

September 10, 2021

RE: Cupertino Unified School District (CUSD) Outdoor Mask Mandate for Students; Response to Reply Dated September 7, 2021

Dear Ms. Yao,

Thank you for your reply. We have acknowledged that per EC 35160 that CUSD, in their sole discretion, can implement measures beyond those mandated by the California Department of Health and the Santa Clara County Health Department. Our contention is different. As previously cited, EC 51101(a)(7) states that parents should have “a school environment for their child that is **safe and supportive** of learning.” CUSD’s Board Policy 5000 that you have cited, states “The Superintendent or designee shall implement appropriate practices to **minimize the risk of harm** to students, including, but not limited to, practices relative to school facilities and equipment, the outdoor environment, educational programs, and school-sponsored activities.”

As we had indicated previously, research indicates that prolonged wearing of masks causes undue harm to students and is not supportive of learning. We contend that the students of [REDACTED] have experienced negative SEL development as a result. CUSD’s decision to implement outdoor masks, in spite of CDPH’s mandated guidance, must be evaluated against the risk of COVID transmission outdoors. Given that such a decision is a subjective evaluation, as it is not prescribed by CDPH, it should be jointly developed and deliberated with parents, guardians, and the school Board publicly per EC 51101.

For reference, the first and largest study on the impact of prolonged mask use in children was conducted in Germany which found that 68% of children and their parents reported a range of substantial adverse events due to mask-wearing. <https://pubmed.ncbi.nlm.nih.gov/33642617/>. In addition, multiple health experts and think tanks such as the World Health Organization have suggested delayed SEL and speech development from prolonged mask-wearing in younger children.

Per public CDPH guidance, COVID mitigation strategies should be implemented based on community transmission levels. Santa Clara County, per the CDC, is currently “low” which is the lowest level in CDC’s barometer for community transmission.

Before escalating further, the parents and I are proposing that CUSD follow EC 51101 and place the matter of an outdoor mask mandate on the CUSD school board agenda in the public portion of the meeting. The school Board should deliberate with parent and guardian input and vote on the policy of outdoor masking akin to other CUSD decisions where risk has to be evaluated. The implementation of an outdoor mask mandate prolongs mask-wearing amongst children and thus exacerbates potential undue harm.

In regards to the IEP student and parent in our coalition, we will request an IEP meeting first. If the district is not able to remedy the matter, the parents will file a complaint with the Office of Civil Rights.

We look forward to your response.

Sincerely,

Nicole Ricci, Attorney and Parent