

PUSD Parents Freedom to Choose

October 13, 2021

VIA EMAIL

Poway Unified School District
15250 Avenue of Science
San Diego, CA 92128

Dear PUSD Board and Dr. Marian Phelps:

On behalf of “PUSD Parents Freedom to Choose,” we respectfully submit this letter to express our opposition to any COVID-19 vaccine mandate that the Poway Unified School District Board (“Board”) is currently considering or may consider in the future. In addition, we will be requesting to speak at the upcoming Board meeting scheduled for Thursday, October 14, 2021, on this topic and Governor Newsom’s announcement on October 1, 2021 (“October 1 Announcement”).¹ “PUSD Parents Freedom to Choose” is an organization comprised of parents of students enrolled in the Poway Unified School District (“PUSD”) who oppose a COVID-19 vaccine mandate, and instead believe that parents must have the right to choose what is best for their child. The medical well-being of every child in this district is of course the top priority for all of us.

A. Neither Newsom Nor the PUSD Can Mandate an EUA Vaccine

Currently no FDA-approved COVID-19 vaccine exists anywhere in the United States for any age group, adult or child. The Pfizer BioNTech vaccine, which is the only Pfizer COVID-19 vaccine that people have been receiving in the United States in 2020 and 2021, is still under Emergency Use Authorization (“EUA”). While many political leaders and the media have declared that we now have an FDA-approved COVID-19 vaccine, such statements are patently false and this misinformation has caused much confusion. While the Board has undoubtedly diligently read the FDA’s August 23 approval letter and may not suffer from the same confusion, for anyone who would benefit from clarification, below explains what actually happened with the FDA and the legal ramifications.

On August 23, 2021, the FDA extended the Emergency Use Authorization for the Pfizer BioNTech vaccine, which is the only Pfizer COVID-19 “vaccine” product

¹ <https://www.gov.ca.gov/wp-content/uploads/2021/10/California-Becomes-First-State-in-Nation-to-Announce-COVID-19-Vaccine-to-List-of-Required-School-Vaccinations.pdf>.

that exists in the United States.² In the same letter, the FDA approved a different product, called Comirnaty, recognizing that Comirnaty does not exist in the United States. Indeed, the FDA specifically admits in the letter that the two products are “legally distinct.” In a footnote, however, the FDA states the following:

“the licensed vaccine has the same formulation as the EUA-authorized vaccine and the products can be used interchangeably to provide the vaccination series without presenting any safety or effectiveness concerns. The products are legally distinct with certain differences that do not impact safety or effectiveness.”

While the FDA glosses over the alleged similarities of these two products, **the FDA had the option of approving both products but DID NOT DO SO**. Instead it approved one (Comirnaty) and extended EUA status to the other (BioNTech).

The ramifications of such action is significant. First, because the FDA chose to extend the EUA to BioNTech instead of giving it full approval, BioNTech cannot be mandated, as federal law prohibits the mandate of any EUA product. See 21 U.S.C. Code § 360 bbb-3(e)(1)(A)(ii)(III). The law is clear that, with respect to products designated as emergency use, a person must be given the “option to accept or refuse administration of the product.” See id. State laws cannot circumvent this.

Second, to be clear, even though the FDA makes the perfunctory comment in a footnote that Comirnaty and BioNTech are essentially the same, there is presently no way to know if these two vaccines are the same at all. While the two products might have the same “formulation,” that does NOT mean they are identical products. For example, Coca Cola in the United States might have the same formulation as Coca Cola sold in Mexico, but it is common knowledge that the company changes its products in different countries, that they are not the same, and do not taste the same. The framing of the Pfizer vaccine conversation by many media outlets calling it “just a branding difference” is equally unavailing. We cannot downplay the product distinction by claiming that Pfizer’s two separate products are simply the result of it changing its brand name. Once again, the FDA could have approved both. It did not. Until we can compare *actual* vials of Comirnaty, once they make them, with vials of BioNTech and determine EVERY ingredient in each, absolutely no one, including the FDA, can say these two products are the same.

