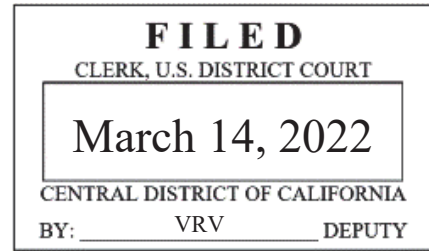


1 Robert H. Tyler, Esq., CA Bar No. 179572
2 btyler@faith-freedom.com
3 ADVOCATES FOR FAITH & FREEDOM
4 25026 Las Brisas Road
5 Murrieta, California 92562
6 Telephone: (951) 600-2733
7 Facsimile: (951) 600-4996



6 Brant C. Hadaway (*Pro Hac Vice*)
7 bhadaway@davillierlawgroup.com
8 HADAWAY, PLLC
9 2425 Lincoln Ave.
10 Miami, Florida 33133
11 Telephone: (305) 389-0336

9 George R. Wentz, Jr. (*Pro Hac Vice*)
10 gwentz@davillierlawgroup.com
11 DAVILLIER LAW GROUP, LLC
12 935 Gravier Street, Ste. 1702
13 New Orleans, LA 70112
14 Telephone: (504) 458-7143

13 Attorneys for Plaintiffs

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16 **WESTERN DIVISION**

18 HEALTH FREEDOM DEFENSE
19 FUND, INC., a Wyoming Not-for-
20 Profit Corporation; CALIFORNIA
21 EDUCATORS FOR MEDICAL
22 FREEDOM, an unincorporated
23 association, MIGUEL SOTELO;
24 JEFFREY FUENTES; SANDRA
25 GARCIA; and HOVHANNES
26 SAPONGHIAN; NORMA
27 BRAMBILA;

25 Plaintiffs,

26 v.

28 ALBERTO CARVALHO, in his

Case No.: 2:21-cv-08688-SB-MAA

Hon. Stanley Blumenfeld, Jr.

Courtroom 6C

**SECOND AMENDED COMPLAINT
FOR VIOLATION OF CIVIL RIGHTS
AND DECLARATORY AND
INJUNCTIVE RELIEF**

DEMAND FOR JURY TRIAL

1 official capacity as Superintendent of
2 the Los Angeles Unified School
3 District; ILEANA DAVALOS, in her
4 official capacity as Chief Human
5 Resources Officer for the Los
6 Angeles Unified School District;
7 GEORGE MCKENNA, MÓNICA
8 GARCÍA, SCOTT
9 SCHMERELSON, NICK
10 MELVOIN, JACKIE GOLDBERG,
11 KELLY GONEZ, and TANYA
12 ORTIZ FRANKLIN, in their official
capacities as members of the Los
Angeles Unified School District
governing board.

Defendants.

13 Plaintiffs, for their Complaint against Defendants, allege as follows:

14 **INTRODUCTION**

15 1. On March 4, 2021, Defendants’ predecessors issued a policy requiring that
16 employees of the Los Angeles Unified School District (“LAUSD”) be vaccinated
17 against COVID-19. *See California Educators for Medical Freedom, et al v. Austin*
18 *Beutner, et al*, Case No. 21-cv-2388 (the “Original Lawsuit”). In response, the Original
19 Lawsuit was filed on March 17, 2021. *Id.* at Ecf. No. 1.

20 2. On March 18, 2021, in a frankly cynical effort to create a ripeness issue,
21 LAUSD reversed its policy and gave employees the option of regular testing. Ecf. No.
22 25 at ¶¶76-86. As a result, Defendants’ predecessors argued that Plaintiffs’ allegations
23 relied on a future contingency *that might not occur*, and that the lawsuit was therefore
24 not ripe for adjudication. *Id.* at Ecf. 33-1, 41.

25 3. On July 27, 2021 the Court dismissed the case, without prejudice, based
26 on ripeness. *Id.* at Ecf. No. 44. “That Defendants were contemplating requiring the
27 vaccine,” the Court concluded, “and then later reversed course and explicitly said they
28

1 would not be, does not create a ripe case or controversy.”

2 4. Nevertheless, on August 13, 2021 – *a mere 17 days after winning dismissal*
3 *based on ripeness* – Defendants enacted a mandatory “COVID-19 VACCINATION
4 REQUIREMENT FOR EMPLOYEES AND OTHER ADULTS WORKING AT
5 DISTRICT FACILITIES.” (the “Mandate”). *See Exhibit “A”*, attached hereto. That, of
6 course, was the plan all along. Employees must receive the first dose by October 15,
7 2021, 2021.¹

8 5. Plaintiffs have been notified that if they fail to comply with the deadline
9 of October 15, 2021, they will be forbidden from returning to work effective October
10 16 and will be terminated effective November 1, 2021.

11 6. Prior representations to the Court notwithstanding, Defendants were at
12 least honest enough to call their policy a “mandate.”

- 13 7. Plaintiffs assert that Defendants’ Mandate cannot be supported when:
- 14 i. Infection from COVID induces robust and durable natural immunity.
 - 15 ii. The natural immunity so obtained is superior to COVID vaccine-
16 induced immunity. This has now been acknowledged through data
17 published by the Centers for Disease Control (“CDC”).
 - 18 iii. The COVID vaccines are ineffective at preventing infection from
19 COVID, including but not limited to the Delta and Omicron strains,
20 the latter of which now constitutes 100% of all infections throughout
21 the United States.
 - 22 iv. The CDC Director admitted that the COVID vaccines do not prevent
23 infection or transmission of COVID. “[W]hat they [the vaccines] can’t
24 do anymore is prevent transmission.”² That was during the Delta
25

26 ¹ Extended from the original deadline of October 15, 2021.

27 ² Madeline Holcomb, *Fully Vaccinated People Who Get a CoVID-19 Breakthrough Infection*
28 *Transmit the Virus, CDC Chief Says*, CNN Health (August 6, 2021)

- 1 wave. The CDC similarly acknowledges that “[b]reakthrough
2 infections are likely to occur” with Omicron.³
- 3 v. The CDC acknowledged that the vaccinated and unvaccinated are
4 equally likely to spread the virus.⁴
- 5 vi. The vaccines only reduce symptoms of those who are infected by
6 COVID, but not transmission of the virus. They are, therefore,
7 treatments, and not vaccines as that term has always been defined in the
8 law.
- 9 vii. In fact, the CDC has actually changed its definitions of “vaccine” and
10 “vaccination” to fit with the currently-available COVID Vaccines.
11 Until recently, the Centers for Disease Control defined a “Vaccine” as:
12 “A product that stimulates a person’s immune system to produce
13 immunity to a specific disease, protecting the person from that
14 disease.”⁵
- 15 viii. The CDC also previously defined “Vaccination” as: “The act of
16 introducing a vaccine into the body to produce immunity to a specific
17 disease.”⁶

19
20 <https://www.cnn.com/2021/08/05/health/us-coronavirus-thursday/index.html> (last visited February
21 18, 2022), *see also* The New England Journal of Medicine, *Resurgence of SARS-CoV-2 Infection in*
22 *a Highly Vaccinated Health System Workforce*, N Engl J Med 2021; 385:1330-1332 (September 30,
2021) <https://www.nejm.org/doi/full/10.1056/NEJMc2112981> (last visited October 18, 2021).

23 ³<https://www.cdc.gov/coronavirus/2019-ncov/variants/omicron-variant.html> (last visited on February
18, 2022).

24 ⁴ Brown CM, et al., Outbreak of SARS-CoV-2 Infections, Including COVID 19 Vaccine
Breakthrough Infections, Associated with Large Public Gatherings-Barstable County,
Massachusetts, July 2021. MMWR Morb Mortal Wkly Rep 2021;70:1059-1062.
25 https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm?s_cid=mm7031e2_w (last visited
26 October 18, 2021).

27 ⁵ *Immunization: The Basics* (archived version), Centers for Disease Control and Prevention
[https://web.archive.org/web/20210826113846/https://www.cdc.gov/vaccines/vac-gen/imz-](https://web.archive.org/web/20210826113846/https://www.cdc.gov/vaccines/vac-gen/imz-basics.htm)
28 [basics.htm](https://web.archive.org/web/20210826113846/https://www.cdc.gov/vaccines/vac-gen/imz-basics.htm) (last visited October 20, 2021).

⁶ *Id.*

- 1 ix. Both prior definitions fit the common understanding of those terms.
2 To be *vaccinated* meant that you should have lasting, robust immunity
3 to the disease targeted by the *vaccine*.
- 4 x. But on September 1, 2021, the CDC quietly rewrote these definitions.
5 It changed the definition of a “Vaccine” to: “A ~~product that stimulates~~
6 ~~a person’s immune system to produce immunity to a specific disease,~~
7 ~~protecting the person from that disease~~ *preparation that is used to*
8 *stimulate the body’s immune response against diseases.*”⁷ It changed
9 the definition of “Vaccination” to: “The act of introducing a vaccine
10 into the body to produce ~~immunity to~~ *protection from* a specific
11 disease.”⁸
- 12 xi. In other words, the CDC has eliminated the word “immunity” from its
13 definitions of “Vaccine” and “Vaccination.” The CDC did so because
14 it recognizes that the COVID Vaccines do not produce immunity to
15 COVID-19.
- 16 xii. This is a critical factual and legal distinction. Legal authority to
17 mandate medical treatment only derives under public health
18 regulations. As the CDC now holds that Omicron is the only strain;
19 that the shots do not stop the transmission of Omicron; and that
20 vaccination is mere “protection” against a disease and not “immunity”
21 against the disease; there is no public health basis for mandating
22 vaccination.
- 23 xiii. The COVID vaccines cause a significantly higher incidence of
24 injuries, adverse reactions, and deaths than any prior vaccines that
25

26
27 ⁷ *Immunization: The Basics*, Centers for Disease Control and Prevention
<https://www.cdc.gov/vaccines/vac-gen/imz-basics.htm> (last visited October 20, 2021).

28 ⁸ *Id.*

1 have been allowed to remain on the market, and, therefore, pose a
2 significant health risk to recipients, who are, by definition, healthy
3 when they receive the COVID vaccines; and

4 xiv. Since, according to the CDC, the COVID vaccines do not prevent the
5 infection or transmission of COVID, while at the same time, also
6 according to the CDC, they result in a massively anomalous (1000%
7 higher) number of adverse events and deaths, there is no justification
8 in the law for mandating them, and LAUSD’s mandate must therefore
9 be struck down.

