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January 10, 2022

To: Louisiana State School Superintendent Dr. Cade Brumley, Louisiana School Superintendents, and BESE Board Members via email

Re: **The Illegal Imposition of Mask Mandates in Public Schools**

Our purpose in writing to you today is two-fold: we want you to be aware of the many and sundry laws public schools are violating by implementing mask mandates *with no option to refuse*, and we want parents and students to be aware so that they have sufficient resources when suing for damages.

On April 24, 2020, the FDA issued an Emergency Use Authorization (EUA) for non-surgical face masks,¹ which children in some Louisiana schools are wearing today. **21 US CODE 360bbb-3(e)(1)(A)(ii)(iii)**,² the federal law governing EUAs requires that:

- (ii) Appropriate conditions designed to ensure that individuals to whom the product is administered **are informed-**
 - (I) **that the Secretary has authorized the emergency use of the product;**
 - (II) **of the significant known and potential benefits and risks of such use,** and of the extent to which such benefits and risks are unknown; and
 - (III) **of the option to accept or refuse administration of the product,** of the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks.

- (iii) **Appropriate conditions for the monitoring and reporting of adverse events associated with the emergency use of the product.**

Any product issued under EUA is considered investigational or experimental for the purpose intended.^{3,4} This federal law is in place so that the patient is made aware of the potential risks and benefits of the medical intervention, the right to refuse, and the appropriate place to report adverse reactions.

¹ www.fda.gov/media/137121/download

² uscode.house.gov/view.xhtml?hl=false&edition=prelim&req=granuleid%3AUSC-prelim-title21-section360bbb-3&num=0&saved=%7CZ3JhbnVsZWlkOjVTOQy1wcmVsaW0tdGloYUyMS1zZWNoaW9uMzYwYmJiLTNh%7C%7C%7C0%7Cfalse%7Cprelim

³ fda.gov/drugs/types-applications/investigational-new-drug-ind-application/#Introduction

⁴ fda.gov/patients/learn-about-expanded-access-and-other-treatment-options/understanding-investigational-drugs

We are not aware that Governor John Bel Edwards, the Louisiana Department of Health (LDH), the Louisiana Department of Education (LDOE), the Board of Elementary and Secondary Education (BESE), nor any local school district have followed any aspect of this federal law governing EUAs. In so doing, they have not only violated federal law but the most basic rules of medical ethics and informed consent.⁵

In addition to violating federal law and medical ethics, Governor Edwards, LDH, LDOE, BESE and local school districts have and continue to violate constitutionally and statutorily protected freedom of religion and right to privacy.

Public schools across the state have rejected religious exemptions for masking requirements in schools despite laws protecting expression of religion. This inalienable right is so incredibly important that it is safeguarded in three sections of the Louisiana Constitution and also within revised statute:

Article I Section 8 of the Louisiana Constitution states:

§8. Freedom of Religion

Section 8. No law shall be enacted respecting an establishment of religion or *prohibiting the free exercise thereof*.

Article I Section 3 of the Louisiana Constitution states:

§3. Right to Individual Dignity

Section 3. No person shall be denied the equal protection of the laws. No law shall discriminate against a person because of race or *religious ideas*, beliefs, or affiliations. No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations. Slavery and involuntary servitude are prohibited, except in the latter case as punishment for crime.

Article I Section 12 of the Louisiana Constitution states:

§12. Freedom from Discrimination

Section 12. In access to public areas, accommodations, and facilities, every person shall be free from discrimination based on race, *religion*, or national ancestry and from arbitrary, capricious, or unreasonable discrimination based on age, sex, or physical condition.

La. R.S. 29:736(D)⁶ specifies that these inalienable rights are not diminished during a public health emergency:

§736. Exclusion

D. Nothing in this Chapter shall be interpreted to diminish the rights guaranteed to all persons under the Declaration of Rights of the Louisiana Constitution or the Bill of Rights of the United States Constitution.

The Preservation of Religious Freedom Act⁷ states:

§5233. Free exercise of religion protected

Government shall not substantially burden a person's exercise of religion, even if the burden results from a facially neutral rule or a rule of general applicability, unless it demonstrates that application of the burden to the person is both:

- (1) In furtherance of a compelling governmental interest.
- (2) The least restrictive means of furthering that compelling governmental interest.