Third, EUA vaccines and FDA-approved vaccines are treated very differently in the judicial system and are directed through different programs. For EUA vaccines, injured parties have almost no rights, and the manufacturers are fully shielded from liability thanks to the 2005 PREP Act, which provides that all claims must be addressed through the Countermeasures Injury Compensation Program (“CICP”), which is a juryless backlogged program where the injured can recover little or no

² <https://web.archive.org/web/20210824000620/https://www.fda.gov/media/150386/download>.

damages even for severe permanent injury or death. This program is distinguishable from the other more well-known vaccine compensation program established by the 1986 National Childhood Vaccine Injury Act (“NCVIA”), where all other vaccine injuries from FDA-approved vaccine cases go. In sum, the fact that the EUA BioNTech vaccine and the FDA-approved Comirnaty vaccine are not the same legally makes it inappropriate and illegal to force it on our children. Pfizer cannot have its cake and eat it too by touting its vaccine as FDA-approved and benefitting from mandates but also enjoying the “zero liability” CACP court designated only for EUA vaccines.

In sum, no school board anywhere in the United States has the authority to mandate an EUA vaccine. PUSD is no exception. Neither can Governor Gavin Newsom nor can the California Department of Public Health. Federal law takes precedent and, where state law conflicts, the state law is invalid. Any discussion at this time about mandating COVID-19 vaccines is inappropriate. Until the FDA approves a COVID-19 vaccine product that actually exists in the United States, all COVID-19 vaccines for any age group carry the EUA status and cannot be mandated.

B. Valid Concerns Regarding the Dangers of COVID-19 Vaccines Exist

1. Kids Should NOT be Guinea Pigs for Novel mRNA Vaccines

COVID-19 vaccines are not “just another childhood vaccine” to add to the list of mandatory shots, and it is not “just like getting the seasonal flu shot,” as those pushing the vaccines like to say. COVID-19 vaccines are very different.

As a preliminary matter, the construction of the COVID-19 vaccines are novel with an mRNA delivery system using lipid nanoparticles that cause the body to use transfer RNA to assemble amino acids into proteins called spike proteins. Never before have we introduced this kind of “vaccine” to the public in the United States. Every attempt during the last twenty years at making a safe and effective coronavirus vaccine, both veterinary and human, have failed due to problems with antibody dependent enhancement (“A.D.E.”), which is the raising of antibodies that do not protect but rather allow the virus to enter cells and make a viral infection worse.

These COVID-19 vaccines are truly experimental in every sense of the word and, in the short amount of time these COVID-19 vaccines have been available to the general public, adverse events are mounting at alarming rates. The CDC and the media have failed to address this. Until the medical and scientific community can coordinate to get to the bottom of this data and corresponding concerns, we cannot rush to vaccinate innocent children until we are sure that these vaccines are reasonably safe.

2. COVID-19 Vaccine Deaths are Higher Than Any Other Vaccine in History

As of October 1, 2021, approximately 16,000 COVID-19 vaccine deaths have

been reported to the Vaccine Adverse Event Reporting System (“VAERS”), a passive vaccine reporting system run by U.S. health authorities established in 1990.³ Since VAERS only captures about 1% of the actual numbers for vaccine injuries according to a Harvard study,⁴ the actual number of vaccine deaths in the United States from the COVID-19 vaccines is likely well into the hundreds of thousands. The number of “life-threatening events” from the COVID-19 vaccines is even higher according to VAERS, and the number of people “requiring hospitalization” because of the COVID-19 vaccines is more than 70,000.⁵

Alarming, there are more deaths documented on VAERS attributed to COVID-19 vaccines in the last 6 months than deaths from all vaccines *combined* for the last 30 years.⁶ This bears repeating. VAERS data indicates that the total number of deaths attributed to COVID-19 vaccines in the last 6 months alone is almost *double* that of the number of vaccine deaths from a 30-year period combining all the other childhood vaccines together!