10 **PARTIES**

11 8. Plaintiffs reallege all allegations set forth elsewhere in this Complaint as if
12 fully set forth herein.

13 9. Plaintiff Health Freedom Defense Fund (hereinafter, “HFDF”) is a not-for-
14 profit public benefit Wyoming corporation with its headquarters in Sandpoint, Idaho.
15 HFDF is a member organization that seeks to advocate for and educate the public on
16 the topics of medical choice, bodily autonomy, and self-determination, and that opposes
17 laws and regulations that force individuals to submit to the administration of medical
18 products, procedures, and devices against their will. Several of HFDF’s members are
19 LAUSD employees who are directly affected by the Mandate, and therefore would have
20 standing in their own right to bring this action. *See* Declarations, attached hereto as
21 Composite **Exhibit “B”**. These include persons with natural immunity and religious
22 objections to vaccination whose exemptions have been denied. As well, the interests at
23 stake in this case are germane to HFDF’s purpose, and neither the claims asserted, nor
24 the relief requested requires the individual participation of its members.

25 10. Plaintiff California Educators for Medical Freedom (“CAEMF”) is a
26 voluntary, unincorporated association of California state education employees whose
27 purpose is to advocate for medical choice and bodily autonomy on behalf of its
28

1 members, vis a vis the Mandate. Its membership includes numerous employees of
2 LAUSD. See Declaration of Nancy Worsham, attached hereto as **Exhibit**
3 **“C.”** CAEMF’s members are directly affected by the Mandate, and therefore would
4 have standing in their own right to bring this action. As well, the interests at stake in
5 this case are germane to CAEMF’s purpose, and neither the claims asserted nor the
6 relief requested requires the individual participation of its members.

7 11. Plaintiff MIGUEL SOTELO is a citizen of Los Angeles County and is
8 employed by LAUSD as an Electrician.

9 12. Plaintiff JEFFREY FUENTES is a citizen of Los Angeles County and is
10 employed by LAUSD as an Electrician.

11 13. Plaintiff SANDRA GARCIA is a citizen of Los Angeles County and is
12 employed by LAUSD as a Special Education Assistant.

13 14. Plaintiff HOVHANNES SAPONGHIAN is a citizen of Los Angeles
14 County and is employed by LAUSD as a Teacher Assistant.

15 15. Plaintiff NORMA BRAMBILA is a citizen of Los Angeles County and is
16 employed by LAUSD as a Healthcare Assistant.

17 16. Allegations regarding “Plaintiffs” hereinbelow shall be deemed to include
18 the individual Plaintiffs and the members of Plaintiff HFDF.

19 17. Defendant ALBERTO CARVALHO is the Superintendent of LAUSD and
20 is *sui juris*. Mr. Carvalho is ultimately charged with, *inter alia*, enforcing all
21 employment policies of the LAUSD. He is being sued in his official capacity.

22 18. Defendant ILEANA M. DAVALOS is the Chief Human Resources Officer
23 for LAUSD and is *sui juris*. On information and belief, Ms. Davalos is charged with
24 developing and enforcing all employment policies of LAUSD, including the Mandate.
25 She is named as a defendant herein in her official capacity.

26 19. Defendants GEORGE MCKENNA, MÓNICA GARCÍA, SCOTT
27 SCHMERELSON, NICK MELVOIN, JACKIE GOLDBERG, KELLY GONEZ, and
28

1 TANYA ORTIZ FRANKLIN are LAUSD’s governing board members. They are
2 named as Defendants herein in their official capacities.

3 20. Defendants Reilly and Davalos have personally undertaken actions under
4 color of law that deprive or imminently threaten to deprive Plaintiffs of certain rights,
5 privileges, and immunities under the laws and Constitution of the United States, and
6 under the laws and Constitution of the State of California. Upon information and belief,
7 the other defendants have also personally undertaken actions under color of law that
8 deprive or imminently threaten to deprive Plaintiffs of certain rights, privileges, and
9 immunities under the laws and Constitution of the United States, and under the laws
10 and Constitution of the State of California

11 21. This lawsuit seeks prospective relief against Defendants in their official
12 capacities.

13 22. Defendants, through their acts and omissions complained of herein are
14 liable to Plaintiffs for damages in an amount to be proven at trial including, but limited
15 to, damages for lost income, loss of employment opportunities and deprivation of
16 constitutional and other civil rights. But for Defendants’ qualified immunity this suit
17 would include a demand that Plaintiffs be compensated for these damages. Upon
18 information and belief, discovery will reveal grounds for claiming one or more
19 exceptions to the doctrine of qualified immunity. If that occurs, Plaintiffs will seek leave
20 to amend this Complaint to assert claims for money damages against Defendants in their
21 individual capacities.

22 **JURISDICTION AND VENUE**

23 23. Plaintiffs reallege and incorporate the allegations set forth above.

24 24. This Court has jurisdiction to hear this case under 28 U.S.C. § 1331, which
25 confers original jurisdiction on federal district courts to hear suits arising under the laws
26 and Constitution of the United States, as well as under 28 U.S.C. § 1343(3) in relation
27 to Defendants’ intent to deprive Plaintiffs of certain rights, privileges, and immunities
28

1 as detailed herein.

2 25. This Court has jurisdiction over the claims asserting violations of the laws
3 and Constitution of the State of California through its supplemental jurisdiction under
4 28 U.S.C. § 1367(a), as those claims are so closely related to the Plaintiffs’ federal
5 question and 42 U.S.C. § 1983 claims that they form part of the same case or
6 controversy under Article III of the United States Constitution.

7 26. This Court has the authority to award the requested declaratory relief under
8 28 U.S.C. § 2201; the requested injunctive relief under 28 U.S.C. § 1343(a), Rule 65 of
9 the Federal Rules of Civil Procedure, and its traditional equitable power to enjoin
10 unconstitutional actions by state agencies and officials; and attorneys’ fees and costs
11 under 42 U.S.C. § 1988.

12 27. The Central District of California, Western Division is the appropriate
13 venue for this action pursuant to 28 U.S.C. § 1391(b)(1) and (2) because it is the District
14 in which Defendants reside, exercise their authority in their official capacities, and/or
15 have threatened to deprive Plaintiffs of the rights and liberties under the laws and
16 Constitution of the United States, and in addition thereto to violate the laws and
17 Constitution of the State of California, as further alleged herein. It is also the District in
18 which a substantial part of the events giving rise to Plaintiffs’ claims have occurred and
19 continue to occur.

20 **GENERAL ALLEGATIONS**

21 28. On January 30, 2020, the World Health Organization (“WHO”) declared a
22 “public health emergency of international concern over the global outbreak” of COVID-
23 19. Among other recommendations, the WHO called for accelerated development of
24 “vaccines, therapeutics and diagnostics.”

25 29. On January 31, 2020, President Trump first issued a public health state of
26 emergency in the United States under the Public Health Service Act due to COVID.

1 30. Also on January 31, 2020, Secretary of Health and Human Services Alex
2 M. Azar II, issued a Declaration of a Public Health Emergency effective as of January
3 27, 2020. This declaration has been renewed thereafter on April 21, 2020, July 23,
4 2020, October 2, 2020, January 7, 2021, April 15, 2021, and July 19, 2021.

5 31. President Trump issued a subsequent declaration of emergency under the
6 Stafford Act and National Emergencies Act on March 13, 2020, due to COVID.

7 32. A third declaration of emergency was issued by President Trump on
8 March 18, 2020, under the Defense Production Act due to COVID.

9 33. On February 24, 2021, President Biden extended President Trump’s
10 March 13, 2020 declaration of emergency, stating as a reason for doing so that more
11 “than 500,000 people in this Nation have perished from the disease.”⁹

12 34. Thus, the United States has been in a constant state of emergency due to
13 COVID (the “COVID Emergency”) since January 31, 2020, a period of over twenty
14 months.

15 35. The COVID Emergency has been used to justify lockdowns, banning of
16 worship services, mandatory masks, vaccine passports, and now mandatory
17 vaccinations such as the vaccination requirement LAUSD has placed on each of its
18 employees upon penalty of termination.

19 36. Never in this history of this nation have its citizens been subjected to such
20 invasions of their individual rights and liberties.

21 **Mandatory Vaccination Is Not Justified**

22 **A. The Statistics Underlying Defendants’ Justification for the Mandate**
23 **are Flawed**

24
25
26 ⁹ President Joseph R. Biden, Jr., *Notice on the Continuation of the National Emergency Concerning*
27 *the Coronavirus Disease 2019 (COVID-19) Pandemic* (February 24, 2021),
28 <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/24/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic/>

1 **i. COVID Hospitalizations are Highly Inflated**

2 37. Every patient that is admitted to a hospital is subject to a PCR test due to
3 the perceived COVID Emergency, regardless of whether that patient is admitted for
4 COVID reasons.

5 38. Testing every patient results in a large number of patients being admitted
6 “with COVID,” as opposed to “from COVID.” This significantly inflates the number
7 of COVID patients.

8 39. Moreover, the CARES Act increases reimbursements to hospitals for all
9 patients who have been diagnosed with COVID, creating an economic incentive for
10 hospitals to inflate their COVID admissions numbers.

11 40. As a result, the COVID hospitalization data being used to shape public
12 policy is highly inflated.

13 **ii. The COVID Death Count is Highly Inflated**

14 41. On March 24, 2020, the CDC issued COVID Alert Number 2.10 This Alert
15 substantially changed how the cause of death was to be recorded exclusively for
16 COVID. The modification ensured that in any case where the deceased had a positive
17 PCR test for COVID, then COVID was listed as the cause of death.¹¹

18 42. Prior to this March 24, 2020, change in procedure, COVID would only
19 have been listed as the cause of death in those cases where COVID was the actual cause
20 of death. If the deceased had a positive PCR test for COVID, but had died of another
21 cause, then COVID would have been listed as a contributing factor to the death, but not
22 the cause.¹²

23 43. The 2003 CDC Medical Examiner’s and Coroner’s Handbook on Death
24

25
26 ¹⁰ National Vital Statistics System, *COVID-19 Alert No. 2* (March 24, 2020),
27 [https://www.cdc.gov/nchs/data/nvss/coronavirus/Alert-2-New-ICD-code-introduced-for-COVID-19-](https://www.cdc.gov/nchs/data/nvss/coronavirus/Alert-2-New-ICD-code-introduced-for-COVID-19-deaths.pdf)
28 [deaths.pdf](https://www.cdc.gov/nchs/data/nvss/coronavirus/Alert-2-New-ICD-code-introduced-for-COVID-19-deaths.pdf) (last visited October 18, 2021).

