

Agenda Item:  
8.1 Update on Mandatory COVID-19 Vaccine for Eligible, Non-Exempt  
Students and Staff

Sacramento City Unified School District  
Board of Education Meeting

November 18, 2021 Public Comments

Name:	Melinda and Matthew Perrin
Comment:	<p>Regarding Items 8.1 - Update on Mandatory COVID-19 Vaccine for Eligible, Non-Exempt Students and Staff (Bob Lyons and Victoria Flores)</p> <p>Members of the Board: On behalf of many Sacramento City Unified School District families, we have had enough. We demand that you end your drunken illegal mandates, and these self-imposed non-binding deadlines, now.</p> <p>SCUSD demands of an experimental test and an experimental non-approved injection, into the bodies of our otherwise healthy children, as a condition of in-person education, is illegal, illegal discrimination and child abuse.</p> <p>There is no California law that grants individual schools or school districts the authority to unilaterally require additional vaccines to the K-12 immunization schedule or mandate experimental testing in order for students to enjoy an in-person education, an education guaranteed to students under Section 5, Article IX of the California Constitution. Additionally, your self-imposed mandates are in direct conflict with California Code of Regulations, title 17, section 6025 and the provisions of Education Code section 51745 et seq. SCUSD is required to admit students and allow their continued in-person education attendance as long as the have received the 10 enumerated vaccines. Any attempt to impose additional vaccine mandate and force students who defy this into non-classroom-based independent study directly conflicts with the state law. The addition of a COVID-19 vaccine mandate must be imposed by the Legislature. – For reference, see Tentative Ruling by The State of California in respect to Let the Choose vs. San Diego Unified School District. Emailed 1/12/22.</p> <p>There are simply no legal grounds to exclude a child from in-person education for refusing experimental medical procedures.</p> <p>We the parents have had enough and we demand that this ends NOW.</p>

Speaking as: Parent/Guardian

Email

Tel:

Date/time Stamp: 1/12/2022 10:26:22 AM

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8.1 Update on Mandatory COVID-19 Vaccine for Eligible, Non-Exempt  
Students and Staff

Sacramento City Unified School District  
**Board of Education Meeting**

**November 18, 2021 Public Comments**

Name:	Elijah Blair
Comment:	I think we should quarantine for two weeks to prevent this from spreading further meaning online learning because if less than half of the students are showing up then we need to do something to get them learning from home and to stop more death and sickness.

Speaking as: Student

Email

Tel:

Date/time Stamp: 1/13/2022 8:22:14 AM

Agenda Item:  
8.1 Update on Mandatory COVID-19 Vaccine for Eligible, Non-Exempt  
Students and Staff

Sacramento City Unified School District  
**Board of Education Meeting**

**November 18, 2021 Public Comments**

Name:	Hermila Nolasco
Comment:	I really don't mind having the vaccine be mandatory. I think it's meant to help us get passed this pandemic faster and I who am fully vaccinated, think that going through a few side effects so that I can be safe isn't a problem at all. I'm fully for vaccinations being mandatory.

Speaking as: Student

Email

Tel:

Date/time Stamp: 1/13/2022 9:07:02 AM

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**From:** Jennifer Tucker ·  
**Sent:** Wednesday, January 12, 2022 8:25 AM  
**To:** SCUSD Public Comment  
**Subject:** Board meeting public comment on vaccines for students SCUSD

Hello,

My name is Jennifer Tucker. I have three school-aged children who attend public school in Sacramento City Unified School District. I am opposed to the implementation and requirements of the Covid vaccines.

I am opposed for the following reasons:

- 1) This is an experimental drug that has not been fully tested for long-term side effects and complications. The current FDA approved vaccine is not even available in the United States and thus this is still only authorized under "Emergency Use Authorization."
- 2) The vaccine does not protect nor prevent the transmission of Covid. We have seen it all over the country. Getting this mRNA vaccine is not shielding anyone. People who are unhealthy, regardless of vaccine status, are still falling ill. This Omicron variant is not as serious, yet even more resistant to the vaccine. It is time to let our healthy children live their lives without schools mandating something that will cause more harm than good.
- 3) There is ample data to suggest that these vaccines affect women's ovaries and can bring on myocarditis in young boys. The virus itself passes through kids with little to no harmful effect. It is better for these kids to have a natural immunity response versus risk their health unnecessarily.
- 4) Kids are feeling shamed and judged for personal choices and beliefs. In a district that talks about equity, this is increasing mental stress and separation. You are contributing to kids missing out on peer to peer interaction and interaction with their teachers.
- 5) You cannot deny in-person learning to healthy kids and there will likely be legal consequences. I will continue to stand up for my kids and send them to school, despite your efforts. As a taxpayer, I have paid into this educational system and thus have every right to use it on behalf of my children.