Never before have we ever tolerated so many deaths and adverse events with a vaccine. With the Swine Flu vaccine, after vaccinating almost 55 million people, the FDA shut down the vaccine program immediately when the number of deaths reached about 50. Contrast that to COVID-19, where we are only a few months in, and we are almost at 20,000 VAERS vaccine deaths (which again is 1% of the real number). It is beyond comprehension that we have so far exceeded our standard historical death threshold for vaccines by such an astronomical amount and, instead of slamming on the brakes, the government and schools are doing the opposite by threatening to mandate injections for innocent children.

3. The Pfizer Vaccine Causes Myocarditis and Pericarditis in Kids

Pfizer’s own Fact Sheet submitted to the FDA for the BioNTech vaccine admits that myocarditis and pericarditis are recognized adverse events and affect children *more than any other age group*:

“Postmarketing data demonstrate **increased risks of myocarditis and pericarditis**, particularly within 7 days following the second dose. The observed risk is **higher** among males under 40 years of age than among females and older males. The observed risk is

³ <https://vaers.hhs.gov>.

⁴ Harvard Study: “Electronic Support for Public Health–Vaccine Adverse Event Reporting System (ESP:VAERS), Lazarus, <https://digital.ahrq.gov/sites/default/files/docs/publication/r18hs017045-lazarus-final-report-2011.pdf>.

⁵ <https://vaersanalysis.info/2021/10/01/vaers-summary-for-covid-19-vaccines-through-9-24-2021/>.

⁶ <https://vaersanalysis.info/2021/10/01/vaers-summary-for-covid-19-vaccines-through-9-24-2021/>.

highest in males 12 through 17 years of age.”⁷ (emphasis added).

These findings have been confirmed by many others. For example, in an August 30, 2021 paper by Tracy Hoeg, the conclusion was that the chances of being hospitalized for vaccine-induced myocarditis are greater than being hospitalized due to the COVID-19 virus.⁸

4. Concerns about Infertility, Clotting, and Serious Injuries are Rising

Doctors and scientists around the world, with the highest levels of expertise, are sounding the alarm about these COVID-19 vaccines. Now is the time for open communication and sound scientific discourse. Instead, however, these doctors have been silenced, censored and ignored by the regulatory agencies, government and media. For example, Dr. Robert Malone, a physician, scientist and the inventor of mRNA vaccines while at the Salk Institute in San Diego in 1988,⁹ continues to speak out and has made clear that COVID-19 vaccine spike proteins are “cytotoxic” (i.e., they damage and/or destroy living cells) and they not only pass through but actually “open the blood brain barrier.”¹⁰ This, he says, can have devastating effects on the human body because it means that toxins in the body can enter the brain. He joins a legion of other highly-respected physicians and scientists warning about this as well as infertility concerns, clotting, autoimmune diseases, cancer and death resulting from these COVID-19 vaccines.¹¹

It is undisputed that absolutely no one has any information about the long-term effects of these vaccines. For example, the Pfizer Fact Sheet admits that Pfizer does not know whether the vaccine affects male fertility:

⁷ <https://www.fda.gov/media/144413/download>

⁸ “SARS-CoV-2 mRNA Vaccination-Associated Myocarditis in Children Ages 12-17: A Stratified National Database Analysis,” August 30, 2021, Tracy Beth Høeg MD, PhD et al., <https://www.medrxiv.org/content/10.1101/2021.08.30.21262866v1.full.pdf>; see also www.theguardian.com/world/2021/sep/10/boys-more-at-risk-from-pfizer-jab-side-effect-than-covid-suggests-study

⁹ <https://www.rwmalonemd.com/about-us>.

¹⁰ “mRna Pioneer Raises Covid Vaccine Concerns,” June 25, 2021, <https://thehighwire.com/videos/mrna-vaccine-inventor-calls-for-stop-of-covid-vax/> (referring to Michelle Dotzert, PhD, June 3, 2020, <https://www.labmanager.com/insights/brain-in-a-dish-creates-new-possibilities-for-neuroscience-research-22892>; also referring to “The Novel Coronavirus’ Spike Protein Plays Additional Key Roles in Illness,” April 30, 2021, <https://www.salk.edu/news-release/the-novel-coronavirus-spike-protein-plays-additional-key-role-in-illness/>).

