



P.E.R.K.  
Protecting Human Rights  
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To \_\_\_\_\_,

Our organization has filed multiple lawsuits contending with the vaccine mandate policies, one is against Los Angeles County representing thousands of our members, including personnel in your department. Our legal team has been notified and made aware of disciplinary actions initiated by your department including suspensions, multiple suspensions, terminations, and notice of intent to discharge. Your department is in direct violation of the County Policy, The Mayor's Memo, Ordinance No. 187134, and promises assured to employees by the County's own legal counsel. Our legal team has been assured that **"NO DISCIPLINARY ACTION"** will be taking place including suspensions and terminations related to the "vaccine mandate."

However, your department is guilty of unnecessarily and inappropriately disciplining public employees and violating their full due process of rights.<sup>1</sup> Not only are you violating the County Counsels advice and the Mayor's memo on Skelly packets<sup>2</sup>, but you are also violating the County's own "Vaccination Policy."

The Los Angeles "Covid 19 Vaccination Policy" specifically states that NO disciplinary action or corrective action should occur until exemption requests are *DETERMINED*. The *Los Angeles County Health Order* also states people may be exempt based on religious beliefs and medical reasons.<sup>3</sup> On multiple pages, the policy says unequivocally that NO CORRECTIVE ACTION will take place *until* religious and medical accommodations are determined.<sup>4</sup> In addition, if an accommodation is denied, the employee has the right to appeal this decision and STILL no *disciplinary action should occur* until the accommodation is determined. Unfortunately, your department has prematurely initiated suspensions and disciplinary action.

We are also aware your department is directly violating numerous protocols in place for public employees regarding disciplinary action. Public employees have a unique and specially protected due process before discipline and termination may even *begin* to take place. Including Skelly<sup>5</sup> Rights<sup>6</sup>, City Charter disciplinary procedures, Fire Fighters Bill of Rights, and POBAR. Each employee is further protected under The California Constitution, The United States Constitution, Privacy Rights<sup>7</sup> (including bodily integrity), State and Federal Discrimination Laws<sup>8</sup>, EEOC guidance, Emergency Use Authorization Laws including- the right to refuse<sup>9</sup>, Genetic Laws, and The Medical Experimentation Act.<sup>10</sup>

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<sup>1</sup> Bostean v. Los Angeles Unified Sch. Dist., 63 Cal. App. 4th 95, 110 (1998)

<sup>2</sup> [https://static1.squarespace.com/static/5d49e2b300d396000117f616/t/619ef387badcac6c94faaad4/1637806984416/8-Mayor-Memo\\_Re\\_Mandatory\\_Implementation\\_of\\_Non\\_Compliance\\_with.pdf](https://static1.squarespace.com/static/5d49e2b300d396000117f616/t/619ef387badcac6c94faaad4/1637806984416/8-Mayor-Memo_Re_Mandatory_Implementation_of_Non_Compliance_with.pdf)

<sup>3</sup> [http://publichealth.lacounty.gov/media/Coronavirus/docs/HOO/HOO\\_HealthCareWorkerVaccination.pdf](http://publichealth.lacounty.gov/media/Coronavirus/docs/HOO/HOO_HealthCareWorkerVaccination.pdf)

<sup>4</sup> <https://employee.hr.lacounty.gov/vaccinationsmandate/> (pg 4, 13, 16)

<sup>5</sup> Bostean v. Los Angeles Unified Sch. Dist., 63 Cal. App. 4th 95, 110 (1998)

<sup>6</sup> Skelly v. State Pers. Bd., 15 Cal.3d 194, 206 (1975)

<sup>7</sup> Hill v. Nat'l Collegiate Athletic Assn., 7 Cal.4th 1, 39-40 (1994)

<sup>8</sup> Americans Disabilities Act, Rehabilitation Act, Title VII of the Civil Rights Act, Genetic Information Nondiscrimination Act

<sup>9</sup> Under 21 U.S.C. § 360bbb-3, "Authorization for medical products for use in emergencies"

<sup>10</sup> *Ca. Health and Saf. Code* § 24170-24177

Your department cannot arbitrarily discipline employees based on their right to refuse a medical treatment. The California Supreme Court has declared it is a *basic and fundamental right* that cannot be overridden by medical opinion. California laws further protect individuals in the Medical Experimentation Act.<sup>11</sup>

To be clear, your department is directly violating the California Constitution which state's unequivocally, "constitutional right of privacy guarantees to the individual the freedom to choose to reject, or refuse to consent to, intrusions of his *bodily integrity*." *Id.* at 531-32 A competent adult has the right to refuse medical treatment, "even treatment necessary to sustain life."<sup>12</sup> All employees have fundamental liberties protected by the United States Constitution that extends to "personal choices central to individual *dignity and autonomy*."<sup>13</sup>

The County Ordinance *No. 187134* is in direct violation<sup>14</sup> of the Constitution and civil rights<sup>15</sup> and "a legislative act contrary to the constitution *is not law*."<sup>16</sup> Each employee has the *Right of Autonomy, Privacy, and Personal Liberty*. Any person so engaged in such enactment and enforcing of the unlawful Ordinance and its discriminatory or punitive measures is conspiring to interfere with civil rights and is violating: 42 U.S. Code § 1983, 42 U.S. Code § 1985, and 42 U.S. Code § 1986

The County and your department do not have the power under the CESA or any other law to require County employees to get a vaccine as a condition of employment. For example, CESA, allows County officials to impose "curfews" to preserve public safety, but not to impose "mandatory," intrusive, medical procedures.<sup>17</sup>

