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Exhibit A, Shay E.

My daughters were the victims of exclusion, harassment, endangerment, discrimination, humiliation, segregation, intimidation, isolation and bullying by Foothill Ranch Elementary (FRE) school Principal Deborah Shaver, Assistant Principal Christina Stevenson, various Saddleback Valley Unified School District (SVUSD) administrators, SVUSD’s Board of Trustees, and FRE staff. They were also mistreated by fellow students—who were implicitly encouraged to bully my daughters by the hostile environment created by FRE and SVUSD faculty.

On February 8, 2022, my fifth and third grade daughters and a handful of their friends ran to me after school and told me that they had attended an indoor school assembly that day. They explained that the adult presenter did not wear a mask during the assembly. They further noted that no school officials had an issue with this! He was reportedly “up close” and “in the kids’ faces.” He was not once asked to put on a mask by Mrs. Shaver or any staff member.

A picture of the assembly with the maskless presenter was posted on FRE’s social media page promoting the event. When parents noticed and commented on the picture, it was “mysteriously” removed, and Mrs. Shaver acted like it never happened. To my knowledge, she was not disciplined for this flagrant infraction of SVUSD policy.

This event happened right after the infamous pictures of Governor Newsom and mayor Garcetti were circulating—where they pose maskless at crowded indoor events amongst other maskless people. The hypocrisy of these “leaders” in breaking nearly identical arbitrary “mandatory mask” ordinances shocked the conscience of my daughters who simply wished to breathe normally, like all school-aged children in our Nation’s history until this institution erratically changed its norms in 2020.

My daughters are very observant, and they noticed that “about half” of the students and staff on campus were already opting to remove their masks inside without any repercussions. It went unnoticed. It was not an issue. My girls loathed forced masking. Masks are well known to

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significantly impact Oxygen intake—often resulting in side effects detrimental to the learning process. These include “headache, nausea, fatigue and loss of concentration.”<sup>1</sup>

Per my daughters, masks must be pulled down repeatedly to avoid these issues. They get wet and dirty. Masks make it difficult for my children to hear their teachers and fellow students. The muffled communication hampers their capacity to learn. Furthermore, in the preceding months, they observed that forced masking indoors was completely ineffective—as email alerts of Covid infections on campus were provided to the FRE community daily. Even my children could see that SVUSD’s mitigating measures, including indoor mask mandates, didn’t prevent the spread.

It was around this time that my daughters decided to breathe freely. They opted not to wear masks while at school, especially since so many of their classmates and FRE staff were already going maskless. They were tired of the confusing and perpetually changing rules that they couldn’t make sense of!

On February 9, 2022, Mrs. Shaver called me to let me know that my daughters were choosing to not wear a mask anymore (I’m not sure how this became an official “issue” involving Principal Shaver, since the mask wearing seemed “optional” among some teachers, students, and staff members). Mrs. Shaver spoke to my nine-year-old daughter (Rosa) outside of her class and told her that she was too young to make this decision for herself and that her only choice was to put a mask on and go back to class or go home!

Rosa, then in third grade, has always instinctively been afraid of Mrs. Shaver. At times, she has described Mrs. Shaver as acting “mean” towards other students. That day, she made Rosa feel like she was “in trouble.” Mrs. Shaver and Rosa’s teacher, Mrs. Petrone, told Rosa that she would be “missing out” on a bunch of “fun stuff” in class by refusing to mask. This included the “whale project,” which Rosa had been looking forward to all year. Upon surmising that they might take an upcoming whale watching field trip away, Rosa was coerced into wearing a mask. At that point, Mrs. Shaver decided to give Rosa a hug—without her consent.

After school, Rosa was visibly upset by the unsolicited hug! She yelled, “Mrs. Shaver HUGGED me, Mom!” She seemed agitated and anxious as she described the unwelcomed embrace as one from a “big, creepy lady hugging me when I did not want to or say that she could!” To this day,

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<sup>1</sup> See <https://brownstone.org/articles/more-than-150-comparative-studies-and-articles-on-mask-ineffectiveness-and-harms/> and citations therein.

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Rosa still talks about how “creepy” and “yucky” the experience was for her. This was assault and battery, period. It was a total violation of her bodily integrity—not to mention a clear violation of the three-to-six-foot social distancing requirement established by FRE and SVUSD. This caused even more confusion for Rosa. She was troubled by the fact that the rules didn’t seem to apply to *the adults prescribing them*. Obviously, Mrs. Shaver should have asked my daughter permission before putting her hands on her. Rosa is still traumatized by this experience. She would have declined the contact had Mrs. Shaver sought consent.

Harkening back to the phone call from the morning of February 9, 2022, Mrs. Shaver let me know that my fifth-grade daughter (hereinafter “Nancy”), did not want to wear a mask. Mrs. Shaver told me that she “completely supported Nancy’s decision” and she “100% agreed with Nancy’s reasons.” She also noted that she didn’t “blame Nancy for being confused after seeing folks like the Governor not wearing a mask.” Mrs. Shaver told me that “moving forward, if Nancy chose to not wear a mask that she would support her decision and personally ensure that she and the other students not masking would still receive proper instruction and she would find a way to make it work.”

Mrs. Shaver told me that Nancy and a few of her classmates (who had also decided they could no longer wear masks over their faces) would be seated at a table right outside of their classroom. This would permit the protesting students to do their work and not have to wear masks.