⁵ history.nih.gov/display/history/Nuremberg+Code

⁶ legis.la.gov/Legis/Law.aspx?d=85685

⁷ legis.la.gov/Legis/Law.aspx?d=725125

In addition, the Parent's Bill of Rights for Public Schools⁸ states:

§406.9. Parents' Bill of Rights for Public Schools

(7) That the school shall not discriminate against their child based upon the sincerely held religious beliefs of the child's family.

Further, the Louisiana Public Health Emergency Powers Act under RS 29:764.A(2)(h)⁹ requires that provisions be made “permitting persons for reasons of health, *religion*, or conscience to refuse medical examination or testing, vaccination, or *medical treatment*. . .”

Various religious beliefs may prevent an individual from covering their face. In the same way that we would never prohibit the expression of those religions that *do* cover their faces, the government should never interfere with the free religious expression of those who are opposed to it.

Along with the violation of constitutionally protected religious freedom, the state of Louisiana and its agents have trampled on our students' right to privacy and a parent's right to refuse treatment on behalf of their students.

Article I Section 5 of the Louisiana Constitution states:

§5. Right to Privacy

Section 5. Every person shall be *secure in his person*, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy.

The Louisiana Medical Consent Law states a parent may act on behalf of their minor child to consent to medical treatment,¹⁰ which would include the right to refuse treatment for their minor child.¹¹

§1159.7. Right of adult to refuse treatment as to his own person not abridged

Nothing contained herein shall be construed to abridge any right of a person eighteen years of age or over to refuse to consent to medical or surgical treatment as to his own person.

Louisiana Children's Code Article 101 outlines the underlying ethics pertaining to law and children in Louisiana:

Art. 101. Preamble

The people of Louisiana recognize the family as the most fundamental unit of human society; that preserving families is essential to a free society; that the relationship between parent and child is preeminent in establishing and maintaining the well-being of the child; that parents have the responsibility for providing the basic necessities of life as well as love and affection to their children; that parents have the paramount right to raise their children in accordance with their own values and traditions; that parents should make the decisions regarding where and with whom the child shall reside, the educational, moral, ethical, and religious training of the child, *the medical*, psychiatric, surgical, and *preventive health care of the child* and the discipline of the child; that children owe to their parents respect, obedience, and affection; that the role of the state in the family is limited and should only be asserted when there is a serious threat to the family, the parents, or the child; and that extraordinary procedures established by law are meant to be used only when required by necessity, and then with due respect for the rights of the parents, the children, and the institution of the family, and only to the extent that such procedures are not prohibited by the Louisiana Constitution of 1974, as amended.

⁸ legis.la.gov/Legis/Law.aspx?d=920005

⁹ legis.la.gov/Legis/Law.aspx?d=207680

¹⁰ legis.la.gov/Legis/Law.aspx?p=y&d=964700

¹¹ legis.la.gov/Legis/Law.aspx?d=964703

The state agents referenced above - Governor Edwards, LDH, LDOE, BESE, and local school districts - have a fiduciary duty to ensure that the policies they implement are safe for those intended. In July of 2020, we requested from BESE evidence of the safety of long-term mask use for children in Louisiana schools wearing masks 7-8 hours a day.¹² After two formal inquiries of BESE, an email from LDOE Executive Counsel Joan Hunt, a public records request of LDH, and a public records request of the Centers for Disease Control (CDC), **no evidence of safety for long term mask use for children could be provided by any source.**

On October 8, 2021, the Louisiana Department of Public Health shared a statement on their social media platform: “Face masks are safe for everyone to wear — especially kids!”¹³ A public records request for the studies that support that claim resulted in a webpage from the CDC entitled **Science Brief: Community Use of Masks to Control the Spread of SARS-CoV-2.**¹⁴ In making the claim that wearing masks are safe for everyone, especially kids, LDH ignored the data on the CDC website that “some children self-reported general (4–7%) or situation-specific (2–4%) side-effects such as skin irritation, headache, or difficulty breathing during physical education.”¹⁵ or that “some research suggests children and adults, and especially toddlers (aged 3–5 years) can have difficulty inferring emotion from facial features presented on photographs of persons with their lower facial features covered by a mask.”¹⁶

The data provided by the CDC was extremely lacking and in no way supports the broad claim made by LDH that wearing masks is safe for **everyone**, most definitely not children as young as two.

