



Cupertino Union School District

Superintendent
Board of Education

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September 15, 2021

Nicole Ricco

Re: Cupertino Union School District Outdoor Mask Mandate for Students;
Response to Letter dated September 10, 2021

Dear Ms. Ricci,

Thank you for your recent letter. It appears there is agreement that the Cupertino Union School District, in its sole discretion, can implement measures beyond those mandated by State or local health departments. However, I understand your letter to also suggest that such requirements must be developed under Education Code section 51101. Specifically, you ask “that [the District] follow [Education Code section] 51101 and place the matter of an outdoor mask mandate on the [Board of Education] agenda in the public portion of the meeting.”

Section 51101 lays out various rights of parents and guardians of students in public schools. The first part of the law states parents have the right “to be informed by the school” regarding certain aspects of their student’s education. The second part indicates that: “Each governing board of a school district shall develop jointly with parents and guardians, and shall adopt, a policy that outlines the manner in which parents or guardians of pupils, school staff, and pupils may share the responsibility for continuing the intellectual, physical, emotional, and social development and well-being of pupils at each schoolsite.” In other words, the Board is required to adopt a policy, developed jointly with parents, that outlines how parents may be involved at each schoolsite. The Board has complied with this requirement via adoption of Board Policies 5020 and 6020.

District staff has continuously provided updates on its health and safety protocols to the public and the Board during public meetings; however, section 51101 does not require that every such protocol be deliberated and voted on by the Board. As I mentioned in my prior letter, the District has a constitutional obligation to provide safe and secure schools. (Cal. Const. art. I, § 28(a)(7) & (f)(1).) The Board has delegated its authority to implement this obligation to myself and District staff through Board Policy, including Board Policy 5000. (“The Governing Board recognizes the importance of providing a safe school environment that is conducive to learning and helps ensure student safety and the prevention of student injury. 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.”). Board review and

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approval of each specific health and safety protocol, including the requirement for students to wear masks outdoors, is not required or practical.

Again, while the District acknowledges that families have different viewpoints on the mask requirement issue, and while we acknowledge these viewpoints, we must continue to prioritize the safety and well-being of our educational community. To that end, District staff will continue to work pursuant to their delegated authority and apprise the Board of protocols as the District continues to develop and modify them to best fit the concerns facing District students and staff. As you letter noted, if there are concerns with specific students, we look forward to working with the students and their families to address them.

Please contact me or Erin Lindsey, Director of Communication, at lindsey_erin@cusdk8.org or (408) 252-3000, extension 61206, if you have any questions and/or need further information about District programs.

Sincerely,



Stacy Yao
Superintendent