On February 10, 2022, I received a call from Principal Shaver around 1:30 p.m. (school is out at 2:15 p.m.). Mrs. Shaver’s tone and demeanor had completely changed from the day before. The self-described “warm principal” from the previous day was gone! She informed me that she was adopting a “different approach.” She explained that Nancy was being “excluded due to health and safety reasons.” Without evidence, she claimed that my daughter posed a “danger” to other students and staff and that she was being “excluded” and would be marked with an unexcused absence for the day. I replied that I wasn’t okay with this proposal and asked her to explain how my child was “a danger” to others. I also asked how Nancy could be marked with an “unexcused absence” when she was on campus the entire day and had completed her schoolwork. Mrs. Shaver was harsh and curt. She refused to answer my questions and kept repeating “she has been excluded.”

What Mrs. Shaver neglected to explain, was that she had further segregated my daughter (and three other students) from outside of their classroom to an outdoor enclosure near the library and the lunch tables. The enclosed area is constructed with metal bars and looks exactly like a “cage”

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or “jail,” which were the names ultimately given to the enclosure by its detainees, witnesses, and those that later bullied the incarcerated. Regarding the enclosure, Nancy once told me, “Mom, now I know what a zoo animal feels like.” She continued, “it’s like I’m stuck in a cage and people are staring at me.”

Referring to the cage, Mrs. Shaver reportedly told the children that they “chose this” and that there were “consequences for their actions.” She further told them that they weren’t allowed to leave the confined area and could not get up from their seats for any reason—except to use the restroom. She barked her orders at them and told them they weren’t allowed recess, lunch, or Physical Education—all of which were outdoor activities where masks weren’t even required for participation!

Mrs. Shaver also told the inmates that they were a “danger” to the rest of the students. This comment especially hurt Nancy’s feelings! She often brings this up in conversation describing the encounter as “hurtful.” She couldn’t understand how she could be “dangerous.” The supervisors assigned to act as prison guards were told by Mrs. Shaver that “these kids chose this” and that this was their “punishment.”

On February 10, Orange County was under an excessive heat and wind advisory.<sup>2</sup> That day, Mrs. Shaver left my eleven-year-old daughter, two ten-year-old classmates and a twelve-year-old boy outside for six hours in a barred-in area. They were forced to sit at metal tables with no shade. The high that day exceeded ninety degrees, with wind gusts more than forty miles per hour! Breaks were not provided. There was no umbrella over the metal table. It was barren of shade (please see attached picture of the “jail”).

Mrs. Shaver didn’t mention her plans to “punish” Nancy when she called. Neither I nor the other parents knew this was happening until after school when my beet-red sun and wind burned, dehydrated, exhausted, and disheveled daughter came to me crying! She was so upset! She sobbed and explained how hot and windy it was and how Mrs. Shaver left her outside all day. The metal table got so hot that Nancy could feel it through her clothes. When she hugged me, I could feel that her skin and clothes were still hot. Neither I nor Nancy could believe that an adult could just leave children outside like that.

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<sup>2</sup> <https://patch.com/california/orange-county/45-mph-winds-orange-county-heat-advisory-extended>

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Amazingly, Nancy also explained that an air conditioning unit in one of the classrooms had gone out that day. The entire class was reportedly moved into the library because the heat was so unbearable. Despite this, she and her “excluded” classmates were left outside in the direct heat, sun, and wind for six hours!

I was beyond upset and confused by my daughter’s reporting. I took my kids home and cooled my daughter down. I hydrated her and comforted her before calling the school for an explanation. I got an answering machine, so I emailed Mrs. Shaver and asked why she had left my daughter outside in the extreme weather all day. She has yet to respond to this email.

The only communication I received related to this incident was a phone message stating that my child was “excluded” from school for “health and safety reasons” and that she would be marked with an unexcused absence unless she could “mask up” and return to class. The voicemail also explained that SVUSD offers a virtual school. My husband and I both work. Virtual school is not an option for us. Our children have a right to an in-person education. They have the right to participate fully in the educational process per Section 2 Article I of the California Constitution, free from discrimination and harassment per education code section 201.

None of our children showed any signs or symptoms of illness before being “excluded.” Other students on campus were allowed to be unmasked and interact close together before school, at recess, at lunch, at PE or anywhere outdoors. Students were exposed to each other all day long and to their families at home who were, in turn, exposed to other members of the world. My kids are smart enough to realize that masking a limited portion of the population only while they are together in a certain environment makes no sense. They often described the school’s rules as “silly” and “unfair.”

Nancy is especially headstrong and capable. She said she wanted to stand up for the little kids that really didn’t want to wear their masks but were too afraid to say anything. She chose to continue her protest for nearly four weeks. During this time, she was segregated from her classroom. She was forced to sit outside in a barred in area where she was forced to eat lunch and skip recess, isolated. Every day, she watched her friends playing and laughing together. From her outdoor jail, Nancy was forced to watch her classmates have fun at school without their masks on (without consequence).

For a period of four weeks, Nancy missed outdoor assemblies, PE, and class parties where the masks were often removed to eat treats. Throughout this period, she was denied an education by

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“exclusion” because she simply didn’t want to wear a cloth on her face that hasn’t yet been shown to provide notable protection from a disease she isn’t in any danger from as a young healthy girl.

She missed music class and was kicked out of her afterschool Peer Assistance Leadership (PAL) club for demonstrating actual leadership in the face of medical apartheid. The irony of her removal from PAL under these circumstances is beyond rich. For four weeks, she took a stand for liberty. She led by example and was therefore tormented by rather pathetic adults playing the part of petty authoritarian dictators.

