



August 9, 2021

The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

Delivered via electronic mail

Governor Newsom:

There is little debate that California is in the middle of a fourth—and this time avoidable—surge of COVID-19 cases. Your announcement requiring certain state employees to be fully vaccinated or be tested weekly, and your subsequent announcement that health care workers must be fully vaccinated by September 30, provides needed balance that will encourage more residents to be vaccinated without shutting down major sectors of the economy and jeopardizing our initial jobs recovery.

We are strongly opposed to a statewide, blanket vaccine “passport”¹ or mandate for vaccine-eligible residents and believe that businesses and local communities should make these

¹ In this context, “passport” refers to vaccination verification for ingress and egress into businesses or public buildings, not digital vaccine records.

decisions based on local factors like vaccination rates, case rates and regional hospital capacity.

However, as more businesses move to either require their employees to be fully vaccinated and as retail shops re-implement mask mandates or begin requiring further proof of vaccine from vaccine-eligible customers, there are significant issues you must address. These issues have prevented many businesses, especially small businesses just trying to get back on their feet, from more aggressively implementing requirements similar to the ones you have implemented for state employees.

Therefore, we ask for your immediate action on the following issues to create a safe harbor for businesses statewide:

1. Address major liability issues, including workplace discrimination and privacy laws, that prevent businesses from pursuing additional vaccine requirements.
2. Provide legal clarity on the ability of a business to require vaccination, even while the vaccines are authorized via the FDA's Emergency Use Authorization. The California Community College officials believe they lack the legal authority to mandate the vaccine. Legal clarity on this issue from both you and Attorney General Bonta are critical and urgent².
3. Provide clarity on the requirements for businesses to retain private health care information of their employees. This is especially critical for small businesses.
4. Remove incentives for employees to remain unvaccinated, including extended paid sick leave benefits for unvaccinated individuals.
5. Enact sentencing enhancements for assault and harassment, especially in a retail setting, to protect workers enforcing masking or vaccination requirements.
6. Extend your vaccine mandate for all public school teachers to minimize risk to the state's unvaccinated population and reduce interruptions in a critically needed school year.

We are ready to work with you, your administration, the Attorney General, and the Legislature to enact these meaningful reforms that will help allow California businesses to continue to lead the effort to vaccinate our employees and the general public.

Thank you,

cc: Members, California State Legislature
The Honorable Rob Bonta, California Attorney General
Dr. Mark Ghaly, California Department of Public Health
Ms. Dee Dee Myers, Governor's Office of Business and Economic Development

² May 2, 2021 letter to Community College leaders from Marc LeForestier, General Counsel
<https://www.cccco.edu/-/media/CCCCO-Website/Files/General-Counsel/2021-01-advisory-mandated-covid-19-vaccinations-a11y.pdf?la=en&hash=80473DB866E97BE0A9650603A745C3FC85871377>