Thank you,  
Jennifer Tucker

Be well ♥  
Jen

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**From:** melinda jaime  
**Sent:** Wednesday, January 12, 2022 10:26 AM  
**To:** SCUSD Public Comment  
**Subject:** PUBLIC COMMENT - 1/13/22 BOARD MEETING - AGENDA ITEM 8.1  
**Attachments:** Tentative.ReopenCaliVAX.pdf

Regarding Items 8.1 - Update on Mandatory COVID-19 Vaccine for Eligible, Non-Exempt Students and Staff (Bob Lyons and Victoria Flores)

Members of the Board: On behalf of many Sacramento City Unified School District families, we have had enough. We demand that you end your drunken illegal mandates, and these self-imposed non-binding deadlines, now.

SCUSD demands of an experimental test and an experimental non-approved injection, into the bodies of our otherwise healthy children, as a condition of in-person education, is illegal, illegal discrimination and child abuse.

There is no California law that grants individual schools or school districts the authority to unilaterally require additional vaccines to the K-12 immunization schedule or mandate experimental testing in order for students to enjoy an in-person education, an education guaranteed to students under Section 5, Article IX of the California Constitution. Additionally, your self-imposed mandates are in direct conflict with California Code of Regulations, title 17, section 6025 and the provisions of Education Code section 51745 et seq. SCUSD is required to admit students and allow their continued in-person education attendance as long as they have received the 10 enumerated vaccines. Any attempt to impose additional vaccine mandate and force students who defy this into non-classroom-based independent study directly conflicts with the state law. The addition of a COVID-19 vaccine mandate must be imposed by the Legislature. – For reference, see Tentative Ruling by The State of California in respect to Let the Choose vs. San Diego Unified School District.

There are simply no legal grounds to exclude a child from in-person education for refusing experimental medical procedures.

We the parents have had enough and we demand that this ends NOW.

Sincerely,  
Melinda and Matthew Perrin

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO

LET THEM CHOOSE, an initiative of LET THEM BREATHE, a California nonprofit public benefit corporation;

Plaintiffs,

vs

SAN DIEGO UNIFIED SCHOOL DISTRICT;  
and DOES 1 -50,

Defendants.

Case Number: 37-2021-43172-CU-WM-CTL  
(consolidated with 37-2021-49949 *S.V. v. SDUSD*)

Hearing Date: December 20 2021

**TENTATIVE RULING**

In September 2021, Respondent San Diego Unified School District’s (SDUSD) Board of Education voted to approve a “Vaccination Roadmap” (the Roadmap). The Roadmap requires all students eligible for a fully FDA approved COVID-19 vaccine to receive the vaccine in order to attend school in-person and participate in extra-curricular activities. Currently, only those students aged 16 and older fall within the mandate and must receive both doses of the vaccine by December 20, 2021. Students who do not comply will be placed into an independent study program beginning with the new semester. Petitioners Let Them Choose, an initiative of Let Them Breathe, and S.V., individually and on behalf of J.D. (collectively, Petitioners) seek a writ of mandate restraining SDUSD from implementing the Roadmap.

SDUSD “may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.” (Educ. Code, § 35160, emphasis added; see *Hartzell v. Connell* (1984) 35 Cal.3d 899, 915–916.) Petitioners contend that the Roadmap field is preempted by Education Code section 120325 et seq. and directly conflicts

1 with both California Code of Regulations, title 17, section 6025 and provisions of Education Code  
2 section 51745 et seq.

3 “Under the normal rules of preemption, a local ordinance that conflicts with state law is preempted  
4 by the state law and void. . . . Pursuant to preemption law, a conflict exists if the local legislation  
5 duplicates, contradicts, or enters an area fully occupied by general law, either expressly or by  
6 legislative implication.” (*Haytasingh v. City of San Diego* (2021) 286 Cal.Rptr.3d 364, 392; see  
7 generally *O’Connell v. City of Stockton* (2007) 41 Cal.4th 1061; *American Financial Services Assn.*  
8 *v. City of Oakland* (2005) 34 Cal.4th 1239.)