During the protest period, we had extreme weather conditions, including bitterly cold days where the high temperature hardly hit the mid-fifties.<sup>3</sup> Most of the day on February 23, 2022, was in the forties. Every day, Nancy was denied entry to her classroom and stuck outside in the elements. For most mornings the week of February 21, 2022, the kids could see their breaths and were shivering. Bear in mind, these children live in southern California, they don’t have “thick blood.” They brought blankets and snow hats this week to keep warm as they were still forced to sit outside. It was so cold, that the prisoners huddled together at the tables.

Despite this conduct amounting to blatant child-abuse, Mrs. Shaver didn’t seem to care. Indeed, not one FRE faculty member, nearly all of whom are mandated to report child abuse under California law, seemed to care that FRE was engaging in institutional endangerment in violation of California Penal Code §273(a). I emailed Mrs. Shaver one morning during this cold snap and asked her to bring the kids inside so they could be warm. She refused, explaining that “Nancy may mask up and go inside of her classroom.” No empathy was shown for students wanting to opt out of forced adornment of products that neither the FDA nor the CDC has yet authorized for use in children. Indeed, the FDA classifies all masks for children (including medical respirators such as N95 and KN95 masks) as “experimental” (meaning, not yet shown to work for the intended user). Indeed, the FDA grants mere “emergency use authorization” for mask use by children.<sup>4</sup>

During this period, I repeatedly reached out to the school district (SVUSD) hoping to speak with a decent human being. I sent numerous unreturned emails to Superintendent Crystal Turner. She

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<sup>3</sup> <https://www.timeanddate.com/weather/usa/mission-viejo/historic?month=2&year=2022>

<sup>4</sup> <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/personal-protective-equipment-euas>

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never once responded. I reached out to various SVUSD staff alerting them of Mrs. Shaver's behavior and that of the staff at FRE. No one from SVUSD apparently cared. Typically, they didn't respond to my inquiries. When they did, they claimed that Mrs. Shaver's treatment of my daughter and the other unmasked students was SVUSD "protocol."

I begged Mrs. Shaver and SVUSD to work with the parents of protesting students to accommodate their education. I asked if she could set the kids up in an empty classroom with their Chromebooks and classwork. I asked if they could sit inside their class with a Plexiglas shield. I asked if protesting students could, at least, attend class via ZOOM so they could follow instruction from their teachers (they were literally "excluded" from an education in violation of CPDH guidelines, which require accommodations for protesting students,<sup>5</sup> and numerous state and federal laws). The only response from the district that I received from SVUSD on the issue was from (Mr. Dizon), who explained that SVUSD did not approve any alternative masking protocols.

For the excluded students, their teachers provided them with classwork via Chromebooks but did not provide instruction. SVUSD hired "subs" to supervise the students sent to the "cage" or "jail." Despite her physical presence on campus, a strong desire to attend class, and completing her classwork, Nancy was marked with an unexcused absence each day she protested.

In late February, I received a truancy letter from District Attorney Todd Spitzer's office, which was apparently sent following several reported unexcused absences from FRE. Each parent of the students protesting with Nancy received Truancy letters from the DA's office stating we were required to attend a meeting and discuss the attendance of our children.

The letter, signed by Deputy District Attorney Elisa S. Kim, demanded that I attend a meeting with the DA and discuss the reasons for non-attendance. It claimed that my husband and I were ignoring our duties as parents to provide our children with an education. *The letter equated my dropping my daughters off at school with failing to provide them with shelter, clothing, and sustenance.* The letter warned that continued unexcused absences could result in the DA bringing *criminal charges* against Nancy, myself, and my husband.

Nancy was practically begging for an education every day. All Nancy and Rosa wanted was to go to school, normally, like nearly all children across the Nation were permitted to do at that

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<sup>5</sup> <https://www.casbo.org/cdph-releases-public-health-guidance-for-the-2021-22-school-year/>

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time. It was Principal Shaver and SVUSD that ignored their duty to educate my children—opting instead to feverishly adhere to objectively useless guidelines!

To say that this letter from the DA threatening potential prosecution was scary and stress inducing would be an understatement. I became physically ill from the stress of the whole situation. My hair thinned due to the stress. I experienced dizzy spells and heart palpitations. I couldn't sleep and felt nauseated constantly. I had high blood pressure for the first time in my life. I started experiencing extreme anxiety. It seemed that nobody cared about or had any empathy for how our children were being treated for simply wanting normalcy.

But for SVUSD falsely reporting unexcused absences, I would not have been emotionally traumatized. SVUSD reporting students as truant, even though they showed up every day is objectively outrageous. SVUSD and Principal Shaver knew or should have known the impact their actions were likely to have on the children and parents who received these letters. To be clear, in addition to the harm suffered by my daughters, I consider myself injured by Mrs. Shaver and SVUSD.

I reached out to the school district numerous times following receipt of the truancy letter to no avail. I sent the Letter of Students Rights re: enforcement of 5-12 mask mandates (please see the attached letter, prepared by California Attorney Lee M. Andelin) to Mrs. Shaver and Superintendent Turner asking them to read and understand why their conduct violated the rights of students. No one responded. They stuck to their “protocols” and continued with their mask enforcement policy, marking the kids unexcused and excluding them. In all, Nancy was segregated, isolated, harassed, paternalized with condescending attitude and fundamentally denied an education by Mrs. Shaver, Mrs. Stevenson, and various SVUSD staff.

Because of the abuse my children endured, I filed police reports (Orange County Sherriff's Department # 22-00132). I also submitted a Williams Act complaint and filed formal complaints with SVUSD, asking that the district remove all truanancies and unexcused absences from Nancy's records.