¹¹ See Dr. Michael Yeadon (former Pfizer scientist), Dr. Peter McCullough, Dr. Simone Gold, Dr. Pierre Kory, Dr. Geert Vanden Bossche, Dr. Bryan Ardis, Dr. Vernon Coleman, Dr. Sherri Tenpenny, Dr. Ryan Cole, Dr. Byram Bridle, to name a few.

“COMIRNATY has not been evaluated for the potential to cause carcinogenicity, genotoxicity, or impairment of male fertility.”¹²

United States Senator Ron Johnson recently held a press conference to address the issue of vaccine injuries in light of the total suppression of this information from the general public. During the conference multiple people spoke detailing the severe and devastating injuries they have suffered as a result of these COVID-19 vaccines.¹³ For example, four days after receiving the first dose of Moderna in January 2021, Sheryl experienced severe neurological reactions that still inhibit her ability to live a normal life, including muscle pain, numbness, weakness and paresthesia. Maddie, a 13-year-old, participated in the Pfizer Covid vaccine trial in December 2020 and January 2021, and experienced severe side effects that resulted in multiple hospitalizations. After receiving the Pfizer vaccine in January 2021, Kristi Dobbs experienced multiple severe side effects, including pain, paresthesia and heart palpitations. Candace Hayden received both doses of the Moderna vaccine in March 2021, and suffered from paresthesia and partial paralysis from the chest down, which lead to a month-long hospital stay and weeks of physical therapy. Their stories are just the tip of the iceberg.

C. COVID-19 Vaccines are Unnecessary to Combat the Virus

Weighing all these risks against any purported benefit of these vaccines further shows that the risks are high and the benefits are low.

1. Children and Teens Have a 99.998% Rate of Survival for COVID-19

Even the CDC agrees that unvaccinated school-age kids have almost zero risk of dying from the COVID-19 virus. According to the CDC website, their “current best estimate,” is that the age group of 0-17 has a **99.998% survival rate** for COVID-19 with no treatment or vaccination (fatality calculated at twenty deaths per one million infections, or 0.002% for 0-17 years old).¹⁴ Why would we take such a huge risk with these vaccines with that mortality rate for the actual virus?

2. The CDC Admits the Vaccines do NOT Stop Transmission of the Virus

None of the currently-available COVID-19 shots prevent transmission of the virus.¹⁵ This is not misinformation or conspiracy; this fact comes straight from

¹² <https://www.fda.gov/media/151707/download>, page 15.

¹³ <https://www.ronjohnson.senate.gov/2021/6/sen-johnson-these-families-have-a-very-simple-request-they-want-to-be-seen-their-stories-heard-they-would-like-to-be-believed>.

¹⁴ <https://www.cdc.gov/coronavirus/2019-ncov/hcp/planning-scenarios.html>, Table 1 Scenario 5 “Current Best Estimate.”

¹⁵ <https://www.cdc.gov/media/releases/2021/s0730-mmwr-covid-19.html>.

the CDC on their own website. Even mainstream media has leaked this. In an interview on CNN in early August 2021, CDC Director Rochelle Walensky stated that, despite what they originally had thought, “the [vaccines] can’t prevent transmission.”¹⁶

Because it is undisputed that a vaccinated person can become infected by, and can spread, the COVID-19 virus, there is zero justification for punishing the unvaccinated. In fact, the science now suggests that vaccinated people are **more likely** to transmit the virus than unvaccinated persons.¹⁷ A July 2021 study cited by the CDC reviewed 469 cases of COVID-19 associated with multiple summer events and large public gatherings in a town in Barnstable County, Massachusetts. Of those infection cases, 74% occurred in fully vaccinated persons. Among the five COVID-19 patients who were hospitalized, four were fully vaccinated. No deaths from the virus were reported.

The California legislature’s justification for mandatory childhood vaccinations is hinged upon the notion that they are necessary because they provide immunity. Given that we now know the COVID-19 vaccines fail to do that, they should not be added to the list. California Health & Safety Code is clear:

“it is the intent of the Legislature to provide: (a) A means for the eventual achievement of **total immunization** of appropriate age groups against the following childhood diseases...” See Cal. Health & Safety Code § 120325(a) (emphasis added).