The California Constitution further protects individuals from the County's requirement that employees upload their confidential medical information through the Fulgent app, an app that has been rumored to have ties to the Chinese government. Public statements of serious concern and warning have been voiced by both Los Angeles and Ventura County Sheriffs. The California Constitution protects the "dissemination or misuse of sensitive and confidential information," including medical records.<sup>18</sup> All employees are protected against all governmental invasions of the sanctity of a *man's home and the privacy of life*.<sup>19</sup>

Any disciplinary action from your department is irrational considering it is indisputable that both the vaccinated and the unvaccinated can *contract and transmit* COVID-19. As the Omicron variant has swept through America this winter, even the *federal government* has acknowledged this saying, "the duration of vaccine effectiveness in preventing COVID-19, reducing disease severity, reducing the risk of death, and the effectiveness of the vaccine to prevent disease transmission by those vaccinated *are not currently known*<sup>20</sup>....."<sup>21</sup>

The CEO of Pfizer, Dr. Albert Bourla, recently stated, "We know that the two doses of the vaccine offer very limited protection, if any." He then stated that three doses offer "less protection against the infection."<sup>22</sup> Current evidence suggests that vaccination is not protective against Omicron infection "at any point in time."<sup>23</sup> The shots may not provide any effectiveness in preventing infection, transmission, hospitalization, or

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<sup>11</sup> *Ca. Health and Saf. Code* § 24170-24177

<sup>12</sup> *Conservatorship of Wendland*, 26 Cal.4th 519, 530-532 (2001)

<sup>13</sup> U.S. Supreme Court, *Obergefell v. Hodges*, 576 U.S. (2015)

<sup>14</sup> U.S. Supreme Court, *Norton v. Shelby County*, 118 U.S. 425 (1886)

<sup>15</sup> [https://static1.squarespace.com/static/5d49e2b300d396000117f616/t/619ef18bc0ee182374fec589/1637806476904/1-Notice+of+Infringement\\_Fillable.pdf](https://static1.squarespace.com/static/5d49e2b300d396000117f616/t/619ef18bc0ee182374fec589/1637806476904/1-Notice+of+Infringement_Fillable.pdf)

<sup>16</sup> U.S. Supreme Court, *Marbury v. Madison*, 5 U.S. 137 (1803)

<sup>17</sup> Cal. Gov't Code § 8634

<sup>18</sup> *In re Yahoo Mail Litig.*, 7 F. Supp. 3d 1016, 1041 (N.D. Cal. 2014) (quoting *Hill*, 7 Cal. 4th at 35)

<sup>19</sup> U.S. Supreme Court, *Griswold v. Connecticut*, 381 U.S. 479 (1965)

<sup>20</sup> 86 Fed. Reg. at 61,615 (Nov. 5, 2021)

<sup>21</sup> *State of Missouri v. Biden*, Case No. 4:12-cv-01329-MTS, Opinion Dated November 29, 2021

<sup>22</sup> <https://news.yahoo.com/covid-19-vaccine-covers-omicron-144553437.html>

<sup>23</sup> <https://www.medrxiv.org/content/10.1101/2021.12.30.21268565v1.full.pdf>

death. There is no further rationale to discipline your employees particularly since vaccination does not accomplish what it intended to.

There is no disputing, “the right to bodily integrity is a fundamental right,” which limits what your department can and cannot enforce. The traditional police powers of the state in the context of public health measures have *significant limitations* under the federal and state Constitutions. *Privacy Rights* of minors are even recognized in abortion cases.<sup>24</sup> If a situation is considered “extreme peril,” the State *must still* stay consistent with individual rights and liberties.<sup>25</sup>

“The Constitution of the United States is a law for rulers and people, *equally in war and in peace*, and **covers with the shield of its protection all classes of men, at all times, and under all circumstances**. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions can be *suspended* during any of the great exigencies of government.”<sup>26</sup>

We hope you immediately remedy the situation in your respective department by reversing the disciplinary actions and cease them immediately. If this cannot be remedied, we will have no choice but to explore further legal action in order to protect the employees in your department. Your department has exceeded its authority. You do not have the authority under any state law to mandate or enforce a mandate on your employees. However, by enforcing unlawful mandates and violating actual laws, your department has opened itself to substantial liability. In addition, the County vaccine mandate also “exceeds the County’s authority under state law” and is not necessary or the “least restrictive means of response” to the spread of COVID-19.

Our organization has already won favorable court rulings and we expect to continue. We will not hesitate to take legal action against your department, individuals in authority, or department heads who unlawfully and illegally suspend and terminate employees. However, instead, we encourage you to swiftly modify your policies into alignment with the State and Federal Laws, including the California Constitution, and immediately cease disciplinary action against all employees. Your disciplinary actions will only further the staffing shortages and permanent loss of exceptionally hard-working employees.

Sincerely,  
Amy Bohn  
PERK President  
Protecting Human Rights Initiative



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<sup>24</sup> *Coshow v. City of Escondido*, 132 Cal. App. 4th 687, 709 (2005); see also *American Academy of Pediatrics v. Lungren*, 16 Cal.4th 307, 340-41 (1997)

<sup>25</sup> *Macias v. State*, 10 Cal.4th 844, 854 (1995)

<sup>26</sup> U.S. Supreme Court, *Ex parte Milligan*, 71 U.S. 2 (1866)