Ms. Yvonne Estling, from the SVUSD, conducted her own investigation of my complaint. She, in a clearly biased manner, adopted the side of Mrs. Shaver. I requested that somebody other than Ms. Estling conduct the investigation. This request was denied by the district. To no surprise, Ms. Estling found my claims to be “unsubstantiated.” She also explained that Mrs. Shaver was following “district procedures” by excluding my daughter. Nobody cared.

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On or about February 22, 2022, after a few weeks of being isolated in the “cage,” Nancy and her classmates decided that they needed some exercise. Missing their friends, the children endeavored to leave the cage and go to recess. They hadn’t been permitted to play with their classmates since their protests began on February 9. A supervisor charged with watching the prisoners reported the situation to Mrs. Shaver. Upon hearing about the “jailbreak,” Mrs. Shaver hunted the fugitives down on the playground. When she found them, she chastised them publicly with a “big, long speech” about how it wasn’t her fault that they were being kept away from friends, recess, etc. She then threatened them, “do you want to go back to the courtyard and make your lives a whole lot easier, or are you going to stay out here and make a stand?” Even though the kids were afraid that their lives could become more difficult, they knew that they weren’t doing anything wrong by going to recess, so they politely declined to return to “jail.” They were sick of being excluded for nonsensical reasons, so they refused to comply. Per Nancy, Mrs. Shaver said “okay,” and walked away.

This day, I received a voicemail from Mrs. Shaver demanding that I pick up Nancy. Mrs. Shaver claimed that Nancy was being “defiant” and “refusing” to come in from the playground. The voicemail went on to explain that that Nancy was violating “protocols for health and safety” because she was playing with her friends—outside, on the playground—where masks weren’t required for anyone.

At one point during the protest period, Mrs. Shaver was overheard by Nancy and the other students in the cage speaking to one of the “subs.” Mrs. Shaver claimed that “these kids” were “always disrespecting her.” She further claimed that they were “rude.” Nancy later told me she was very upset by this false characterization. Mrs. Shaver’s remarks hurt her personally, especially because she hadn’t done anything wrong or acted in such a way to merit this accusation. Throughout the protest period, Nancy was polite—nearly always declining to comply using the phrase “no, thank you.” Regardless, Mrs. Shaver lumped Nancy in with the group. These false claims about Nancy’s character have resulted in severe levels of confusion and distress for my daughter.

On or about March 1, 2022, one of the boys with Nancy brought a ball to play with on a “break” while inside the cage. It was confiscated. Later, Nancy was fidgeting with a prize that she previously earned from a “fun run.” Mrs. Shaver saw this and threatened to take it away from her. Again, per Mrs. Shaver, this was a “consequence” intended to “punish.” Indeed, “fun” wasn’t allowed in the “cage.”

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On March 2, 2022, there was a looming fire very close to school (see attached), our kids were, once again, left outside despite very unhealthy air conditions. It was hot and smoky because of the fire, which appeared to be very close per Nancy's report. The kids were scared and wondering if they would have to evacuate again (we had to evacuate twice in two months prior because of fires). Worried about this, one of the kids "googled" the fire on a computer and another looked up the fire on a phone. Mrs. Shaver and Mrs. Stevenson reprimanded the kids for using a phone while on campus. Instead of comforting them from the nearby visible threat and ensuring they were safe, SVUSD employees acted like petty tyrants and disciplined these justifiably concerned children who were merely looking out for their own safety.

That day, Nancy was forced to review a "PAWS matrix," which purports to teach and reinforce a positive and inclusive school culture. Nancy was confused by the lesson, especially considering her circumstances.

I called the school around 1:50 p.m. to let them know that I was going to pick my daughter up early. I hoped to get her out of the smoky air, take her home, cool her off, and make sure she was hydrated before her afterschool PAL club meeting. When I got on campus, I called the office at 2:09 p.m. to let staff know that I had arrived and asked for Nancy to be brought out with a sign-out sheet because I did not have a mask with me and, therefore, wouldn't be permitted into the office.

The woman I spoke with in the front office was very nice. She said she would bring out the sheet. No one ever came outside to meet me or let me know what was going on. I was kept waiting until after the bell rang at 2:15 p.m. At 2:19 p.m., my daughter came around the corner. Her face was red, and she was crying. She ran to me and said "Mommy, a lady from the office came out to the cage and asked for me to tell me that you were here to pick me up. Mrs. Shaver wouldn't let me leave!"

Nancy Also explained that "Mrs. Shaver said 'Yes, *he* is here, but Mom will just need to wait.'" Nancy felt embarrassed by the mischaracterization of my sex. Nancy also explained that Mrs. Shaver "wouldn't let me go to you, Mom, because she was too busy lecturing us on being disrespectful." Nancy was very upset about the way she was treated by Mrs. Shaver on this day. She still occasionally brings this up. By refusing to release my daughter to me, Mrs. Shaver falsely imprisoned her.

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When I learned of the situation, I was beyond upset that Mrs. Shaver refused to release my child to me, especially when she knew I had arrived to pick her up early. While still on campus, I hugged and comforted my daughter. After calming Nancy down, I asked if she still wanted to attend her PAL leadership meeting. She said yes, so I let her go to her meeting. When she got to the meeting, Mrs. Sites pulled her off to the side and told her that she must wear a mask inside the building, or she could not attend the meeting. Nancy told Mrs. Sites that she didn't have a mask. Mrs. Sites took Nancy to her classroom to get an extra. She made Nancy put it on to attend PAL.