Rather than go through the requisite legislative process, Governor Gavin Newsom stated in his October 1 Announcement that he is “directing the California Department of Public Health to add the COVID-19 vaccine to other vaccinations required . . . pursuant to section 120335(b)(11), which authorizes vaccine requirements for ‘any other disease deemed appropriate’ by CDPH.”¹⁸ Because vaccination does not result in actual “immunity” to COVID-19, however, the COVID-19 vaccines do not qualify as an “immunization” that the CDPH is even authorized to designate under California Health and Safety Code section 120335(b)(11).

If the vaccines are no better than our own immune system at stopping transmission, then any policies that exclude the unvaccinated as an alleged “threat” or “risk” to the campus community are disingenuous, not based in the medicine or science, and are overtly discriminatory, harassing, retaliatory, and illegal.

¹⁶ <https://www.youtube.com/watch?v=HeLySIAC6js>.

¹⁷ “Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts,” July 2021 https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s_cid=mm7031e2_w.

¹⁸ <https://www.gov.ca.gov/wp-content/uploads/2021/10/California-Becomes-First-State-in-Nation-to-Announce-COVID-19-Vaccine-to-List-of-Required-School-Vaccinations.pdf>.

3. *Those With Natural Immunity Should NOT be Vaccinated*

Growing evidence and published studies have recently confirmed that those with natural immunity from the COVID-19 virus (i.e., those who have already been infected with and recovered from the virus) are far better off than those who have been merely vaccinated.¹⁹ A recent Brownstone Institute article published on October 10, 2021, details 30 studies all supporting the same conclusion: “natural immunity for a SARS-type virus is robust, long-lasting, and broadly effective even in the case of mutations, generally more so than vaccines.”²⁰

In a recent study out of Israel, researchers at Maccabi Healthcare and Tel Aviv University compared the outcomes of over 76,000 Israelis in three groups.²¹ The Israeli researchers discovered that immunity acquired through infection from the COVID-19 virus is superior to any purported protection from the Pfizer BioNTech vaccine. The study also found that fully-vaccinated but uninfected people were significantly more likely to have a “breakthrough” COVID-19 infection than people who had previously been infected and recovered from the disease. The authors conclude:

“This study demonstrated that natural immunity confers longer lasting and stronger protection against infection, symptomatic disease and hospitalization caused by the Delta variant.”

In sum, our own immune systems win the award by a landslide. So why have we failed to include natural immunity as part of our pandemic strategy plans? This makes no sense. Those with natural immunity have sufficient protection from the virus. Vaccinating them would place them in a worse position.

4. *Why do the Vaccinated Need Protection From the Unvaccinated?*

Any conversation pitting the vaccinated against the unvaccinated is counter-productive, divisive and nonsensical. If these COVID-19 vaccines are actually effective as the CDC claims they are, then there is no need to protect the vaccinated.

¹⁹ “Natural Immunity and Covid-19: Thirty Scientific Studies to Share with Employers, Health Officials, and Politicians,” Brownstone Institute, October 10, 2021, <https://brownstone.org/articles/natural-immunity-and-covid-19-twenty-nine-scientific-studies-to-share-with-employers-health-officials-and-politicians/https://brownstone.org/articles/natural-immunity-and-covid-19-twenty-nine-scientific-studies-to-share-with-employers-health-officials-and-politicians/>.

²⁰ Id.

²¹ “Comparing SARS-CoV-2 natural immunity to vaccine-induced immunity: reinfections versus breakthrough infections,” Sivan Gazit, Roei Shlezinger, Galit Perez, Roni Lotan, Asaf Peretz, Amir Ben-Tov, Dani Cohen, Khitam Muhsen, Gabriel Chodick, Tal Patalon, <https://www.medrxiv.org/content/10.1101/2021.08.24.21262415v1>.

That is actually the job of the vaccine! Saying that the unvaccinated need to be vaccinated in order for the vaccinateds' vaccines to work is like saying that a person must wear a life jacket in the pool in order to protect the other people in the pool already wearing a life jacket. The analogy, while silly, illustrates how absurd any argument is to protect the vaccinated. Stated another way, I do not need to be vaccinated in order for your vaccine to work.