¹¹ *Id.*

¹² *Id.*

1 Registration and Fetal Death Reporting states that in the presence of pre-existing
2 conditions, infectious disease is recorded as the contributing factor to death, not the
3 cause.¹³ This was always the reporting system until the death certificate modification
4 issued by the CDC on March 24, 2020.¹⁴

5 44. This death certificate modification by the CDC was not made for any other
6 disease; only COVID. Accordingly, a double standard was created for the recordation
7 of deaths, skewing the data for all deaths after March 24, 2020, reducing the number of
8 deaths from all other causes, and dramatically increasing the number of deaths attributed
9 to COVID.

10 45. As a result, the COVID death data used to shape public health policy is
11 significantly inflated.¹⁵

12 **B. COVID Infection Leads to Robust Natural Immunity**

13 46. Those who recover from infection from COVID enjoy robust and durable
14 natural immunity. Natural immunity is superior to vaccine-induced protection from
15 COVID-19.

16 47. The CDC's own data acknowledges that, even accepting the CDC's criteria
17 for COVID hospitalizations during the Delta wave, hospitalizations were lower for
18 unvaccinated persons with a prior COVID diagnosis than they were for vaccinated
19 persons with no prior COVID diagnosis.¹⁶ And that same study showed no appreciable
20

21 ¹³ Medical Examiners' and Coroners' Handbook on Death Registration and Fetal Death Reporting,
22 2003 Revision. CDC, 2003, Pgs. 13-16. https://www.cdc.gov/nchs/data/misc/hb_me.pdf (last visited
October 18, 2021).

23 ¹⁴ National Vital Statistics System, *COVID-19 Alert No. 2* (March 24, 2020),
24 [https://www.cdc.gov/nchs/data/nvss/coronavirus/Alert-2-New-ICD-code-introduced-for-COVID-19-
deaths.pdf](https://www.cdc.gov/nchs/data/nvss/coronavirus/Alert-2-New-ICD-code-introduced-for-COVID-19-deaths.pdf).

25 ¹⁵ CDC, *COVID-19 Forecasts: Deaths* (last accessed September 30, 2021),
26 <https://www.cdc.gov/coronavirus/2019-ncov/science/forecasting/forecasting-us.html> (last visited
October 18, 2021)

27 ¹⁶ See CDC, Morbidity and Mortality Weekly Report, "COVID-19 Cases and Hospitalizations by
28 COVID-19 Vaccination Status and Previous COVID-19 Diagnosis — California and New York,
May–November 2021," (Jan. 28, 2022), available online at:

1 benefit from vaccination for those who had a prior infection. *Id.* Thus, even by the
2 CDC’s own data, natural immunity is indisputably superior.

3 **C. The COVID Injections are Treatments, Not Vaccines.**

4 48. As the CDC tacitly concedes by changing its own definitions of “Vaccine”
5 and “Vaccination,” the COVID vaccines are not vaccines in the traditional sense. In
6 fact, the FDA classifies them as “CBER-Regulated Biologics” otherwise known as
7 “therapeutics” which falls under the “Coronavirus Treatment Acceleration Program.”¹⁷

8 49. The Vaccines are misnamed since they do not prevent either re-infection
9 or transmission of the disease, the key elements of a vaccine. The CDC has publicly
10 stated that the Vaccines are effective in reducing the severity of the disease but not
11 infection, re-infection, or transmission. Indeed, as noted above, the CDC has stricken
12 the very word “immunity” from its definitions of “Vaccine” and “Vaccination.” The
13 injection is therefore a treatment, not a vaccine.

14 50. The current strain of COVID is the Omicron strain.¹⁸ The CDC Director
15 previously stated that the vaccines did not stop transmission of the Delta strain, as
16 studies showed that the Delta strain passed easily amongst vaccinated persons.¹⁹ The
17 CDC recently acknowledged that “anyone with Omicron infection can spread the virus
18 to others, even if they are vaccinated or don’t have symptoms.”²⁰ This was also true
19

20
21 <https://www.cdc.gov/mmwr/volumes/71/wr/mm7104e1.htm#contribAff> (last viewed on February
22 18, 2022).

23 ¹⁷ FDA, *Coronavirus (COVID-19) | CBER-Regulated Biologics*, [https://www.fda.gov/vaccines-](https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologics)
24 [blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologics](https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologics) (last visited
25 [October 18, 2021](https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologics)); See also, FDA, *Coronavirus Treatment Acceleration Program (CTAP)*,
26 [https://www.fda.gov/drugs/coronavirus-covid-19-drugs/coronavirus-treatment-acceleration-program-](https://www.fda.gov/drugs/coronavirus-covid-19-drugs/coronavirus-treatment-acceleration-program-ctap)
27 [ctap](https://www.fda.gov/drugs/coronavirus-covid-19-drugs/coronavirus-treatment-acceleration-program-ctap) (last visited October 18, 2021).

28 ¹⁸ CDC, *Variant Proportions* (last visited September 30, 2021), [https://covid.cdc.gov/covid-data-](https://covid.cdc.gov/covid-data-tracker/#variant-proportions)
29 [tracker/#variant-proportions](https://covid.cdc.gov/covid-data-tracker/#variant-proportions) (last visited February 18, 2022).

30 ¹⁹ The Lancet, *Transmission of SARS-CoV-2 Delta Variant Among Vaccinated Healthcare Workers, Vietnam* (August 10, 2021), <https://ssrn.com/abstract=3897733> (last visited October 18, 2021).

31 ²⁰ <https://www.cdc.gov/coronavirus/2019-ncov/variants/omicron-variant.html> (last visited February
32 18, 2022).

1 with the Delta variant.²¹

2 51. One of the reasons that the Injections do not prevent transmission is that
3 coronaviruses like SARS-CoV-2 rapidly mutate. The Injections were designed to
4 address the original strain of the Virus. However, during the course of 2021, the Delta
5 strain became dominant.²² The CDC Director has stated that the vaccines did not stop
6 the transmission of the Delta strain. Studies showed the Delta strain passes easily
7 amongst vaccinated persons.²³ The CDC website states: "... preliminary evidence
8 suggests that fully vaccinated people who do become infected with the Delta variant
9 can spread the virus to others."²⁴

10 52. The current Omicron variant has now overtaken Delta to become the
11 dominant strain.²⁵ The CDC recognizes that the Injections do not prevent the
12 transmission of the Omicron variant, just as they did not prevent the transmission of the
13 Delta variant.

14 53. The CDC website addressing the Omicron variant states:

15 The Omicron variant spreads more easily than the original
16 virus that causes COVID-19 and the Delta variant. ***CDC***
17 ***expects that anyone with Omicron infection can spread the***
18

19 ²¹ CDC, *Interim Public Health Recommendations for Fully Vaccinated People*,
20 <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html> (last visited
21 October 18, 2021).

22 ²² *Variant Proportions*, CENTERS FOR DISEASE CONTROL AND PREVENTION,
23 <https://covid.cdc.gov/covid-data-tracker/#variant-proportions> (last visited March 1, 2022).

24 ²³ Chau, Nguyen Van Vinh and Ngoc, Nghiem My and Nguyet, Lam Anh and Quang, Vo Minh,
25 OUCRU COVID-19 Research, et al, *Transmission of SARS-CoV-2 Delta Variant Among Vaccinated*
26 *Healthcare Workers, Vietnam*. ECLINICALMEDICINE, Volume 41, November 2021, 11043
27 <https://doi.org/10.1016/j.eclinm.2021.101143> (last visited March 1, 2022).

28 ²⁴ *Interim Public Health Recommendations for Fully Vaccinated People* (Archived Version),
CENTERS FOR DISEASE CONTROL AND PREVENTION,
<https://web.archive.org/web/20211018044550/https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated-guidance.html> (last visited March 1, 2022).

²⁵ *Omicron Variant: What You Need to Know*, CENTERS FOR DISEASE CONTROL AND PREVENTION,
<https://www.cdc.gov/coronavirus/2019-ncov/variants/omicron-variant.html> (last visited March 1,
2022).

1 *virus to others, even if they are vaccinated or don't have*
2 *symptoms. Id.* (emphasis added)

3 54. While recognizing the Injections do not prevent transmission of the Virus,
4 the CDC states that the Injections do prevent the severity of symptoms from the disease,
5 stating:

6 Scientists are still learning how effective COVID-19 vaccines
7 are at preventing infection from Omicron. Current vaccines
8 are expected to protect against severe illness, hospitalizations,
9 and deaths due to infection with the Omicron variant.
10 However, breakthrough infections in people who are
11 vaccinated are likely to occur. People who are up to date with
12 their COVID-19 vaccines and get COVID-19 are less likely
13 to develop serious illness than those who are unvaccinated
14 and get COVID-19. *Id.*

15 55. Thus, the CDC recognizes that the Injections do not prevent transmission
16 but instead may reduce the severity of the symptoms. This is the classic definition of a
17 treatment, not a vaccine.

18 56. This was aptly summed up by Moderna Chief Medical Officer Tal Zaks,
19 who “warned that the trial results show that the vaccine can prevent someone from
20 getting sick or ‘severely sick,’ from COVID-19, however, the results don’t show that
21 the vaccine prevents transmission of the virus.”²⁶

22 57. Even the FDA has classified Injections as “CBER-Regulated Biologics”
23 otherwise known as “therapeutics” which fall under the “Coronavirus Treatment
24

25
26 ²⁶ Al-Arshani, S (November 2020). *Moderna's chief medical officer says that vaccine trial results*
27 *only show that they prevent people from getting sick – not necessarily that recipients won't still be*
28 *able to transmit the virus.* BUSINESS INSIDER. <https://www.businessinsider.com/moderna-chief-medical-officer-vaccines-interview-2020-11> (last visited March 1, 2022).