Despite Nancy adorning the mask, Mrs. Sites reported Nancy's participation in PAL to Mrs. Shaver, who pulled Nancy from the meeting and called me to pick her up. Mrs. Shaver declared that, because Nancy was marked absent for the day, she was not allowed to attend PAL club! Nancy later told me that, while waiting for me to pick her up in the front office, she saw two unmasked teachers walk into the office. Apparently, no one said anything to them about their lack of masks. Mrs. Shaver made Nancy cry for the second time that day by making her go home.

My nine-year-old daughter refused to mask and joined her sister and the other kids outside on February sixteenth, seventeenth, and twenty-ninth. She later told me that, on those days, she asked to use the restroom and the substitute told her she had to go by herself. She further noted that Mrs. Shaver had directed her to make students use the restroom alone.

Generally, FRE uses the "buddy system" for bathroom breaks. This is a safety protocol that Rosa depends upon for comfort when using the restroom. The "new rule," requiring students to go to the restroom, alone, was only adopted for the "excluded kids" confined to the "cage."

Notably, *Rosa (who is nine and in the third grade) is afraid of school bathrooms and all public restrooms.* Before then, she had never used a school restroom alone and was reliant on FRE's "buddy system" for comfort. Accordingly, she asked the supervisor if Nancy could please go with her. This innocent request to abide by normal FRE policy was denied.

Rosa tried to go to the bathroom by herself but couldn't bring herself to go into the stall due to fear. She went back to the cage and held her urine until she could use the restroom at home. She later told me that she asked to use the restroom in the morning, *meaning she was forced to hold her urine for about five hours until she got home.* This apparently happened each day she was excluded from school, and I only learned of the situation afterward.

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Notably, *Rosa was born with only one kidney, and SVUSD has record of this.* Meaning, Rosa's solitary kidney must work twice as hard to filter out waste and toxins. *Urine retention keeps those toxins in her body. This can cause her solitary kidney to swell—putting her at heightened risk for a urinary tract infection, kidney infection, and permanent damage to her kidney.*

Given that she only has one kidney, if damaged, she may need dialysis or a transplant. Despite knowing the dangers to my daughter's safety, the school chose to irrationally "punish" her, endangering her life, because she simply wanted to breathe normally (like most of her peers in the United States could do at that time). Every child should be made to feel safe when on their school campus. Mrs. Shaver eviscerated that feeling for my nine-year-old.

My daughter, Nancy, was isolated in the "cage" during "Kindness Week" at FRE. A table was set up by PAL students near the "cage." The PAL table encouraged students to write "kind notes" to other students. A very kind note was left there for Nancy by another student. He was checking on her and wanted to know if she was "ok." The note was delivered to Nancy by a PAL student.

The student that delivered the note to Nancy was reportedly "yelled at by the supervisor" (Ms. Targos) and reprimanded for speaking to Nancy. The student delivering the note was told, "these students are in trouble. Nobody is allowed to talk to them or interact with them." Shockingly, the student was reportedly told, "*don't even look at them.*"

Later, an "unkind note" was handed to my Rosa. It said, "[h]ave fun in jail!" This crushed Rosa. Nancy and another boy also saw the note. It upset all of them.

Nancy and her classmates remained segregated in the cage until March 11, 2022, when the mask mandate became mask choice at FRE. In all, Nancy was excluded for nearly a month.

Before the change to mask choice, the school sent out an "empathy" video asking that everyone "show empathy" for students who might choose to continue masking. This video was an absolute slap in the face to my family and the families of the other three children isolated in the cage for nearly a month! Literally, overnight, wearing a mask became a "choice" for the students. There was never any empathy or support shown to our children when they chose to not wear a mask. Only when the arbitrary deadline was lifted was empathy requested—and only for the kids afraid of removing their masks. This video was produced by SVUSD counselors and narrated by Ms. Carlson from FRE.

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The emotional distress that my daughters went through during their time in the “cage” did not go away when the mandate was lifted. Nancy came to me on March 26—bawling. She reported feeling “stressed, because of the way Mrs. Shaver treated her.” She said that Mrs. Shaver “made me feel like I was a piece of garbage. That I had no purpose in the world.”

Nancy and Rosa both now report that when they see Mrs. Shaver or Mrs. Stevenson on campus, or hears their voices over the PA they feel fearful, like “they are coming to yell at me or tell me that I’m in trouble for no reason!” On March 28, Rosa had a nightmare. Crying, she told me that her teacher had sent her outside and put her “in a cage.” She went on to explain that she was “forced to sit in there all day” simply because she had “asked a question.”

When Nancy walks by the “cage” when on campus, she told me that seeing the enclosure triggers “a feeling of fear in her tummy.” She also explained feeling angry due to the stimulus. The mere sight of the enclosure caused her to remember the abuse inflicted upon her and her friends.

Due to the actions of SVUSD, Mrs. Shaver, and each of the aforementioned agents of SVUSD, my daughters have suffered and continue to suffer severe emotional distress. I am concerned that they have been permanently damaged as a result. Throughout the protest period, SVUSD, the school and its agents knew or should have known that treating my daughters in this way was likely to cause such an outcome. At the very least, the treatment of my children as described herein constitutes negligence. The school and the individuals responsible (including each board member) should be held personally responsible for their roles in harming my children.

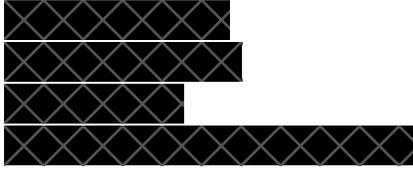
I’m currently exploring therapy options to resolve the trauma experienced by myself and my daughters at the hands of SVUSD and its officials. I’m considering outside tutors to catch my daughters up on the learning they suffered at the hands of SVUSD and its officials. I expect my daughters and I will probably need therapy for years as a direct result of the foregoing abuses.