9 More than a century ago, the Legislature began regulating the field of school vaccination  
10 requirements. In 1890, the California Supreme Court upheld a “Vaccination Act” that required  
11 schools to exclude children who had not been vaccinated against smallpox. (*Abeel v. Clark* (1890)  
12 84 Cal. 226, 227–228, 230.) The Court stated that vaccination, “being the most effective method  
13 known of preventing the spread of the disease referred to, it was for the legislature to determine  
14 whether the scholars of the public schools should be subjected to it.” (*Id.* at p. 230, emphasis  
15 added.) The Legislature subsequently put control of smallpox under the direction of the State  
16 Department of Public Health (DPH) and provided that “no rule or regulation on the subject of  
17 vaccination shall be adopted by school or local health authorities.” (Educ. Code, § 49405, emphasis  
18 added; see also Health & Saf. Code § 131052, subd. (3).)

19 Between 1961 and 2010, the Legislature imposed a total of 10 vaccine requirements for school  
20 children—diphtheria, hepatitis B, haemophilus influenza type b, measles, mumps, pertussis,  
21 poliomyelitis, rubella, tetanus, and varicella. (Health & Saf. Code, §§ 120325, subd. (a)(1)–(10),  
22 120335, subd. (b)(1)–(10); see Assem. Com. on Health, Analysis of Sen. Bill No. 277 (2015–2016  
23 Reg. Sess.) as amended May 7, 2015, p. 4.) “Each of the 10 diseases was added to the California  
24 code through legislative action, after careful consideration of the public health risks of these  
25 diseases, cost to the state and health system, communicability, and rates of transmission.” (*Love v.*  
26 *State Department of Education* (2018) 29 Cal.App.5th 980, 987, emphasis added.) A detailed  
27 statutory and regulatory scheme has been established to implement the school vaccine mandates.  
28 (See Health & Saf. Code, § 120325 et seq.; Cal. Code Regs., tit. 17, § 6000 et seq.) The scheme  
included exemptions for both medical reasons and personal beliefs. (See Health & Saf. Code, §  
120370; former Health & Saf. Code, § 120365.)

In 2015, in response to decreasing vaccination rates and a rise in measles, the Legislature removed  
the “personal beliefs” exemption to these 10 school vaccination requirements. (Sen. Bill No. 277  
(2015–2016) §§ 1, 4; see generally *Love, supra*, 29 Cal.App.5th 980; *Brown v. Smith* (2018) 24  
Cal.App.5th 1135.) In doing so, the Legislature considered whether “the issue of public health  
could be addressed by mandating vaccines on a community by community or school district [by]  
school district basis,” but concluded that “a statewide approach is the correct approach.” (Sen.  
Com. on Judiciary, Analysis of Sen. Bill No. 277 (2015–2016) as amended Apr. 22, 2015, p. 18.)  
“To provide a statewide standard, allows for a consistent policy that can be publicized in a uniform  
manner, so districts and educational efforts may be enacted with best practices for each district. . . .  
Further in consultation with various health officers, they believe a statewide policy provides them  
the tools to protect all children equally from an outbreak.” (*Ibid.*)

Recognizing the need for additional vaccine mandates that may arise in the future, the Legislature  
added a “number 11” mandating that school children be vaccinated against “[a]ny other disease

1 deemed appropriate by the [State Department of Public Health], taking into consideration the  
2 recommendations of the Advisory Committee on Immunization Practices of the United States  
3 Department of Health and Human Services, the American Academy of Pediatrics, and the  
4 American Academy of Family Physicians.” (Health & Saf. Code, §§ 120325, subd. (a)(11),  
5 120335, subd. (b)(11); see also *id.* at § 131051, subd. (a)(3)(J).) However, because the addition of a  
6 new mandate via this “catch all” provision “disrupts the careful balancing of the various rights  
7 involved” in the legislative process, the Legislature decided to maintain the “personal beliefs”  
8 exemption for new vaccination requirements added by the DPH. (*Id.* at § 120338; Sen. Com. on  
9 Judiciary, Analysis of Sen. Bill No. 277 (2015–2016) as amended Apr. 22, 2015, pp. 17–18.)

10 The DPH is charged with adopting and enforcing regulations to carry out the vaccination  
11 requirements. (Health & Saf. Code, § 120330; see Cal. Code Regs., tit. 17, § 6000 et seq.) The  
12 DPH has not added COVID-19 as a required vaccine under the “catch all” provision, which would  
13 need to include a personal belief exemption. (Cal. Code Regs., tit. 17, § 6025; see Health & Saf.  
14 Code, § 120338.) Rather, DPH regulations state that a school “shall unconditionally admit or allow  
15 continued attendance” to any student who has either received each of 10 enumerated vaccines or  
16 obtained an exemption. (*Ibid.*, emphasis added; see also *Puerta v. Torres* (2011) 195 Cal.App.4th  
17 1267, 1272 [“The term ‘shall’ is mandatory”].)

