



LAW OFFICE OF NICOLE C. PEARSON
FACTS LAW TRUTH JUSTICE

February 16, 2022

Re: Continued Masking of K-12 School Children in California Schools and Local Districts' Fiduciary Obligations to Students

Dear School Board Members:

As so perfectly illustrated by 70,000 largely mask-less fans celebrating at last weekend's star-studded Superbowl, including Los Angeles mayor Eric Garcetti and California Teachers' Union board member Jesse Aguilar,¹ forced masking for everyone in California must come to an end immediately, and individual choice restored. This end to forced masking must specifically include K-12 school children, who have been forced to mask for six to eight hours a day, five days a week, for almost two years. *Enough is enough.*

Despite the Superbowl hypocrisy of leaders imposing mandates on others while completely disregarding these themselves, the California Department of Public Health ("CDPH") brazenly announced yesterday that it would not lift the mask requirements for K-12 schoolchildren, while lifting indoor mask requirements for everyone else.² Regardless of our respective political or religious affiliations, voting histories, ethnicities, races, genders, ages, etc., we *all* know this is wrong. It is not based in science, medicine, law, or basic concepts of fairness and human decency. In fact, it is unnecessarily cruel to and dangerous for the most vulnerable in our communities: our children.

As counsel for Children's Health Defense, California Chapter, which represents tens of thousands of school children and families across California, we are writing to ask – no, *demand* – that you look inside yourselves and recognize CDPH's discriminatory and unscientific masking rules, which harm school children in your care. We are also asking you to stand up for what is right, reject and pass a resolution supporting "mask optional"

¹ See **Exhibit A** attached hereto, for a stunning display of elite hypocrisy regarding mask mandates.

² As par for the course in California, and unlike many other states quickly removing mask requirements, CDPH tries to impose an illegal and illogical apartheid rule that allows "vaccinated" individuals to unmask indoors while "unvaccinated" individuals are expected to remain masked. This discriminatory policy is yet another nail in the coffin to the credibility of our public health officials, since it is blatantly apparent to all that vaccinated individuals can be infected with and transmit COVID-19 and any of its variants just as much as unvaccinated individuals. In fact, many studies are now showing that vaccinated individuals may be even more likely to transmit the newest variant, Omicron. In addition, CDPH, of course, continues to pretend that anyone who has naturally recovered from COVID-19 and has superior natural immunity, simply doesn't exist. All thinking individuals should disregard such illegitimate policies clearly not meant to protect public health.



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policies for students, teachers, and staff, effective immediately. A suggested version of such a resolution is attached hereto as **Exhibit “B”**.

Keeping a universal mask mandate for K-12 schoolchildren while lifting the indoor mask mandate for everyone else lacks all public health legitimacy and common decency. Children are least likely to suffer severe symptoms of COVID-19³ and studies consistently indicate that schools are not significant vectors of viral transmission, even in mask-free/mask optional jurisdictions.⁴ In fact, many jurisdictions with mask-optional or no-mask-mandates at all have often fared far better than those with strict masking requirements.⁵ Even more significantly, many public health authorities that once banged the drum for forced universal masking are now admitting that cloth masks they forced onto society for the last two years were essentially useless “face decorations.”⁶

The majority of European countries have *never* required children to wear masks in school. Indeed, multiple European studies examining school mask mandates have failed to find any epidemiological benefit from such policies, but instead notable harms.⁷ Recently, even many stalwart American jurisdictions are also abandoning forced masking policies, *making California one of only six jurisdictions holding on to this abusive practice.*⁸ Unfortunately, California leaders and the CDP – under significant pressure from

³ See e.g., California Department of Public Health, Cases and Deaths Associated by Age Group, December 30, 2021, available at: <https://covid19.ca.gov/state-dashboard/>. See also 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>.

⁴ See e.g., National Center for Immunizations and Respiratory Diseases (NCIRD), Division of Viral Diseases Brief: Transmission of SARS-COV-2 in K-12 Schools and Early Care and Education Programs, available at: https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/transmission_k_12_schools.html. See also <https://rationalground.com/un-masking-children-part-1-of-4-the-role-of-children-in-covid-19-transmission-in-schools>.