## **Notice of Representation:**

The Gavel Project, a 501(c)(3) public charity ([www.thegavelproject.com](http://www.thegavelproject.com)), has retained California Attorney Tracy Henderson to represent the interests of myself and daughters in this matter pro bono. Any correspondence related to this claim must be directed to:

Law Offices of Tracy L. Henderson, Esq

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8:58

◀ Messages





February 8

10:42 PM

Edit

Saddleback Valley

That's not even the worst part. Within the past few days & even hours posts like that have since been deleted.





February 8

8:38 PM

[Edit](#)



**frebobcats** Kicking off PTA's Fun Run fundraiser with assemblies today! Ask your bobcat how to get started supporting programs like Meet the Masters and technology. [#foothillranchpta](#)

50m



**mbkeisenrod** I thought everybody had to wear a mask at the school? Did I miss some thing?



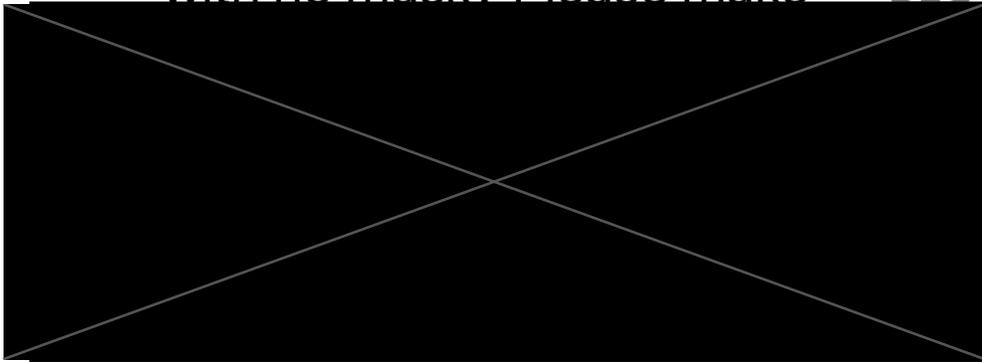
3m [2 likes](#) [Reply](#)



Reply to **mbkeisenrod**...



**jlreynolds04** Where was his mask? My child had to wear a mask to attend this assembly but you guys allowed him to run around handing out prizes up close to the kids with no mask? Please make







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*Coastal Property Rights, Land Use & Litigation*

August 27, 2021

POSTED TO THE LET THEM BREATHE WEBSITE (<https://www.letthembreathe.net/>)

**Re: Enforcement of K–12 Mask Mandate**

To All K–12 Students, Parents, Educators, and Concerned Citizens:

As counsel for Let Them Breathe, we are disturbed by reports that some state, county, and school district actors are employing scare tactics, aggressive enforcement policies, and misinformation to achieve compliance with CDPH’s K–12 mask mandate. We are disseminating this letter as a clarion call for all members of the public—students, parents, teachers, school board members, government officials, and others who want our schools to be governed by the rule of law, sound public policy based on objective data, and the principle of self-determination.

As you may be aware, our firm has filed a lawsuit against the state to challenge the legality of the CDPH mask mandate. (*Let Them Breathe v. Newsom*, San Diego Super. Ct., Case No. 37-2021-00031385- CU-WM-NC.) Our lawsuit is based on arguments that the mask mandate exceeds the state’s authority, is not supported by evidence, and causes harm to children. Multiple studies examining school mask mandates have failed to find any epidemiological benefit from such policies. For example, one study of 59 schools in Wales found: “There was no evidence that face coverings, 2-metre social distancing or stopping children mixing was associated with lower odds of COVID-19 or cold infection rates in the school. Primary school staff found teaching challenging during COVID-19 restrictions, especially for younger learners and those with additional learning needs.”<sup>1</sup>

The court will decide these questions in due course. Meanwhile, we urge students and their parents to know their rights, school districts to cease their overzealous and illegal enforcement tactics, and proponents of school mask mandates to discontinue the spread of misinformation.

**Forcible removal of students from classrooms violates California law.**

Some school districts have implemented policies barring students from their regular classes, or from campus altogether, for failure to wear a mask. We are aware of at least one instance in which

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<sup>1</sup> Marchant et al., *COVID-19 mitigation measures in primary schools and association with infection and school staff wellbeing: an observational survey linked with routine data in Wales, UK* (Aug. 24, 2021), available at <https://www.medrxiv.org/content/10.1101/2021.08.20.21262349v1>; see also, e.g., Oster et al., *COVID-19 Mitigation Practices and COVID-19 Rates in Schools: Report on Data from Florida, New York and Massachusetts* (May 21, 2021), available at <https://www.medrxiv.org/content/10.1101/2021.05.19.21257467v1>. Such evidence puts the lie to the argument that a mask mandate is necessary to provide a “safe” environment for education.

a school principal sought assistance from the county sheriff to forcibly remove two elementary school-aged children simply because they had peaceably refused to don a cloth mask. Enforcement strategies involving the involuntary removal or disenrollment of children from their school infringe on children's fundamental right to education and violate California law constraining the disciplinary powers of public school administrators.