1 Acceleration Program.”²⁷

2 58. The FDA’s “therapeutics” classification of the Injections is consistent with
3 representations made by Pfizer injection partner BioNTech to the Securities and
4 Exchange Commission (“SEC”) in its 2020 Annual Report, where it stated with regard
5 to the mRNA technology forming the basis of its Injection:

6 Although we expect to submit BLAs [biologics license
7 applications] for our mRNA-based product candidates in the
8 United States, and in the European Union, mRNA therapies
9 have been classified as gene therapy medicinal products, and
10 other jurisdictions may consider our mRNA-based product
11 candidates to be new drugs, not biologics or gene therapy
12 medicinal products, and require different marketing
13 applications.²⁸

14 59. Similarly, in its June 30, 2020 Quarterly Report to the SEC, Moderna
15 stated with regard to the mRNA technology underpinning its injection: “Currently,
16 mRNA is considered a gene therapy product by the FDA.”²⁹

17 **D. The Effects of the COVID Vaccines Wane Rapidly**

18 60. Additionally, the effectiveness of the Injections has been determined to
19 wane rapidly. Israel, the most vaccinated and studied nation, now expires the vaccine’s
20

21
22 ²⁷ *Coronavirus (COVID-19) | CBER-Regulated Biologics*, FOOD AND DRUG ADMINISTRATION
23 (2021). [https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-](https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologics)
24 [cber-regulated-biologics](https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologics) (last visited March 1, 2022); *Coronavirus Treatment Acceleration Program*
(CTAP), FOOD AND DRUG ADMINISTRATION (2021), [https://www.fda.gov/drugs/coronavirus-covid-](https://www.fda.gov/drugs/coronavirus-covid-19-drugs/coronavirus-treatment-acceleration-program-ctap)
25 [19-drugs/coronavirus-treatment-acceleration-program-ctap](https://www.fda.gov/drugs/coronavirus-covid-19-drugs/coronavirus-treatment-acceleration-program-ctap) (last visited March 1, 2022).

26 ²⁸ *BioNTech SE Form 20-F*, UNITED STATES SECURITIES AND EXCHANGE COMMISSION (2020),
27 https://www.sec.gov/Archives/edgar/data/1776985/000156459021016723/bntx-20f_20201231.htm
28 at page 26 (last visited March 1, 2022).

29 ²⁹ *Moderna SE Form 10-q*, UNITED STATES SECURITIES AND EXCHANGE COMMISSION (2020),
<https://www.sec.gov/Archives/edgar/data/1682852/000168285220000017/mrna-20200630.htm> at
page 70 (last visited March 1, 2022).

1 effectiveness at six months.³⁰ The requirement for booster shots due to this waning of
2 effectiveness has been recognized by the CDC, which initially recommended no booster
3 shots, then annually, then at 8 months and then 6 months.

4 61. Dr. Anthony Fauci on November 12, 2021, referring to the experience of
5 health officials regarding the Injections, stated:

6 They are seeing a waning of immunity not only against
7 infection but against hospitalization and to some extent death,
8 which is starting to now involve all age groups. It isn't just
9 the elderly. It's waning to the point that you're seeing more
10 and more people getting breakthrough infections, and more
11 and more of those people who are getting breakthrough
12 infections are winding up in the hospital.³¹

13 62. Those countries with the highest rates of the Injections also experience the
14 highest rates of infection. Those countries with the highest rates of the Injections also
15 have the highest rates of hospitalization and severe illnesses with regard to the prior
16 Delta strain as well as the Omicron strain, which is the current strain of the Virus.

17 **E. VAERS Reports Point to Significant Levels of Vaccine Injury.**

18 63. As part of the 1990 Public Readiness and Emergency Preparedness Act,
19 the FDA and CDC created the Vaccine Adverse Event Reporting System (VAERS) to
20 receive reports about suspected adverse events that may be associated with vaccines.
21 VAERS is intended to serve as an early warning system to safety issues.

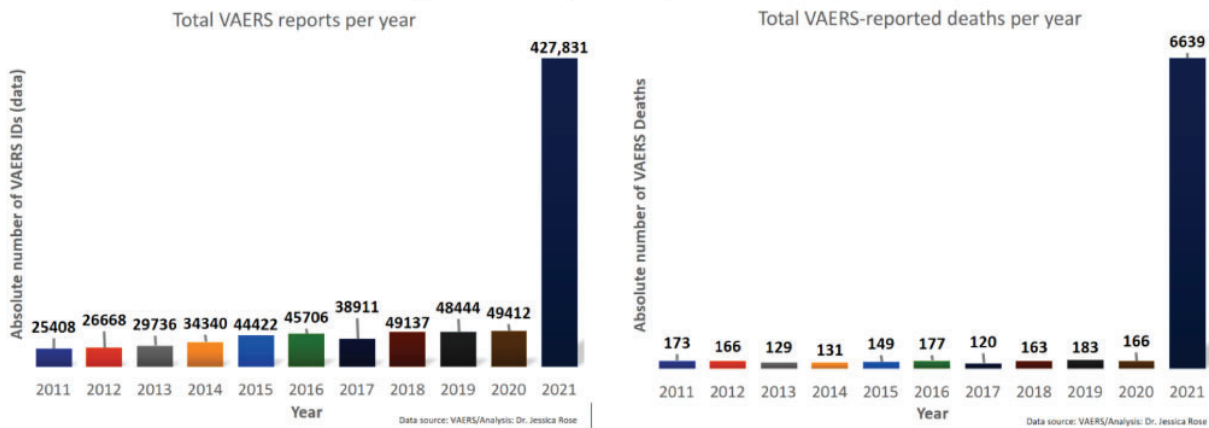
24 ³⁰ Marianne Guenot, *Israel's Vaccine Pass Will Expire 6 Months after 2nd Dose, Meaning People*
25 *Will Need Booster Shots to Keep Going to Restaurants and Bars*, BUSINESS INSIDER,
<https://www.businessinsider.com/israel-vaccine-pass-to-expire-after-6-months-booster-shots-2021-9>
(last visited March 1, 2022).

26 ³¹ Coleman, K (November 12, 2021). *Dr. Fauci Just Issued This Urgent Warning to Vaccinated*
27 *People*, YAHOO NEWS, <https://www.yahoo.com/lifestyle/dr-fauci-just-issued-urgent-201846228.html>
(last visited March 1, 2022).

64. It has been well established even prior to COVID that only 1-10% of adverse events are reported.³² This is known as the “Under-Reporting Factor” (URFs). While many reported adverse events are mild, about 15% of total adverse events are found to be serious adverse events.³³

65. As one can see from this chart, VAERS reports regarding the COVID vaccines are extraordinarily high.

Figure 1: Bar plots showing the number of VAERS reports (left) and reported deaths (right) per year for the past decade. (2021 is partial data set.)



F. COVID Vaccines Create Immunological Cripples, Vaccine Addicts, Super-Spreaders, and a Higher Chance of Death and Severe Hospitalization

66. The COVID vaccines are not traditional vaccines.³⁴ Instead most carry coded instructions that cause cells to reproduce one portion of the SARS-CoV-2 virus,

³² Lazarus, Ross et al. Grant ID: R18 HS 017045. *Electronic Support for Public Health–Vaccine Adverse Event Reporting System (ESP:VAERS)*. Submitted to The Agency for Healthcare Research and Quality (AHRQ).

³³ Department of Health and Human Services, *VAERS Data Use Guide*, https://vaers.hhs.gov/docs/VAERSDataUseGuide_November2020.pdf (last visited October 18, 2021).

³⁴ FDA, *Coronavirus (COVID-19) | CBER-Regulated Biologics*, <https://www.fda.gov/vaccines-blood-biologics/industry-biologics/coronavirus-covid-19-cber-regulated-biologics>; See also, FDA,

1 the spike protein. The vaccines thus induce the body to create spike proteins. A person
2 only creates antibodies against this one limited portion (the spike protein) of the virus.
3 This has several downstream deleterious effects.

4 67. First, these vaccines “mis-train” the immune system to recognize only a
5 small part of the virus (the spike protein). Variants that differ, even slightly, in this
6 protein, are able to escape the narrow spectrum of antibodies created by the vaccines.
7 This problem of immune escape has been even more widely acknowledged during the
8 Omicron wave.

9 68. Second, the vaccines create “vaccine addicts,” meaning persons become
10 dependent upon regular booster shots, because they have been “vaccinated” only against
11 a tiny portion of a mutating virus. The Australian Health Minister Dr. Kerry Chant has
12 stated that COVID will be with us forever and people will “have to get used to” taking
13 endless vaccines. “This will be a regular cycle of vaccination and revaccination.”³⁵

14 69. Third, the vaccines do not prevent infection in the nose and upper airways,
15 and vaccinated individuals have been shown to have much higher viral loads in these
16 regions. This leads to the vaccinated becoming “super-spreaders” as they are carrying
17 extremely high viral loads.³⁶

18 70. In addition, the vaccinated become more clinically ill than the
19 unvaccinated. Scotland reported that the infection fatality rate in the vaccinated is 3.3
20 times the unvaccinated and the risk of death if hospitalized is 2.15 times the
21

22
23 *Coronavirus Treatment Acceleration Program (CTAP)*, <https://www.fda.gov/drugs/coronavirus-covid-19-drugs/coronavirus-treatment-acceleration-program-ctap> (last visited October 18, 2021).

24 ³⁵ Tyler Durden, *Aussie Health Chief: COVID Will Be With Us Forever*, *People Will Have to “Get*
25 *Used To” Endless Booster Vaccines*, <https://www.zerohedge.com/covid-19/aussie-health-chief-covid-will-be-us-forever-people-will-have-get-used-endless-booster> (last visited October 18, 2021).

26 ³⁶ Chau, Nguyen Van Vinh, et al., OUCRU COVID-19 Research, *Transmission of SARS-CoV-2*
27 *Delta Variant Among Vaccinated Healthcare Workers* (abstract), Vietnam. *EClinicalMedicine*,
28 Volume 41, November 2021, 101143, Available at SSRN: <https://ssrn.com/abstract=3897733> or
<http://dx.doi.org/10.2139/ssrn.3897733>

1 unvaccinated.³⁷

2 **FACTUAL ALLEGATIONS SPECIFIC TO THE INDIVIDUAL PLAINTIFFS**

3 71. Plaintiffs reallege the foregoing allegations as if fully set forth herein.

4 72. The individual Plaintiffs are all employees of LAUSD who are directly
5 affected by the Mandate and are imminently threatened with termination as a result
6 thereof.