Additionally, data recently released by the UK¹⁷ indicates:

“80% of pupils reported that wearing a face covering made it difficult to communicate, and more than half felt wearing one made learning more difficult (55%)”

“A survey conducted by the Department for Education in April 2021 found that almost all secondary leaders and teachers (94%) thought that wearing face coverings has made communication between teachers and students more difficult, with 59% saying it has made it a lot more difficult.”

No data is available on the CDC website on the long-term physical or psychological health impacts of wearing masks. As we noted in our letter to Governor Edwards on May 5, 2021,¹⁸ scientists are concerned about the health effects of inhaled nano-particles with long-term mask use in children.

Need for assessing the inhalation of micro(nano)plastic debris shed from masks, respirators, and home-made face coverings during the COVID-19 pandemic¹⁹

“There seems to be, however, an important piece missing in the suite of standards and volumes of research on inhalable environmental contaminants. None of these standards, including the ASTM standards and NIOSH regulation, which are adopted by the FDA in regulating medical face masks and surgical respirators in the U.S. (FDA, 2020a), regulate respirable debris such as micro(nano)plastics that may be present in these products. In fact, such neglect is not unique to US standards: a review of current ISO standards, EU standards and Chinese standards on masks and respirators found no information pertinent to this particular type of hazard. With these becoming a necessity for many in their daily life and work, **questions must be raised over this apparent regulatory gap**

¹² healthfreedomla.org/wp-content/uploads/2020/07/School-Reopening-Concerns-1.pdf

¹³ [Oc---to---b---e---r 8,----- ---2-0--2--1-](https://www.healthfreedomla.org/wp-content/uploads/2021/10/Letter-to-Governor-RE-Mask-Policy-Violates-Federal-Law-1.pdf)

¹⁴ cdc.gov/coronavirus/2019-ncov/science/science-briefs/masking-science-sars-cov2.html

¹⁵ Ammann P, Ulyte A, Haile SR, Puhon MA, Kriemler S, Radtke T. Perceptions towards mask use in school children during the SARS-CoV-2 pandemic: the Ciao Corona Study. *medRxiv.* 2021; doi.org/10.1101/2021.09.04.21262907

¹⁶ Gori M, Schiatti L, Amadeo MB. Masking emotions: face masks impair how we read emotions. *Front Psychol.* 2021;12:669432.

¹⁷ assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1044767/Evidence_summary_-_face_coverings.pdf

¹⁸ healthfreedomla.org/wp-content/uploads/2021/10/Letter-to-Governor-RE-Mask-Policy-Violates-Federal-Law-1.pdf

¹⁹ ncbi.nlm.nih.gov/pmc/articles/PMC7537728/

concerning their long-term use safety. This is especially important given that there is already a growing body of evidence on the inhalation of micro(nano)plastics and their adverse effects in humans and animals (Prata, 2018).”

“Whether these plastic debris could cause stress and inflammation in the human respiratory tract and exacerbate vulnerability to viral infection is a further question that warrants investigation.”

“A special note must be given on home-made cloth face coverings. For fabrics repurposed as face masks, as per the current guidelines by the CDC (Centers for Disease Control and Prevention CDC, 2020), debris is likely to be generated from cutting and tearing...Detergent residues and lint generated from machine laundering and tumble drying may also be present as inhalable contaminants in washed garments.”

During a public health crisis, the greatest good can only be found in protecting and preserving the rights of the most vulnerable. The laws in place in Louisiana should have done just that, but were blatantly ignored by various state agents, as were the most basic of human rights and medical ethics. Masking, outside the medical profession and for the long-term, is a medical experiment. Individuals have an inherent **right to refuse** that outweighs any perceived potential societal benefit.²⁰ Parents and students should have been fully informed of the known and unknown risks and benefits, and given the right to refuse from the outset.

We encourage you to immediately provide this information to students and parents. We also encourage students and parents to use this letter as a resource to sue for damages.

Sincerely,
Fiorella Trapani and Jill Hines
Co-Directors
Health Freedom Louisiana

Cc via email: Chief of Staff, Mark Cooper
Executive Counsel, Matthew Block
Attorney General Jeff Landry
Solicitor General, Elizabeth Murrill
Communications Director, Millard Mule
Secretary of the Louisiana Department of Health, Dr. Courtney Phillips
Public Health Officer, Dr. Joseph Kanter

²⁰ portal.unesco.org/en/ev.php-URL_ID=31058&URL_DO=DO_TOPIC&URL_SECTION=201.html