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STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD

UNFAIR PRACTICE CHARGE

DO NOT WRITE IN THIS SPACE: Case No:

Date Filed: 09/20/2021

INSTRUCTIONS: File the original and one copy of this charge form in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached to each copy. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES If so, Case No _____ NO

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION EMPLOYER PUBLIC¹

a. Full name: Association of Clovis Educators, CTA/NEA

b. Mailing Address: c/o CTA - SFS Legal Department, 11745 E. Telegraph Rd., Santa Fe Springs, CA 90670

c. Telephone number: (562) 478-1351

d. Name and title of agent to contact: Michael Plank, Attorney E-mail Address: mplank@bushgottlieb.com
Telephone number: (818) 973-3231 Fax No.: (818) 973-3201

e. Bargaining Unit(s) involved: Certified

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION EMPLOYER

a. Full name: Clovis Unified School District

b. Mailing Address: 1450 Herndon Ave Clovis, CA 93612

c. Telephone number: (559) 327-9000

d. Name and title of agent to contact: Eimear O'Farrell, Superintendent E-mail Address: eimearofarrell@cusd.com
Telephone number: (559) 327-9000 Fax No.: (559) 327-9109

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:
b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Gov. Code, § 18524.)

a. Full name:
b. Mailing Address:
c. Agent:

5. GRIEVANCE PROCEDURE

¹An affected member of the public may only file a charge relating to an alleged public notice violation, pursuant to Government Code section 3523, 3547, 3547.5, or 3595, or Public Utilities Code section 99569

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

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Yes No Unknown

6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- Educational Employment Relations Act (EERA) (Gov. Code, § 3540 et seq.)
- Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
- Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- Los Angeles County Metropolitan Transportation Authority Transit Employer-Employee Relations Act (TEERA) (Pub. Utilities Code, § 99560 et seq.)
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)

b. The specific Government or Public Utilities Code section(s) or PERB regulation section(s) alleged to have been violated is/are:
Government Code sections 3543.5(a), (b), and (d)

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (*a copy of the applicable local rule(s) MUST be attached to the charge*):

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent’s conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. (*Use and attach additional sheets of paper if necessary.*)

See attached.

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief. (A Declaration will be included in the e-mail you receive from PERB once you have completed this screen. The person filing this Unfair Practice Charge is required to return a properly filled out and signed original Declaration to PERB pursuant to PERB Regulations 32140 and 32135.)

Michael Plank
(Type or Print Name)

/s/ Michael Plank
(Signature)

09/20/2021
Date



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IS THIS AN AMENDED CHARGE? YES If so, Case No. NO

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION EMPLOYER PUBLIC¹

a. Full name: Association of Clovis Educators, CTA/NEA
b. Mailing address: c/o CTA - SFS Legal Department, 11745 E. Telegraph Rd., Santa Fe Springs, CA 90670
c. Telephone number: 562-478-1351
d. Name and title of person filing charge: Michael Plank E-mail Address: mplank@bushgottlieb.com
Telephone number: 818-973-3231 Fax No.: 818-973-3201
e. Bargaining unit(s) involved: Certified

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION EMPLOYER

a. Full name: Clovis Unified School District
b. Mailing address: 1450 Herndon Ave., Clovis, CA 93611
c. Telephone number: 559-327-9000
d. Name and title of agent to contact: Eimear O'Farrell, Superintendent E-mail Address: eimearofarrell@cusd.com
Telephone number: 559-327-9000 Fax No.: 559-327-9109

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

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a. Full name:
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Yes No

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- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
- Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- A Covered Public Utilities Code Transit Employer (BART (Pub. Util. Code, § 28848 et seq.), Orange County Transportation Authority (Pub. Util. Code, § 40000 et seq.), and supervisory employees of the Los Angeles County Metropolitan Transportation Authority (Pub. Util. Code, § 99560 et seq.))
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)

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See attached.

DECLARATION

I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief and that this declaration was executed on 9/20/2021

at Los Angeles, CA
(City and State)

(Date)

Michael Plank

(Type or Print Name)

(Signature)

Title, if any: Attorney

Mailing address: 801 N. Brand Blvd., Ste. 950, Glendale, CA 91203

Telephone Number: 818-973-3231 E-Mail Address: mplank@bushgottlieb.com

Attachment to Unfair Practice Charge

Introduction

Charging Party Association of Clovis Educators (“ACE”) is composed of teachers employed by the Clovis Unified School District (“CUSD” or “the District”), and has been engaged in a campaign to organize teachers in the District since the summer of 2020. The District has engaged in a series of unfair labor practices to stifle union organizing, including supporting and dominating the Faculty Senate (which is the primary subject of Unfair Practice Charge No. SA-CE-3040-E, which was filed on June 1, 2021) and engaging in retaliation, surveillance and interference (which are the primary subjects of the Unfair Practice Charge No. SA-CE-3047-E) filed on August 6, 2021).