7 73. Plaintiff Miguel Sotelo has worked as an Electrician for LAUSD for 6
8 years. He is a single father with three children, aged 3, 15, and 19. His 3-year old
9 daughter has special needs. He has been away from work due to an on-the-job injury.
10 He must wait six months for surgery, and then will have six months of rehabilitative
11 therapy after that before he can be cleared for work. He did not apply for an exemption
12 because he was told that personnel who cannot work remotely will not be
13 accommodated, and that he therefore faces termination, regardless of his ability to
14 obtain an exemption.

15 74. Plaintiff Jeffrey Fuentes has been employed by LAUSD as an Electrician
16 for 8 years. He is opposed to being administered the COVID vaccine due to his
17 sincerely-held religious beliefs, which include the use of medicines that have been
18 derived from aborted fetal tissue. Mr. Fuentes applied for a religious exemption, which
19 he was told was accepted; however, he has received nothing in writing, and his
20 supervisors and superiors have repeatedly told him that there are no accommodations
21 for his classification of employment, thus rendering his religious exemption illusory.
22 Absent an accommodation, he faces imminent termination.

23 75. Plaintiff Sandra Garcia was an employee with LAUSD for 10 years and
24 _____

25 ³⁷ Jeffrey Dach, Protecting Public Health with Mandatory Vaccination,
26 [https://jeffreydachmd.com/wp-content/uploads/2021/08/Public-Health-Scotland-21-08-04-covid19-
publication_report.pdf](https://jeffreydachmd.com/wp-content/uploads/2021/08/Public-Health-Scotland-21-08-04-covid19-publication_report.pdf), (last visited October 18, 2021), *See also*, Jeffrey Dach, Public Health
27 Scotland COVID-19 Statistical Report,
28 [https://jeffreydachmd.com/wp-content/uploads/2021/08/Public-Health-Scotland-21-09-01-covid19-
publication_report.pdf](https://jeffreydachmd.com/wp-content/uploads/2021/08/Public-Health-Scotland-21-09-01-covid19-publication_report.pdf) (last visited October 18, 2021) e

1 worked as a Special Education Assistant at a middle school. She is married and has a
2 4-year-old son. Ms. Garcia believes that she had COVID-19 in November 2020 and that
3 she has natural immunity as a result. Beyond that, she objects to being vaccinated
4 against COVID due to her sincerely-held religious beliefs, as the COVID Vaccines are
5 made using aborted fetal cells. She applied for a religious exemption, which was
6 granted, but she was denied an accommodation, thus rendering the exemption illusory
7 and placing in imminent peril of being terminated. Beyond her religious beliefs, Ms.
8 Garcia has concerns about the safety of the vaccines. For example, the teenaged son of
9 one of her acquaintances developed myocarditis from being vaccinated. Ms. Garcia
10 was terminated from employment by LAUSD in December 2021 for refusing to be
11 vaccinated against her will.

12 76. Plaintiff Hovhannes Saponghian was employed by LAUSD for two years
13 as a Teacher Assistant. He had COVID-19 in October 2021 and therefore has natural
14 immunity. Mr. Saponghian objects to vaccination on religious grounds because of the
15 use of aborted fetal cell tissue in making them. He applied for a religious exemption,
16 which was granted, but he was denied an accommodation, thus rendering the exemption
17 illusory. He also has concerns about short-term side effects, such as death, myocarditis,
18 and blood clots, as well as long-term side effects, which remain unknown. Since the
19 filing of this lawsuit, he has been separated from his employment with LAUSD.

20 77. Plaintiff Norma Brambila is a healthcare assistant at LAUSD. She objects
21 to vaccination on religious grounds because of the use of aborted fetal cell tissue in
22 making them and therefore applied for a religious exemption. LAUSD acknowledged
23 that her beliefs were genuine but refused to accommodate her. She was placed on unpaid
24 leave effective November 1st. Plaintiff Brambila previously recovered from COVID and
25 has natural immunity. However, she has been informed that medical exemptions are
26 only available for disability or serious medical conditions.

27 78. All conditions precedent to this action have been performed, excused,
28

1 and/or waived.

2
3 **FIRST CAUSE OF ACTION**
4 **VIOLATION OF THE FOURTEENTH AMENDMENT**
5 **SUBSTANTIVE DUE PROCESS -- 42 U.S.C. § 1983**
6 **(Plaintiffs Against All Defendants)**

7 79. Plaintiffs reallege and incorporate by reference the allegations in
8 Paragraphs 1 through 78 as if fully set forth herein.

9 80. The Vaccine Mandate violates the liberty protected by the Fourteenth
10 Amendment to the Constitution, which includes rights of personal autonomy, self-
11 determination, bodily integrity and the right to reject medical treatment.

12 81. The COVID vaccines are not vaccines, as that term has traditionally been
13 understood, but are, as a factual matter, treatments. They are referred to herein as
14 vaccines, but they are not. They are treatments. Indeed, the CDC even recently changed
15 its own definitions of “Vaccine” and “Vaccination” to eliminate the word, “immunity.”

16 82. The ability to decide whether to accept or refuse medical treatment is a
17 fundamental right.

18 83. Accordingly, the Vaccine Mandate violates Plaintiffs’ constitutional right
19 to decisional privacy with regard to medical treatment.

20 84. Because the COVID vaccines are not treatments, and not vaccines, strict
21 scrutiny applies. The US Supreme Court has recognized a “general liberty interest in
22 refusing medical treatment.” *Cruzan v. Dir., Mo. Dep't of Health*, 497 U.S. 261, 278,
23 110 S. Ct. 2841, 2851, 111 L.Ed.2d 224, 242 (1990). It has also recognized that the
24 forcible injection of medication into a nonconsenting person's body represents a
25 substantial interference with that person's liberty. *Washington v. Harper*, 494 U.S. 210,
26 229, 110 S. Ct. 1028, 1041, 108 L.Ed.2d 178, 203 (1990), see also *id.* at 223 (further
27 acknowledging in dicta that, outside of the prison context, the right to refuse treatment
28 would be a “fundamental right” subject to strict scrutiny).

1 85. As mandated medical treatments are a substantial burden, Defendants must
2 prove that the Vaccine Mandate is narrowly tailored to meet a compelling interest.

3 86. No such compelling interest exists because, as alleged above, the COVID
4 vaccines are not effective against the now dominant Omicron variant of COVID in that
5 they do not prevent the recipient from becoming infected, getting reinfected, or
6 transmitting COVID to others. Indeed, evidence shows that vaccinated individuals have
7 more COVID in their nasal passages than unvaccinated people do. The Omicron variant
8 is the current variant and accounts for 100% of the COVID infections in the United
9 States at this time.

10 87. The COVID vaccines may have been somewhat effective against the
11 original COVID strain, but that strain has come and gone, and the COVID vaccines—
12 designed to fight yesterday’s threat—are simply unable to prevent infection from the
13 current Omicron variant.

14 88. Since the COVID vaccines lack efficacy to prevent infection and
15 transmission, there can be no compelling interest to mandate their use at this time.

16 89. But even if there were a compelling interest in mandating the COVID
17 vaccinations, the Vaccine Mandate is not narrowly tailored to achieve such an interest.

18 90. The blanket Mandate ignores individual factors increasing or decreasing
19 the risks that the plaintiffs—indeed, all LAUSD employees—pose to themselves or to
20 others.

21 91. Defendants entirely disregard whether employees have acquired natural
22 immunity, despite the fact that natural immunity does actually provide robust immunity
23 that is superior to the protection afforded by the vaccines.

24 92. Treating all employees the same, regardless of their individual medical
25 status, risk factors, and natural immunity status is not narrowly tailored.

26 93. Indeed, even if the test set forth in *Jacobson* was the appropriate standard,
27 which it is not, the Vaccine Mandate would still fail to satisfy that standard for the
28

1 reasons set forth above.

2 94. “[I]f a statute purporting to have been enacted to protect the public health,
3 the public morals or the public safety, has no real or substantial relation to those objects,
4 or is, beyond all question, a plain, palpable invasion of rights secured by the
5 fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the
6 Constitution.” *Jacobson v. Massachusetts*, 197 U.S. 11, 31, 25 S. Ct. 358, 363, 49 L.Ed.
7 643 (1905).

8 95. By the CDC’s own admission, by the admission of other public health
9 authorities, the available vaccines for COVID do not confer sterile immunity. Rather,
10 they simply lessen the severity of symptoms for individuals who receive them. They are
11 actually therapeutic treatments for COVID and not vaccines at all.

12 96. COVID vaccines cripple the immune systems of some of those to whom
13 they are administered and also cause vaccine-based dependency.

14 97. Assuming for the purposes of argument that PCR tests are effective, then
15 an adequate alternative to vaccination exists.

16 98. Given these facts, as more fully set forth above, the Vaccination Mandate
17 has no real or substantial relation to public health or is beyond all question, a plain,
18 palpable invasion of rights secured by the fundamental law. Alternatively, the
19 Vaccination Mandate has no real or substantial relation to public health or is beyond all
20 question, a plain, palpable invasion of rights secured by the fundamental law as to those
21 Plaintiffs with natural immunity. It is therefore unconstitutional regardless of which
22 standard of review is applied.

23 99. Pursuant to 42 U.S.C. § 1983 and other applicable law, Plaintiffs are
24 entitled to temporary, preliminary, and permanent injunctive relief restraining
25 Defendants from enforcing the Vaccine Mandate.

26 100. Pursuant to 28 U.S. Code §§ 2201-02 and other applicable law, Plaintiffs
27 are entitled to a declaration that the Vaccine Mandate is unlawful and any further relief
28

1 which may be appropriate.

2 **SECOND CAUSE OF ACTION**

3 **Violation of Fourteenth Amendment**

4 **Equal Protection -- 42 U.S.C. § 1983**

5 **(Plaintiffs Against All Defendants)**

6 101. Plaintiffs reallege and incorporate by reference their allegations in
7 Paragraphs 1 through 78 as if fully alleged herein.

8 102. The Equal Protection Clause prohibits classifications that affect some
9 groups of citizens differently than others. (*Engquist v. Or. Dept. of Agric.* (2008) 553
10 U.S. 591, 601.) The touchstone of this analysis is whether a state creates disparity
11 between classes of individuals whose situations are arguably indistinguishable. (*Ross*
12 *v. Moffitt* (1974) 417 U.S. 600,609.)