18 Vaccination requirements do not apply to students who are enrolled in an independent study  
19 program and not receiving classroom-based instruction. (Health & Saf. Code, § 120335, subd. (f).)  
20 However, the decision to participate in independent study must be voluntary. (See Educ. Code, §§  
21 51747, subds. (f), (g)(8), 51749.5, subd. (a)(9), (12), 51749.6, subd. (a)(6); Cal. Code Regs., tit. 5, §  
22 11700, subd. (d).) Thus, if students have received all 10 vaccinations, a school district cannot force  
23 or coerce them into non-classroom-based independent study.

24 In light of the above, it is clear that SDUSD’s Roadmap attempts to impose an additional  
25 requirement in a field that the Legislature fully occupies through Health and Safety Code section  
26 120325 et seq. The Legislature intended a statewide standard for school vaccination requirements  
27 and established a detailed scheme. The Legislature expressly contemplated the addition of new  
28 vaccine mandates without further legislative action, but assigned that responsibility to the DPH,  
taking into account recommendations from other relevant agencies and organizations and  
mandating that those new mandates include a personal belief exemption. The statutory scheme  
leaves no room for each of the over 1,000 individual school districts to impose a patchwork of  
additional vaccine mandates, including those like the Roadmap that lack a personal belief  
exemption and therefore are even stricter than what the DPH could itself impose upon learned  
consideration.

SDUSD is correct that certain statutes contemplate school districts administering vaccines in  
cooperation with local health officers to help prevent and control communicable diseases in school  
age children, including “diseases that represent a current or potential outbreak as declared by a  
federal, state, or local public health officer,” provided the district has received parental consent.  
(See Educ. Code, § 49403; see also Health & Saf. Code, §§ 120375, subd. (d), 120380.) However,  
the Roadmap was not enacted to cooperate with the local health officer, and more to the point, those  
statutes do not detract from the Legislature’s intent to occupy the field of mandating a specific  
vaccine for school age children.



1 SDUSD's Roadmap also attempts to impose an additional requirement that directly conflicts with  
2 California Code of Regulations, title 17, section 6025 and the above referenced provisions of  
3 Education Code section 51745 et seq. SDUSD is required to admit students and allow their  
4 continued in-person attendance as long as they have received the 10 enumerated vaccines.  
5 SDUSD's attempt to impose an additional vaccine mandate and force students (both new and  
6 current) who defy it into non-classroom-based independent study directly conflicts with state law.

7 The sole function of this Court is to determine whether the Roadmap is preempted by state law.  
8 SDUSD's Roadmap appears to be necessary and rational, and the district's desire to protect its  
9 students from COVID-19 is commendable. Unfortunately, the field of school vaccine mandates has  
10 been fully occupied by the State, and the Roadmap directly conflicts with state law. The addition of  
11 a COVID-19 vaccine mandate without a personal belief exemption must be imposed by the  
12 Legislature. Accordingly, this Court is compelled to **GRANT** the petitions for writ of mandate.  
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**From:** G A Tubo <[REDACTED]>  
**Sent:** Wednesday, January 12, 2022 9:04 PM  
**To:** SCUSD Public Comment  
**Subject:** 1/13/21 general public comment

In the face of the Omicron variant, I am grateful that SCUSD already had testing in place in school sites for all students and staff and that household members can be tested at Serna or Einstein MS. Looking at news from across California and the nation, I see that SCUSD is ahead of the game compared to many and I applaud the hard work and dedication of staff that has made this happen. Obviously it is very challenging for students and staff to have to go in and out of quarantine--my family is currently experiencing it, and I know it's much harder for families with younger kids--as well as difficult for teachers and other staff to carry on. However, I am so grateful that our school board and our state's education leaders, including those of California Teachers Association; SEIU California; Association of California School Administrators; California County Superintendents Educational Services Association; and California School Boards Association, have recognized that schools staying open is fundamental for the overall health and safety of students and are not attempting to close schools wholesale as was done in 2020 and 2021.

I look forward to the supply of test materials increasing as federal action takes effect and I eagerly await the full authorization of vaccines and the implementation of the covid-19 vaccine as a requirement for students and staff. Also, I am hopeful that the Governor's Executive Order will broaden the pool of substitutes and we will see those substitutes coming to all of the district's schools, not just the best-known ones. Years ago I was a classified substitute in our district and I had the honor of meeting many fine children and adults at each of the several dozen schools at which I substituted.

Alison French-Tubo  
parent of two SCUSD students