California law is clear: “willfully def[ying] the valid authority of supervisors, teachers, administrators, school officials, or other school personnel ... *shall not constitute grounds* for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, *to be recommended for expulsion.*” (Educ. Code, § 48900, subd. (k) [emphasis added].) This means children cannot be removed or disenrolled from school for peaceably refusing to wear a mask.<sup>2</sup>

Moreover, children in grades K–8 may not be suspended from school for their refusal to wear a mask. (Educ. Code, § 48900, subs. (k)(3)–(4).) Even in those instances where suspension may be a potential disciplinary measure, the school must first exhaust “other means of correction” before imposing suspension as a last resort. (Educ. Code, § 48900.5, subd. (a).)<sup>3</sup>

A child cannot be suspended for a first offense unless the principal or superintendent determines that “the pupil’s presence causes a danger to persons.” (*Ibid.*) Where there is no evidence that a child is infectious—that is, the child is not exhibiting symptoms, does not have a diagnosis of COVID-19, and has not had any exposure to a known infected person—a principal or superintendent cannot validly determine the child to be a “danger to persons” simply because he or she is not wearing a cloth mask.

Finally, no child can be suspended indefinitely. Any suspension must be “no more than five consecutive schooldays” (Educ. Code, § 48911, subd. (a)), and all suspensions cumulatively “shall not exceed 20 schooldays in any school year.” (Educ. Code, § 48903, subd. (a).)

### **Children cannot be forced to enroll in an independent study program.**

School officials in some districts have attempted to coerce students who do not comply with the mask mandate to enroll in an alternative independent study program. But California law could not be clearer that enrollment in any such program must be voluntary: “independent study is an *optional educational alternative* in which *no pupil may be required to participate.*” (Educ. Code, § 51747, subd. (f)(8) [emphasis added].) Thus, enrollment can occur only if there is a “pupil-parent-educator conference” to determine whether enrollment in independent study is in the best interest of the child (Educ. Code, § 51747, subd. (h)(2)) and “a signed written agreement for independent study from the pupil, or the pupil’s parent or legal guardian if the pupil is less than 18

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<sup>2</sup> Furthermore, a child may not be expelled from school without a full hearing before the governing board. (Educ. Code, § 48918.) Decisions by the governing board are appealable to the county board of education. (Educ. Code, § 48919.) A school official cannot simply call the sheriff to escort a child from campus.

<sup>3</sup> “Other means of correction” might include, among other things, “(1) A conference between school personnel, the pupil’s parent or guardian, and the pupil”; “(2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel ...”; or “(7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.” (Educ. Code, § 48900.5, subd. (b).)

years of age” (Educ. Code, § 51747, subd. (f)(9)(F)).

Additionally, and importantly, a child who voluntarily enrolls in a distance learning or independent study program cannot be excluded from school facilities. Rather, the school “*shall ensure the same access to all existing services and resources in the school in which the pupil is enrolled ... as is available to all other pupils in the school.*” (Educ. Code, § 51746 [emphasis added].)

And a child enrolled in an independent study program always retains the option to return to his or her regular classroom for in-person instruction. The school is required to “*transition pupils whose families wish to return to in-person instruction from independent study expeditiously, and, in no case, later than five instructional days.*” (Educ. Code, § 51747, subd. (f) [emphasis added].)

**The state’s emergency powers do not allow children to be excluded from school for refusing to wear a mask.**

Section 120230 of the Health and Safety Code has been cited by some as authority for a school to exclude a child who fails to follow the CDPH mask mandate. This section is being misapplied; it provides only narrow authority for schools to exclude a child who is subject to an isolation or quarantine order duly issued by a county health officer.

Section 120230 reads in relevant part: “No ... child *who resides where any contagious, infectious, or communicable disease exists or has recently existed, that is subject to strict isolation or quarantine* of contacts, shall be permitted by any superintendent, principal, or teacher of any ... public or private school to attend the ... school, except by the written permission of the health officer.” (Emphasis added.)

Two things must exist before this section can apply: First, a “contagious, infectious, or communicable disease” must exist or have recently existed at the child’s place of residence. Where a child has not received a diagnosis of COVID-19 and has not been exposed to the disease through a family member or close contact, this condition cannot be met. Second, the child must be subject to a “strict isolation or quarantine” order by the county health officer.<sup>4</sup> In all the known instances where a school has excluded or threatened to exclude a child from campus for noncompliance with the mask mandate, neither of these conditions has been met.

Section 49451 of the Education Code likewise does not authorize school officials to send a healthy child home simply for refusing to wear a mask. Section 49451 provides that “*whenever there is a good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and shall not be permitted to return until the school authorities are satisfied that any contagious or infectious disease does not exist.*” (Educ. Code, § 49451.) A child’s refusal to wear a mask does not establish “good reason to believe that the child is suffering from”

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<sup>4</sup> “Strict isolation or quarantine” means a person is subject to an order by the county health officer not to leave his or her place of confinement: “A person subject to quarantine or strict isolation residing or in a quarantined building, house, structure, or other shelter, shall not go beyond the lot where the building, house, structure, or other shelter is situated, nor put himself or herself in immediate communication with any person not subject to quarantine, other than the physician, the health officer or persons authorized by the health officer.” (Health & Safety Code, § 120225.)

COVID-19 or any other disease.

Article I, section 28, of the California Constitution sets forth “the inalienable right to attend campuses which are safe, secure and peaceful.” CDPH, in a letter published on its website August 23, 2021, makes the misleading argument that this constitutional provision imposes a legal and moral imperative on schools to ensure compliance with the mask mandate.<sup>5</sup> This section, however, is part of a victim’s rights initiative enacted by ballot measure in 2008 and pertains solely to a person’s safety from the criminal acts of others. While we agree that schools must take reasonable measures to provide a safe environment for students, nothing in the California Constitution allows, much less requires, schools to bar a healthy student from attending class. And in any event, as explained above, real-world data from the last year and a half has failed to show any correlation between mask mandates for children and a decrease in the spread of COVID-19 in schools.