13 103. The Mandate creates two classes of LAUSD employees; vaccinated and
14 unvaccinated, as well as employees who have reported their vaccination status to
15 LAUSD and those who have not. The members of one class, the unvaccinated, get
16 terminated. The same is true for the non-reporting class irrespective of vaccination
17 status. In either event they cannot advance their careers. They cannot provide for their
18 families, pay their mortgages, or make a car payment. The other class, the vaccinated
19 and reporting, gets to keep their job in their chosen profession, advance their careers,
20 provide for their families, pay their mortgages, and make their car payments.

21 104. Yet the situations of these employees are indistinguishable because
22 vaccinated and reporting LAUSD employees can become infected with COVID,
23 become re-infected with COVID, and can transmit COVID to fellow employees, school
24 visitors, and students. The vaccines make no difference in these respects. Their only
25 function is to make symptoms less severe.

26 105. Discriminating against the unvaccinated and non-reporting controverts the
27 goals of the Equal Protection Clause – i.e., to abolish barriers presenting unreasonable
28

1 obstacles to advancement on the basis of individual merit.

2 106. Pursuant to 42 U.S.C. § 1983, Plaintiffs are entitled to temporary,
3 preliminary, and permanent injunctive relief restraining Defendants from enforcing the
4 Vaccine Mandate.

5 **THIRD CAUSE OF ACTION**

6 **Declaratory and Injunctive Relief under Cal. Constitution**

7 **(Plaintiffs Against All Defendants)**

8 107. Plaintiffs reallege and incorporate by reference their allegations in
9 Paragraphs 1 through 78 as if fully alleged herein.

10 108. The Plaintiffs are employed by LAUSD. They have not complied with
11 LAUSD's Mandate, including reporting of their vaccination status. They object to being
12 compelled to turn over their private medical information to LAUSD as a condition of
13 their continued employment.

14 109. Individuals have a right to privacy under the California Constitution. This
15 state law privacy right, which was added by voters in 1972, is far broader than the right
16 to privacy under the federal Constitution. It is the broadest privacy right in America and
17 has been interpreted by the California Supreme Court to protect both the right to
18 informational privacy and to bodily integrity.

19 110. LAUSD employees have a legally protected privacy interest not just in
20 their bodily integrity, but their private medical information as well. Their expectation
21 of privacy is reasonable. LAUSD's Mandate constitutes a serious invasion of those
22 privacy rights, as alleged above.

23 111. Although LAUSD may argue that the vaccine mandate serves a compelling
24 interest, there are feasible and effective alternatives that have a lesser impact on privacy
25 interests. Thus, LAUSD's mandate will not survive strict scrutiny.

26 112. On information and belief, LAUSD contends that its mandate does not
27 violate the privacy rights of LAUSD employees or satisfies strict scrutiny.

28

1 113. Plaintiffs desire a judicial declaration that LAUSD’s Mandate is facially
2 unconstitutional because it violates LAUSD’s employees’ right to privacy under the
3 California Constitution.

4 114. A judicial determination of these issues is necessary and appropriate
5 because such a declaration will clarify the parties’ rights and obligations, permit them
6 to have certainty regarding those rights and potential liability, and avoid a multiplicity
7 of actions.

8 115. LAUSD’s actions have harmed Plaintiffs among other LAUSD
9 employees, as alleged above.

10 116. Plaintiffs have no adequate remedy at law and will suffer irreparable harm
11 if the Court does not declare the Mandate unconstitutional. Thus, they seek preliminary
12 and permanent injunctive relief enjoining LAUSD from enforcing the mandate.

13 117. This action serves the public interest, justifying an award of attorneys’ fees
14 under section 1021.5 of the California Code of Civil Procedure.

15 **FOURTH CAUSE OF ACTION**

16 **Declaratory and Injunctive Relief under Americans with Disabilities Act**
17 **42 USC §§ 12101, et seq. – Disparate Treatment and Failure-To-Accommodate**
18 **(Plaintiffs Against Defendants)**

19 118. Plaintiffs reallege and incorporate by reference their allegations in
20 Paragraphs 1 through 78 as if fully alleged herein.

21 119. Defendants’ enforcement of the Mandate through termination of non-
22 compliant Plaintiffs without engaging in an interactive process with each employee to
23 identify and implement appropriate reasonable accommodations enabling the employee
24 to perform their job duties directly violates, and conflicts with, their duties and
25 obligations under the Americans with Disabilities Act (“ADA”). 42 USC §§ 12101, et
26 seq.

27 120. Defendants have threatened to, and in several instances have, placed
28

1 Plaintiffs on administrative leave and threatened termination from their employment
2 because of Defendants' belief that Plaintiffs' physical condition of being unvaccinated
3 and/or having failed to report their vaccination status makes them incapable of
4 performing the duties they have performed competently for nearly two years since the
5 COVID pandemic first appeared.

6 121. Defendants' mandatory vaccination is based on Defendants' perception
7 that those who are unvaccinated present a danger of infection to themselves from
8 contact with others and a danger to others from contagion. As a consequence, it is
9 apparently Defendants' view that without the safety of vaccination and reporting the
10 Plaintiffs are not capable of performing their work by reason of their physical condition
11 and thus are regarded as being disabled.

12 122. Defendants' threat to terminate the Plaintiffs' employment by reason of
13 their physical condition constitutes discrimination on the basis of a perception of
14 disability in violation of the ADA, 42 USC 126. See, §§ 12102(3) (forbidding
15 discrimination on the basis of a person being regarded as having an impairment); and §
16 12112 (forbidding any impairment in the terms of employment of an individual on the
17 basis of a perception of impairment.)

18 123. Further Plaintiffs are qualified individuals with a disability, because they
19 remain able, with or without reasonable accommodation, to perform the essential
20 functions of the employment position that Plaintiffs hold, as demonstrated by the fact
21 Plaintiffs' have performed their essential job functions competently for nearly two years
22 since the COVID pandemic first appeared and, in many instances, continued those
23 operations without cessation during worst of the pandemic as essential workers.

24 124. Further, assuming for the sake of argument, Plaintiffs become unable to
25 perform their essential job functions by virtue Defendants' perception that as of the
26 arbitrary and capricious deadlines specified in the Mandate unvaccinated and/or non-
27 reporting employees then present a danger of infection to themselves from contact with
28

1 others and a danger to others from contagion, there exists an abundance of reasonable
2 accommodations designed to mitigate the risk of contagion that LAUSD implemented,
3 and relied on, such as remote work, social distancing, erection of transparent barriers,
4 face masking, alternate shifts to alleviate crowding in the work place, advanced cleaning
5 protocols, and efforts to improve ventilation, among other things.

6 125. An actual controversy involving justiciable questions related to this
7 controversy exists related to the rights and obligations of the respective parties with
8 respect to the ADA.

9 126. Plaintiffs seek a judicial declaration that proceeding with the imposition of
10 the threatened employment sanctions is a violation of the ADA and seek an order
11 restraining and enjoining Defendants from violation of the ADA by employment
12 sanction on the basis of perceived physical disability.

13 **FIFTH CAUSE OF ACTION**

14 **Violation of Due Process – *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194**
15 **(Plaintiffs Against all Defendants)**

16 127. Plaintiffs reallege and incorporate by reference their allegations in
17 Paragraphs 1 through 78 as if fully alleged herein.

18 128. Defendants have suspended various LAUSD employees, including
19 Plaintiffs by placing them on administrative leave for failure to comply with the
20 Mandate.

21 129. Under *Skelly v. State Personnel Bd.*, 15 Cal.3d 194 (1975) and its progeny
22 Plaintiffs have a property interest in continued employment with LAUSD protected by
23 due process.

24 130. On information and belief, LAUSD contends that it does not have to afford
25 Plaintiffs a full and complete *Skelly* hearing and rights and has instead suspended its
26 employees administratively including the Plaintiffs for five days or more, without a
27 hearing within a reasonable time thereafter and providing written notice explaining: (i)
28

1 the charge; (ii) proposed discipline; (iii) the policy or rule violated; (iv) the factual basis
2 for the same; (v) produced the documents purporting to support the charge(s); (vi)
3 containing a date for an in-person hearing; and (vii) the deadline for any response.

4 131. An actual controversy involving justiciable questions related to this
5 controversy exists related to the rights and obligations of the respective parties with
6 respect to Plaintiffs' and LAUSD employees' rights under *Skelly* and its progeny.

7 132. Plaintiffs seek a judicial declaration that proceeding with the imposition of
8 the threatened employment sanctions is a violation of *Skelly* and seek an order
9 restraining and enjoining Defendants from proceeding with the imposition of the
10 threatened employment sanctions before affording due process under *Skelly*.

11 **SIXTH CAUSE OF ACTION**

12 **Public Disclosure of Private Facts**

13 **(Plaintiffs Against all Defendants)**

14 133. Plaintiffs reallege and incorporate by reference their allegations in
15 Paragraphs 1 through 78 as if fully alleged herein.

16 134. Defendants received private, biological and genetic information from
17 Plaintiffs by requiring biological tests preparatory for requiring mandatory vaccination
18 as a condition of retained employment. Defendants disclosed the information derived
19 from said tests to Fulgent under a contract that enabled Fulgent to utilize blockchain
20 technology to keep, retain and share said information to unlimited persons and
21 companies unknown, including governmental agencies, without the knowledge,
22 permission or consent of the Plaintiffs. The information derived by the Defendants and
23 disclosed to Fulgent and, through Fulgent, publicly to thousands of persons and
24 companies unknown to Plaintiffs, was private and intended to be kept so, the disclosure
25 of which would be highly offensive to persons of normal sensibility.

26 135. Defendants knew or acted with reckless disregard of the fact that the
27 disclosure and dissemination of said information would be highly offensive and
28

1 damaging to the Plaintiffs and, disregarding their duty, disclosed same.

2 136. The information Defendants disclosed was not information of legitimate
3 concern to those who received it and those to whom it was disseminated.

4 137. As a result of the Defendants' conduct as herein alleged, Plaintiffs have
5 been harmed and injured to an extent that has not, as yet, been fully quantified. Plaintiffs
6 will seek leave to amend this complaint to allege the full extent of said damage when
7 same has been fully ascertained.

8 138. Plaintiffs seek a judicial declaration that Defendants violated Plaintiffs'
9 privacy with regard to their medical information and will seek an order restraining and
10 enjoining Defendants from maintaining or disseminating LAUSD employees' medical
11 information, including through a third party, Fulgent.