The Association continues to learn of unlawful conduct by the District. Most disturbingly, the Captain of CUSD’s internal police force emailed a veiled threat to a very public supporter of ACE who has previously provided multiple declarations in support of the Association’s request for injunctive relief.

As detailed herein, within the past six months, CUSD has violated sections 3543.5(a), (b), and (c) of the Educational Employment Relations Act, Government Code §§ 3540 *et seq.* (“EERA”), and Government Code section 3550.

Parties and Jurisdiction

1. ACE is an employee organization within the meaning of Government Code § 3540.1(d) and the non-exclusive representative of certificated employees of the District.
2. The District is a public school employer under Government Code section 3540.1(k). As alleged in Unfair Practice Charge No. SA-CE-3040-E, and incorporated herein by reference, the Faculty Senate Executive Board acts as an agent of the District and operates an unlawfully dominated employee organization.
3. PERB has jurisdiction over this matter under Government Code section 3541.5.

Allegations

Threatening Statement by Police Captain to Coerce and Discourage ACE Leader Kristin Heimerdinger

4. Kristin Heimerdinger is an employee of the District, working as an economics teacher at Buchanan High School. She has taught in the District for 28 years.
5. As outlined in Case No. SA-CE-3040-E, the District maintains a board policy that includes as part of its philosophy “Doc’s Charge.” The charge characterizes putting children first as incompatible with collective bargaining. It portrays employees who advocate for collective bargaining as “fighting over the rights and benefits of adults” and asks rhetorically, “Does anybody remember children anymore?” A true and correct copy is attached as Exhibit A.

6. The protected activity of Ms. Heimerdinger is open and obvious. Ms. Heimerdinger has been quoted in multiple public articles regarding ACE's organizing actions. Among other appearances in the media:
- a. She was named and quoted in an ABC 30 Action News article from April 6, 2021, titled "Clovis Unified School District educators pushing to form teachers union." A true and correct copy is attached as Exhibit B.
 - b. Ms. Heimerdinger was named and described as a "main organizer" of ACE in an article in YourCentralValley.com published on April 7, 2021, titled "Major push underway to officially unionize Clovis teachers." In the article, she was quoted as saying "'The actual fear is that we would no longer put students first," Heimerdinger said. 'And I just can't see how that would be the outcome.'" A true and correct copy is attached hereto as Exhibit C.
 - c. Ms. Heimerdinger was named and quoted in a press release from ACE on June 2, 2021, regarding the initial unfair practice charges filed. A true and correct copy is attached hereto as Exhibit D.
 - d. Ms. Heimerdinger was named and quoted in a GV Wire article from June 2, 2021, titled "Budding Clovis Teachers Union Files Labor Complaint Against District." A true and correct copy is attached hereto as Exhibit E.
 - e. On July 28, 2021, Ms. Heimerdinger was quoted in another GV Wire article titled "Clovis Unified Considers Letting Parents Decide About Their Kids' Mask Use in School." She was identified as a teacher "who heads the budding teachers union." A true and correct copy is attached hereto as Exhibit F.
 - f. On August 9, 2021, Ms. Heimerdinger was quoted in an article in YourCentralValley.com, in which she was identified as an Association of Clovis Educators spokesperson. She was quoted regarding workplace safety. A true and correct copy is attached hereto as Exhibit G.
 - g. On August 11, 2021, Ms. Heimerdinger appeared in a video segment on ABC30 Action News, where she was described as associated with ACE. The segment aired on live TV, and is also hosted online¹ with an accompanying article titled "Masks required at Clovis Unified schools unless a doctor signs off on student's exemption." Ms. Heimerdinger is quoted in the article. A true and correct copy of the article is attached hereto as Exhibit H.
 - h. Also on August 11, 2021, Ms. Heimerdinger was quoted in a GV wire article regarding school safety in which she was described as a "spokeswoman for the Association of Clovis Educators." A true and correct copy is attached hereto as Exhibit I.

¹ <https://abc30.com/clovis-unified-masks-students/10946004/>.