⁵ See e.g. Oster, et al., COVID-19 Mitigation Practices and COVID-19 Rates in Schools: Report on Data from Florida, New York, and Massachusetts (May 21, 2021), available at <https://www.medrxiv.org/content/10.1101/2021.05.19.21257467v1>.

⁶ <https://reason.com/2021/12/21/leana-wen-cloth-mask-facial-decorations-covid-cdc-guidance/>.

⁷ For example, one study of 59 schools in Wales found: “There was no evidence that face coverings, 2-metre social distancing or stopping children mixing was associated with lower odds of COVID-19 or cold infection rates in the school. See Marchant et. al., COVID-19 mitigation measures in primary schools and association with infection and school staff wellbeing: an observational survey linked with routine data in Wales, UK (Aug. 24, 2021), available at <https://www.medrxiv.org/content/10.1101/2021.08.20.21262349v1>.

⁸ See e.g., <https://www.nashp.org/governors-prioritize-health-for-all>.



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California teachers' unions⁹ – appear unwilling to relinquish this useless, dangerous, inhumane, divisive and highly contentious method of “protection.”

During the last two years of this self-declared pandemic, schoolchildren have been the most abused by catastrophic public health “safety” measures. They have been deprived of quality in-person education, forced to be tested for disease without any symptoms of illness, quarantined, poked, prodded, masked against their wills, and often disciplined outrageously by school officials or teachers enforcing dubious “mask protocols.” Many schools have become joyless places of segregation, discrimination, isolation, and bullying, particularly for those children fighting for their rights to bodily autonomy and privacy. Even many “complying” students are subjected to a stressful and constant barrage of micromanagement and disciplinary threats – often for “crimes” as innocent as a mask slipping below a child’s nose. The alarming epidemic of anxiety, depression, and suicidal ideation among schoolchildren is undoubtedly due in part to authoritarian and abusive school policies regarding COVID-19, policies that have long lost their legitimacy of “safety” and now appear to be solely punitive in nature. *It all needs to end now.*

As elected board members you are charged with fiduciary duties to your students, and an obligation to be responsive to the families who elected you.¹⁰ You are charged with protecting and educating socially well-developed, critically thinking, well-functioning members of society in District schools, not broken, compliant servants of special interests. You also now know that while CDPH requires that every district have a “mask policy,” the contours of such policy are up to you and, ultimately, as the governing board of your District, *you will each be held personally responsible for any harmful policies you have inflicted on the children, of which you are on ample notice.*¹¹ You need to consider whether the continued masking of children for six to eight hours a day, five days a week, is being done to serve their best interests, or to satisfy conflicting political, financial or other ends.

We cannot tolerate a society where authoritarian lawmakers and special interest union members disregard their own rules while demanding obedience of others at the expense of our most vulnerable populations. We urge you to consider the hypocritical, unscientific, and cruel actions of so-called “leaders,” and fulfill your oaths to protect our

⁹ See <https://www.politico.com/news/2022/02/13/teachers-unions-delay-easing-mask-mandates-california-00007979>.

¹⁰ See e.g., *Education Code*, §§201. 49400.

¹¹ *Let Them Breathe v. Newsom* (2021) San Diego Super. Ct., Case No. 37-2021-00031385-CU-WM-NC; *Penal Code*, §§ 2052, 192, 273; *Gov. Code*, §§ 901 *et seq.*; *California Code of Regulations*, Title 5 sections 4600-4694.



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children, and implement a mask-optional policy for students within your district by passing a resolution similar to the one enclosed hereto as **Exhibit “B.”** Please note that, should you fail to act in the best interests of your students in your care, we are prepared to provide legal support for students, teachers, and families who are done with these dangerous, selectively-enforced “public health” policies causing irreparable harm to their children – and communities – forever.

Sincerely,

Nicole C. Pearson, Esq.
Rita Barnett-Rose, Esq.
Jessica Barsotti, Esq.
*Attorneys for Children’s Health Defense –
California Chapter*

Enclosures: Exhibits A & B