12 **SEVENTH CAUSE OF ACTION**

13 **Breach of Security for Computerized Personal Information**

14 **(Plaintiffs Against all Defendants)**

15 139. Plaintiffs reallege and incorporate by reference their allegations in
16 Paragraphs 1 through 78 as if fully alleged herein.

17 140. Defendants own computerized data, specifically genetic and medical data
18 related to the Plaintiffs herein, that was represented to be private and protected. In
19 violation of the Defendants' duties under California Civil Code 1798.29 and 1798.82,
20 Defendants allowed said information to be shared with Fulgent that disclosed same to
21 unknown millions of people and organizations through the use of blockchain
22 technology and pursuant to a contract with LAUSD that allowed it to do so.

23 141. Defendants knew or acted with reckless disregard of the fact that the
24 disclosure and dissemination of said information would be highly offensive and
25 damaging to the Plaintiffs and, disregarding their duty, disclosed the same.

26 142. The information Defendants disclosed was not information of legitimate
27 concern to those who received it and those to whom it was disseminated.

1 employment sanctions is a violation of the ADA; and

2 2. An order restraining and enjoining Defendants from violation of the ADA
3 by employment sanction on the basis of perceived physical disability.

4 **ON THE FIFTH CAUSE OF ACTION**

5 1. A judicial declaration that proceeding with the imposition of the threatened
6 employment sanctions is a violation of *Skelly*; and

7 2. An order restraining and enjoining Defendants from proceeding with the
8 imposition of the threatened employment sanctions before affording due process under
9 *Skelly*.

10 **ON THE SIXTH CAUSE OF ACTION**

11 1. A judicial declaration that Defendants violated Plaintiffs' privacy with
12 regard to their medical information; and

13 2. An order restraining and enjoining Defendants from maintaining or
14 disseminating LAUSD employees' medical information, including through a third
15 party, Fulgent.

16 **ON THE SEVENTH CAUSE OF ACTION**

17 1. A judicial declaration that Defendants' violated Plaintiffs' privacy by
18 disseminating their medical information to Fulgent; and

19 2. An order restraining and enjoining Defendants from maintaining or
20 disseminating LAUSD employees' medical information, including through a third
21 party, Fulgent.

22 **ON ALL CAUSES OF ACTION**

23 1. For judgment in favor of Plaintiffs;

24 2. For costs of suit herein; and

25 3. For such other and further relief as the Court may deem just and proper.
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Respectfully submitted,

ADVOCATES FOR FAITH & FREEDOM

Dated: March 14, 2022

/s/ Robert H. Tyler, Esq.
Robert H. Tyler

HADAWAY, PLLC

Dated: March 14, 2022

/s/ Brant C. Hadaway, Esq.
Brant C. Hadaway

Hadaway, PLLC

DAVILLIER LAW GROUP, LLC

Dated: March 14, 2022

/s/ George R. Wentz, Esq.
George R. Wentz

Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs demand a right to a jury trial for all matters so triable.

ADVOCATES FOR FAITH & FREEDOM

Dated: March 14, 2022

/s/ Robert H. Tyler, Esq.
Robert H. Tyler

HADAWAY, PLLC

Dated: March 14, 2022

/s/ Brant C. Hadaway, Esq.
Brant C. Hadaway

DAVILLIER LAW GROUP, LLC

Dated: March 14, 2022

/s/ George R. Wentz, Esq.
George R. Wentz

Attorneys for Plaintiffs

EXHIBIT “A”

INTEROFFICE CORRESPONDENCE
Los Angeles Unified School District
Human Resources Division
Division of Employee Support and Labor Relations
Personnel Commission

TO: All Employees

DATE: August 13, 2021

FROM: Ileana M. Dávalos
Chief Human Resources Officer

Kristen Murphy
Chief of Employee Support and Labor Relations

Karla Gould
Personnel Director

SUBJECT: COVID-19 VACCINATION REQUIREMENT FOR EMPLOYEES AND OTHER ADULTS WORKING AT DISTRICT FACILITIES

As part of Los Angeles Unified School District's efforts to provide the safest possible environment in which to learn and work, **all** District employees will be required to be fully vaccinated against COVID-19 no later than October 15, 2021. This requirement also applies to District partners, contractors, co-located charter school employees, and other adults who provide services on District property.

The purpose of this correspondence is to inform District staff of the vaccination requirement as a condition of continued employment/service, as well as the supports in place to assist with receiving the vaccination and/or verifying vaccination status, and the process for seeking a medical or religious exemption from this requirement.

In addition, per the State Public Health Officer Order of August 5, 2021, all employees who provide services or work in healthcare facilities must have their first dose of a one-dose regimen or their second dose of a two-dose regimen by September 30, 2021.

We care about our employees and we appreciate your commitment to maintaining the safest possible environment for our colleagues and the students and families we serve.

Please see the pages that follow for protocols and procedures.

INTEROFFICE CORRESPONDENCE
Los Angeles Unified School District
Human Resources Division
Division of Employee Support and Labor Relations
Personnel Commission

COVID-19 VACCINATION REQUIREMENT PROTOCOLS AND PROCEDURES

Required Documentation

Pursuant to the CDPH Guidance for Vaccine Records Guidelines & Standards, only the following modes may be used as proof of vaccination:

1. COVID-19 Vaccination Record Card (issued by the Department of Health and Human Services Centers for Disease Control & Prevention or WHO Yellow Card) which includes name of person vaccinated, type of vaccine provided and date last dose administered); OR
2. a photo of a Vaccination Record Card as a separate document; OR
3. a photo of the client's Vaccination Record Card stored on a phone or electronic device; OR
4. documentation of COVID-19 vaccination from a health care provider; OR
5. digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader client name, date of birth, vaccine dates and vaccine type; OR
6. documentation of vaccination from other contracted employers who follow these vaccination records guidelines and standards.

“Fully-Vaccinated”

Fully-vaccinated” refers to an individual who has received the first and second doses of the vaccine (or, in the case of Johnson & Johnson, the single required dose) and has completed the two-week period that follows to ensure maximum immunity.

Vaccination Intervals

The interval between vaccine doses is dependent on when the vaccine course started:

- Pfizer - 21 days between 1st and 2nd (final) vaccine
- Moderna - 28 days between 1st and 2nd (final) vaccine
- Johnson & Johnson – only one dose is required

Process for Meeting Vaccination Requirement

All employees and potential new hires are mandated to receive the required COVID-19 vaccination dose(s).

Individuals vaccinated as part of the winter/spring 2021 District vaccination program do not need to submit their vaccination record for verification. All information transfers automatically to the Daily Pass.

Individuals who were vaccinated outside the District program should submit their vaccination record for review and verification through the Daily Pass (See Attachment A). After the external vaccination document is submitted via the Daily Pass, it will be reviewed and verified by the

INTEROFFICE CORRESPONDENCE
Los Angeles Unified School District
Human Resources Division
Division of Employee Support and Labor Relations
Personnel Commission

District's Community Engagement team. Please allow 2-3 business days for the verification process.

Employees are allowed a window of up to three hours (per dose) for vaccination for themselves or their dependent(s) during their workday, including travel time to the vaccination location. Los Angeles Unified continues to host school-based vaccination clinics on many of its school campuses. A list of vaccination sites can be found on our website at: <https://achieve.lausd.net/Page/17638>

Employees utilizing this paid time off are to complete and submit a Certification/Request of Absence for Non-Illness (Form No. 60.NON-ILL; Reissued 9/14/2020). Under Reason for Absence, select Option "M" for Other Absences and identify MSND (Miscellaneous Natural Disaster) with explanation as "Self and/or Dependent COVID-19 vaccination." An absence due to natural disaster does not get deducted from the employees' illness balance

Employees are to notify their supervisor one day ahead if they are scheduling an appointment during their workday, in order to assist their supervisor in making arrangements for work coverage.

Classroom teachers who schedule an appointment during their workday will request a substitute teacher for the three-hour window via the SmartFind Express system and indicate "vaccination" as the qualifying reason.

Employees who experience adverse physical reactions to the vaccination may be allotted additional time (up to three days per dose) with the approval of their supervisor as specified in Reference Guide REF-041184.0. Employees are to complete and submit a Certification/Request of Absence for Non-Illness (Form No. 60.NON-ILL; Reissued 9/14/2020). Under Reason for Absence, select Option M for Other Absences and identify MSND (Miscellaneous Natural Disaster) with explanation as COVID-19 vaccination. An absence due to natural disaster does not get deducted from the employees' illness balance.

Employees experiencing any reaction to the vaccine prohibiting them from returning to work for more than three days will coordinate with their supervisor to determine if there is work that can be done remotely. If remote work cannot be performed, employees may avail themselves of benefited time.

Supervisor Responsibilities

Supervisors shall allow employees to be vaccinated during their regularly scheduled workday. Up to three hours of worktime (per dose) are allotted, including travel to the vaccination location.

INTEROFFICE CORRESPONDENCE
Los Angeles Unified School District
Human Resources Division
Division of Employee Support and Labor Relations
Personnel Commission

Submission of Required Documents and Deadlines

Current Employees

To comply with the vaccination requirement, current District employees must submit documentation of COVID-19 vaccination through the Daily Pass web portal at <http://DailyPass.lausd.net> by October 15, 2021. Qualifying Health Care Workers must submit proof of final vaccination no later than September 30, 2021.

New Employees

New employees hired on or after October 1, 2021 must be fully vaccinated by and provide verification of their vaccination status as part of the hiring and onboarding process prior to an official offer of employment to any District site.

New employees should submit results via:

U.S. or School Mail:

LAUSD
Human Resources Division
Employee Health Services – SB 792
333 S Beaudry Avenue, 14-110
Los Angeles, CA 90017

Fax: (213) 241-8918

All documents will be kept confidential as required by law.

Potential Exemptions

District employees who serve the District in any capacity may apply to seek exemption from the COVID-19 vaccine requirements only under the following circumstances:

- A. The employee submits a written statement from a licensed physician identifying a need for accommodation due to the person's disability or serious medical condition. This statement must be submitted on the employee's doctor's office letterhead with the doctor's printed name, license number, signature and date the statement is issued.

- B. The employee seeks accommodation based on a sincerely held religious belief.

The *COVID Reasonable Accommodation Application*, Attachment B, is to be completed if either of the above apply.