**Schools must issue exemptions for children who for medical reasons should not wear a mask.**

CDPH’s mask guidance exempts several categories of persons, including the following:

- “Persons with a medical condition, mental health condition, or disability that prevents wearing a mask....
- “Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.”<sup>6</sup>

These exemptions are self-executing. Nothing in CDPH’s guidance requires a child or his or her parents to submit an “application” to obtain an exemption. Yet many school districts are not only requiring an application but are compounding the difficulty by requiring extensive documentation, substituting their own non-medical opinions for those of a child’s own physician, and requiring a child to waive his or her medical privacy rights or agree to other arduous and/or unlawful conditions. Such requirements effectively deprive children of exemptions to which they are entitled, violating *their* right to learn in a safe environment.

We are told that some children who have received an exemption are being isolated from their classmates or have otherwise been subject to harassment or discrimination. Many such exemptions arise out of a child’s disability, and any harassment or discrimination against a child based on disability violates both California and federal law.<sup>7</sup>

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<sup>5</sup> <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/Requirement-for-Universal-Masking-Indoors-at-K-12-Schools.aspx>.

<sup>6</sup> Cal. Dep’t of Pub. Health, *Guidance for the Use of Face Coverings* (July 28, 2021), available at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>.

<sup>7</sup> See Educ. Code, § 200 (“It is the policy of the State of California to afford all persons in public schools, regardless of their disability ..., equal rights, and opportunities in the educational institutions of the state.”); Educ. Code, § 201, subd. (a) (“All pupils have the right to participate fully in the educational process, free from discrimination and harassment.”); Educ. Code, § 220 (“No person shall be subjected to discrimination on the basis of disability ..., in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance ....”)

August 27, 2021

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**Conclusion.**

Until such time as CDPH withdraws its mask mandate or a court declares it unlawful, masks are required in schools in indoor settings. But, for as long as the mandate exists, schools may not enforce it by excluding children from classrooms, whether by means of expulsion, suspension, or forced enrollment in an independent study program. Schools must exempt students from mask requirements as provided in the CDPH guidance, without an onerous application process, and all exempt students should be free from all forms of harassment, discrimination, and retaliation.

If you would like assistance in protecting the rights of schoolchildren and fighting back against government overreach, please visit Let Them Breathe at <https://www.letthembreathe.net/>.

Very truly yours,

AANNESTAD ANDELIN & CORN LLP



Lee M. Andelin

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Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in any program or activity operated by recipients of federal funds. It states: “No otherwise qualified individual with a disability in the United States...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance...”

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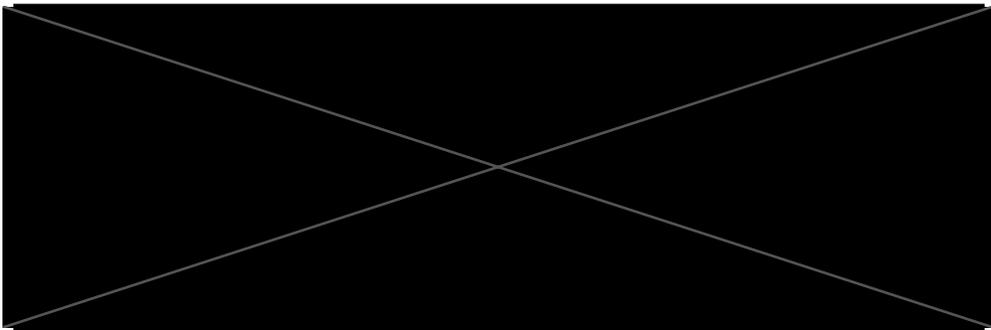
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March 2

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OFFICE OF THE  
**DISTRICT ATTORNEY**  
ORANGE COUNTY, CALIFORNIA  
TODD SPITZER

February 24, 2022

[REDACTED]

Regarding: [REDACTED]

Dear [REDACTED]

The administrators of Foothill Ranch Elementary have informed the Office of the District Attorney that your child, [REDACTED] has poor attendance. It is the goal of this office in partnership with the schools of Orange County that all children attend school regularly. Regular school attendance is necessary for children to develop the skills needed to succeed in life. It is your responsibility as parents to make sure your child attends school regularly. This office is committed to facilitating the regular attendance of [REDACTED] and will take all necessary steps to achieve that goal.

You and your child are required to join us on Zoom, March 31, 2022 at 3:00 p.m. to discuss your child's attendance and the legal consequences for non-attendance.

[REDACTED]

California law requires children to go to school. When a child misses 3 or more days of school or is tardy 30 minutes or more, the child is truant and must be reported to the attendance supervisor or superintendent of the school district. If your child's attendance does not improve, both you and your child may be subject to prosecution which may include a fine, community service, or weekend school. If your child's attendance problem does not resolve immediately, the court process will begin, which starts with a referral to the School Attendance Review Board (SARB).

It is your duty as a parent to provide for your child's education in the same way you provide food, clothing, and shelter. If you continue to ignore this duty, the District Attorney's Office may have no choice but to file charges against you and/or your child. Your failure to attend this meeting may cause the prosecution to proceed. If you have any questions, please contact Deborah Shaver, Principal, phone: 949-470-4885.

Please do not contact me directly, as I will not be able to answer specific questions regarding your child's attendance. We sincerely hope to see you at this meeting and to resolve any issues that might be preventing your child's regular attendance.

Respectfully,

*Elisa Kim*

Elisa S. Kim  
Deputy District Attorney

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