are not approved for children younger than 16 and do not prevent infection or transmission, there is no compelling governmental interest to mandate the vaccine.

⁹ See <https://www.fda.gov/media/144416/download>, <https://www.fda.gov/media/144673/download>, and <https://www.fda.gov/media/146338/download> (“Data are limited to assess the effect of the vaccine against transmission of SARS-CoV-2 from individuals who are infected despite vaccination.”).

¹⁰ “FDA Takes Additional Action in Fight Against COVID-19 By Issuing Emergency Use Authorization for Second COVID-19 Vaccine” available at <https://www.fda.gov/news-events/press-announcements/fda-takes-additional-action-fight-against-covid-19-issuing-emergency-use-authorization-second-covid> (emphasis added).

¹¹ “FDA Briefing Document Pfizer-BioNTech COVID-19 Vaccine” available at <https://www.fda.gov/media/144245/download>; “FDA Briefing Document Moderna COVID-19 Vaccine” available at <https://www.fda.gov/media/144434/download>; “FDA Briefing Document Janssen COVID-19 Vaccine” available at <https://www.fda.gov/media/146217/download>.

¹² *Id.*

¹³ Advisory Committee on Immunization Practices’ August 26, 2020 Summary Report available at <https://www.cdc.gov/vaccines/acip/meetings/downloads/min-archive/min-2020-08-508.pdf> at 56 (emphasis added).

IV. Action Request

The COVID-19 vaccine requirement for CPS students is *ultra vires*. It is neither mandated by the legislature nor the Massachusetts Department of Public Health. Moreover, the data is overwhelming that COVID-19 vaccines do not prevent contraction or transmission of SARS-CoV-2 and, consequently, a public health policy requiring such a defective product is illogical, unscientific and lacks a compelling governmental interest. Finally, the vaccines remain under EUA for the younger students at CPS, which raises even more concerns regarding mandates.

For these reasons, *inter alia*, we request that CPS rescind its COVID-19 vaccine mandate forthwith. Failure to do so will result in litigation to strike down this mandate. All rights reserved.

Very truly yours,



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