INTEROFFICE CORRESPONDENCE
Los Angeles Unified School District
Human Resources Division
Division of Employee Support and Labor Relations
Personnel Commission

Accommodation Process

If the District determines that an employee cannot be vaccinated due to disability or a sincerely held religious belief, an accommodation process will commence to determine whether an accommodation can be provided which would eliminate or reduce this risk, so the unvaccinated employee does not pose a danger to the health and safety of others at the District worksite.

The accommodation process will determine whether an accommodation exists to enable an employee to perform the “essential functions” of their job. The accommodation process initiates at the work site with the immediate supervisor. Essential functions vary by job class and therefore the process shall be case by case and may result in different outcomes in different cases.

If a risk to the health and safety of others cannot be reduced to an acceptable level through a workplace accommodation, the employee may be excluded from physically entering the workplace. The District and employee will then determine if there are any available benefit time/leave provisions.

Failure to Comply with Vaccination Requirement

Failure to comply with the mandate to be vaccinated and/or failure to provide the appropriate qualifying exemption documentation may result in disciplinary action, being placed on unpaid leave, and/or separated from District service.

Ongoing COVID-19 Testing

All employees are required to participate in regular COVID-19 testing, regardless of vaccination status. Los Angeles Unified will continue to provide free weekly COVID testing on school campuses for all students and employees – both vaccinated and unvaccinated. If infection rates in our community decrease, testing frequency may be reduced, and exemptions for vaccinated individuals may be considered in accordance with medical guidance. Employees assigned to worksites without onsite testing may make an appointment to be tested at one of our 12 stationary testing sites during their assigned work hours at dailypass.lausd.net. Up to two hours of MSND time will be allowed for each required COVID test.

INTEROFFICE CORRESPONDENCE
 Los Angeles Unified School District
 Human Resources Division
 Division of Employee Support and Labor Relations
 Personnel Commission

ATTACHMENT A

Office of COVID Reponse Uploading External COVID-19 Vaccination Record

This document outlines the steps to upload external COVID-19 vaccination records.

- STEP 1** – Sign in to <https://dailypass.lausd.net>
- STEP 2** – Select “Submit External COVID-19 Vaccination Record”
- STEP 3** – Select “Self” or “Student”
- STEP 4** – Fill out the vaccine information for either yourself or your student. The student needs to be validated first.
- STEP 5** – Upload vaccine record. Check status of your record under “Vaccinations” in the Daily Pass.

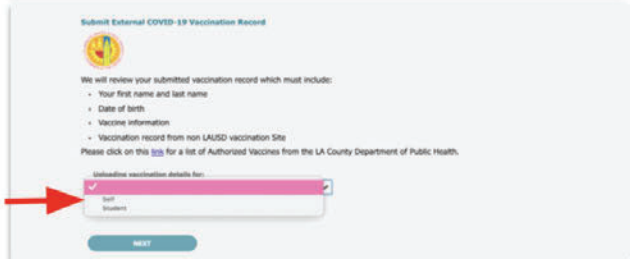
STEP 1
 Sign in to <https://dailypass.lausd.net> and select one of the options below.



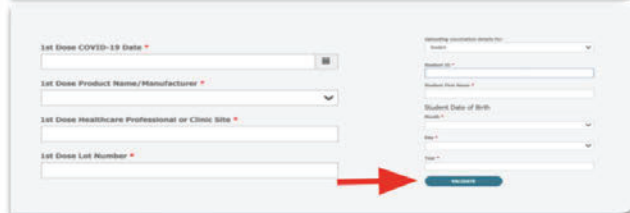
STEP 2
 Select “Submit External C-19 Vaccination Record”



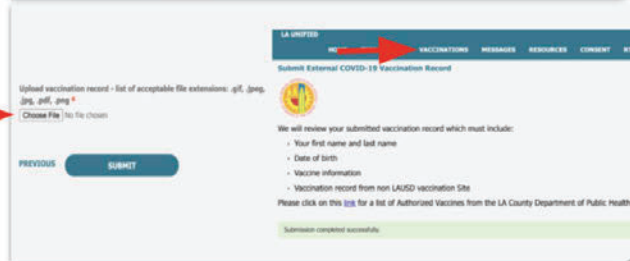
STEP 3
 Select “Self” or “Student”, then Next.



STEP 4
 Fill out vaccine information for self
 OR
 Validate student data and then fill out vaccine information for student.



STEP 5
 Upload record and Submit. Check status.



INTEROFFICE CORRESPONDENCE
Los Angeles Unified School District
Human Resources Division
Division of Employee Support and Labor Relations
Personnel Commission

ATTACHMENT B

COVID-19

Reasonable Accommodation Application

I am seeking reasonable accommodation for the District COVID-19 Vaccine Policy. I seek this accommodation because:

- I have a disability or serious medical condition.
- I object based on a sincerely held religious belief.

Please attach a written statement from a licensed physician identifying a need for accommodation due to the person's disability or serious medical condition. This statement must be submitted on the employee's doctor's office letterhead with the doctor's printed name, license number, signature and date the statement is issued.

Employee/Applicant Name: _____

Employee Number: _____

Home Address: _____

Home Phone Number: _____

Job Title: _____

Worksite: _____

I acknowledge and confirm that the above information is correct.

Name: _____ Employee Number: _____

Signature _____

Return form to:

Employeevaccines@lausd.net

EXHIBIT “B”

DECLARATION OF LUCIE HAISEN

I, Lucie Haisen, declare under penalty of perjury as follows:

1. I know the facts set forth in this declaration of my own knowledge and, if sworn

as a witness before this court or any other tribunal could and would competently testify thereto. I make this Declaration based on my own personal knowledge.

3. I am employed by the Los Angeles Unified School District (“LAUSD”) as a physical therapist. I have already had COVID-19 and tested positive on August 15, 2021.

4. Based on my religious beliefs, I am opposed to getting the COVID vaccine. I applied for a religious exemption, but LAUSD denied my request to be exempt from getting vaccinated. The District offered me the option to use my benefit time or remain on unpaid status (permissive leave), which is unacceptable. I am forced to use my benefit time, most of which is paid at only 50% of my salary. After those benefits are used up, I will be without any pay at all.

5. I am a member of the Health Freedom Defense Fund, Inc. and support its purpose and mission to rectify health injustice through education, advocacy and legal challenges to unjust mandates, laws and policies that undermine our health freedoms and human rights.

6. Although I could have filed a lawsuit on my own behalf, I am relying on the Health Freedom Defense Fund to represent me and protect my interests.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on this 3rd day of November, 2021 at _____, (city) California.

Lucie Haisen

DECLARATION OF SCOTT BALIAN

I, Scott Balian, declare under penalty of perjury as follows:

1. I know the facts set forth in this declaration of my own knowledge and, if sworn as a witness before this court or any other tribunal could and would competently testify thereto.

2. I am of sound mind and of the age of majority, and capable of testifying to the information sworn to herein.

3. I make this Declaration based on my own personal knowledge.

4. I am employed by the Los Angeles Unified School District (“LAUSD”) as a Plant Manager.

5. I am being required by LAUSD to be vaccinated against COVID-19 as a condition of remaining employed. However, I am adamantly opposed to LAUSD’s mandatory vaccine requirement.

6. I applied for a religious exemption; however, I was not provided with a response to that request.

7. I am not anti-vaccination, per se, but I also have concerns about the lack of data on the short and long-term safety of the COVID vaccines.

8. I am a member of the Health Freedom Defense Fund, Inc. and support its purpose and mission to rectify health injustice through education, advocacy and legal challenges to unjust mandates, laws and policies that undermine our health freedoms and human rights.

9. Although I could have filed a lawsuit on my own behalf, because I’m a member of the Health Freedom Defense Fund, I am relying on the Health Freedom Defense Fund to represent me and protect my interests.

I declare under penalty of perjury under the laws of The United States of America that the foregoing is true and correct and that this declaration was executed on this 11/2/2021, at West Hills (city), California (state).

Signature:  Printed Name: Scott Balian
F3BCEAC38320438...

DECLARATION OF NICOLE PEREZ BRAVATTI

I, Nicole Perez Bravatti, declare under penalty of perjury as follows:

1. I know the facts set forth in this declaration of my own knowledge and, if sworn as a witness before this court or any other tribunal could and would competently testify thereto. I make this declaration based on my own personal knowledge.
3. I am employed by the Los Angeles Unified School District (“LAUSD”) as a Healthcare Assistant. I have worked for LAUSD for approximately 23 years.
4. I have already had COVID-19 and tested positive on or about mid October 2021.
5. Based on my religious beliefs, I am opposed to getting the COVID vaccine. I applied for a religious exemption through my employer. While LAUSD granted my request, they did not grant me any accommodations. I am currently on unpaid leave status and am not receiving any income from LAUSD.
6. I am a member of the Health Freedom Defense Fund, Inc. and support its purpose and mission to rectify health injustice through education, advocacy and legal challenges to unjust mandates, laws and policies that undermine our health freedoms and human rights.
7. Although I could have filed a lawsuit on my own behalf, I am relying on the Health Freedom Defense Fund to represent me and protect my interests.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on this 3rd day of November, 2021 at Los Angeles, California.

Nicole Perez Bravatti

EXHIBIT “C”

DECLARATION OF NANCY WORSHAM

I, Nancy Worsham, declare under penalty of perjury as follows:

1. I know the facts set forth in this declaration of my own knowledge and, if sworn as a witness before this court or any other tribunal could and would competently testify thereto. I make this declaration based on my own personal knowledge.
2. I am employed by the Los Angeles Unified School District (“LAUSD”) as an Orientation and Mobility Specialist for the Visual Impairment Program of the Special Education Department. I have worked for LAUSD for approximately 13 years.
3. Based on my sincerely held beliefs, I am opposed to getting the COVID vaccine. Because of this, I submitted a request for a religious exemption. Although LAUSD granted my religious exemption, LAUSD did not grant me any acceptable accommodations. I was not permitted to get weekly Covid testing and wear a mask at work. Instead, I was forced to take a leave of absence using my personal necessity time which has now been exhausted. As of November 8, 2021, I am on unpaid leave status with LAUSD and am not receiving any income.
4. I am a member of the California Educators for Medical Freedom (CAEMF) and support its purpose and mission to rectify health injustice through education, advocacy and legal challenges to unjust mandates, laws and policies that undermine our health freedoms and human rights. Although I could have filed a lawsuit on my own behalf, I am relying on CAEMF to represent me and protect my interests.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on this 16th day of November, 2021 at Los Angeles, California.

Nancy Worsham