If a person wants to be vaccinated, that is their choice. And that choice is not impacted in any way by another person's choice not to be vaccinated. Parents, not the government or the schools, have the right to decide whether a Covid vaccine is appropriate or necessary for their child.

5. *We Have Had Safe and Effective Treatments from Day 1*

The insane push for vaccines makes even less sense given that we have had safe and effective therapeutics, most of which are generic and have therefore been essentially free, since the beginning. In other words, vaccines are not our only way out of this pandemic. Thousands of doctors in the United States and around the world have demonstrated that there is proven successful treatment protocol, which has been abjectly ignored by the CDC and NIH. For example, early treatment protocols using ivermectin, hydroxychloroquine and monoclonal antibodies have proven to produce outstanding results.²² Vitamin C, vitamin D, zinc, quercetin and the sun also do wonders for the human immune system. Once again, our government makes no mention of this either. The CDC and Dr. Anthony Fauci have banned these protocols and kept this basic information on the down low, denying hundreds of millions of people effective treatment, despite knowing these generic and inexpensive medications have been around for over 50 years and proven to be safe even by the WHO.²³

It is one thing to flagrantly experiment on adults, but to force our children to be part of this experiment is malfeasance and criminal. Newsom's October 1 Announcement makes no attempt to explain his apparent rush to vaccinate all of our kids, forcing us to wonder if something bigger and nefarious is going on here.

²² Dr. Pierre Kory and Dr. Paul Marik, <https://covid19criticalcare.com/covid-19-protocols/>.

²³ It was leaked last week that Congress has been hiding the fact that they themselves have been using Ivermectin for their own use: "Between 100-200 United States Congress Members (plus many of their staffers & family members) with COVID... were treated by a colleague over the past 15 months with ivermectin & the I-MASK+ protocol at <http://flccc.net>. None have gone to hospital. <https://citizenfreepress.com/breaking/100-200-members-of-congress-treated-with-ivermectin/>, October 10, 2021; https://twitter.com/PierreKory/status/1446312291302055940?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1446312291302055940%7Ctwgr%5E%7Ctwcon%5Es1&ref_uri=https%3A%2F%2Fcitizenfreepress.com%2Fbreaking%2F100-200-members-of-congress-treated-with-ivermectin%2F, October 7, 2021.

D. Parents Have a Right to Speak at PUSD School Board Meetings

The October 4, 2021 email from PUSD to parents regarding “recent protests” appears to suggest that parents are limited in their right to exercise free speech. We would caution PUSD to be mindful that deliberate misinterpretations of the law may be legally actionable, and to be very careful about the wording of any subsequent mass emails to parents.²⁴

E. Conclusion

With all of the data piling up regarding the dangers of these novel COVID-19 vaccines, along with the undisputed evidence that these vaccines are unnecessary to combat the virus and end the pandemic, there is no justification for mandating COVID-19 vaccines for our children. We are pleading with you to do the right thing. Regardless of what Gavin Newsom or the Department of Public Health do if the FDA fully approves a COVID-19 vaccine that is available in the United States, please hold the line and stand up for what is best for our children. Vaccine choice is the only answer.

Sincerely,



Nicole Krasny Asch on behalf of
PUSD Parents Freedom to Choose

²⁴ For example, the email cited “recent protests at our district office,” and mentioned Penal Code section 627 and Education Code 32210. Please note that Penal Code 627 appears limited to “the buildings and grounds of the public school” and “during school hours,” and would be entirely inapplicable to PUSD school board meetings. Furthermore, Penal Code section 627 explicitly states that it “shall not be construed to infringe upon the legitimate exercise of constitutionally protected rights of freedom of speech and expression which may be expressed through rallies, demonstrations, and other forms of expression which may be appropriately engaged in by students and nonstudents [even on school campuses].” And the cited Education Code section 32210 requires that any request for someone to leave “a public school building or public school grounds” be made by “the principal, or the designee of the principal . . .” Since school board meetings are not conducted on school grounds, there is no “principal” who could wield this authority for such meetings.