- i. On August 12, 2021, Ms. Heimerdinger was quoted in a Fresno Bee article regarding school safety in which she was described as an “Association of Clovis Educators spokesperson.” A true and correct copy is attached hereto as Exhibit J.
7. Ms. Heimerdinger provided two declarations in support of the injunctive relief request, which were filed with PERB on or about August 11, 2021, and August 13, 2021. Ms. Heimerdinger also signed notices of appearance in the matter on behalf of ACE that were filed on or about August 10, 2021.
8. Clovis Unified School District maintains its own police force pursuant to Board Policy 3515.3. As such, these police officers are employees and agents of the District. The police force’s Captain is Jerry Inchaurregui. As such, Mr. Inchaurregui is a supervisor and an agent of the District. On August 15, 2021, he emailed Ms. Heimerdinger, with the subject line “children” and in the body of the email stated only “I hope you’re putting our kids first....” Mr. Inchaurregui sent the email from his official Clovis Unified School District email address. A true and correct copy is attached as Exhibit K.
9. Ms. Heimerdinger knew Captain Inchaurregui, but she did not have any dealings with him at the time which could explain the email as anything other than a comment about her public protected activity in support of ACE. Ms. Heimerdinger submitted a formal complaint regarding the communication to the District, requesting an independent investigation of the incident, given that the Captain’s supervisor, Steve France, and the District’s Assistant Superintendent of Human Resources, Barry Jager, were both identified in ACE filing regarding the injunctive relief request. The District has refused to provide an independent investigator. Given the timing of the email, the vagueness of the statement ending in a suggestive ellipsis, the underlying anti-union philosophy of the District as expressed in Doc’s Charge, Mr. Inchaurregui’s official role as an armed agent of the District, and Ms. Heimerdinger’s prior statements in the media, the email is threatening. It evinces hostility toward Ms. Heimerdinger’s union activity, including her role in seeking PERB’s intervention to prevent the District from using unlawful tactics to nip in the bud union organizing.
10. In response to Ms. Heimerdinger’s complaint, the District only claimed the issue had “been addressed” and that the District “cannot share the specific outcome” of the matter. To the Association’s knowledge, no remedial actions have been taken by the District. Under the circumstances, the District’s opaque and non-committal response does nothing to alleviate the coercive nature of the email or to remedy the violation.
23. By its conduct, CUSD has unlawfully interfered with employee rights in violation of section 3543.5(a) of the EERA, failed to maintain strict neutrality in violation of section 3543.5(d) of the EERA, and—as this statement was made during an initial organizing campaign—violated section 3550.

Preferential Treatment of Faculty Senate in Interviews for Administrative Positions, Interference & Discouragement of Protected Activity

11. On or about June 15, 2021, the District held interviews for a Learning Director opening. During the day, approximately 5 applicants were interviewed. The interviews were conducted by

a panel, and a spot on the panel was reserved for an employee that represented the Faculty Senate. No other employee organization received an offer to participate in any interviews or administrative positions.

12. Deputy Principal Sonia Torossian ran the interview and questioned the applicants. She introduced the employees, and in doing so, she identified the Faculty Senate representative for the applicant. In her questioning of the applicants, she asked each applicant what the role of the Faculty Senate was at the District and how they would, if selected, foster a positive relationship with the Faculty Senate. No statements were made, or questions were asked regarding any other nonexclusive representative for certificated employees. As such, the interview process unlawfully interfered with the rights of employees, and coerced them into supporting the Faculty Senate.

23. By its conduct, CUSD has failed to maintain strict neutrality in violation of section 3543.5(d) of the EERA, unlawfully interfered with employee rights in violation of section 3543.5(a) of the EERA, and—as this course of conduct occurred during an initial organizing campaign—violated section 3550.

Blaming the Association for Eliminating Unlawful Benefits for Teachers

13. On August 27, 2021, Superintendent O’Farrell sent an email to certificated educators. The email seeks to blame ACE for its efforts to create a level playing field between Faculty Senate and ACE. A true and correct copy is attached as Exhibit L.

14. In the email, the District makes the misleading claim that ACE was protesting that the District provided Faculty Senate resources “since our teachers’ last vote to remain self-represented.” The statement implies that teachers freely voted for self-representation, despite the fact that PERB held the District had unlawfully interfered in the election. Moreover, the previous vote was for no representative, and not for the Faculty Senate. The District institutionalized representation through the Faculty Senate after the vote.

15. The email also makes the misleading and false claim that the Association was seeking to stop the District from providing support to “our teachers” and stopping release time that allows some employees “to serve teachers.” The support being provided was to the *Faculty Senate* only to help teachers that wished for their representation. The Association is not opposed to *lawful* release time arrangements between the District and employee representatives and is not opposed to *lawful* support for employees generally. Moreover, the email claims ACE’s actions “threaten[] the existence of Faculty Senate” and that ACE is trying to “shut down Faculty Senate,” even though employees would continue to be free to voluntarily participate in Faculty Senate, just as they voluntarily participate in ACE.

16. The email states “employees have the right to seek union representation if they have enough support.” But employees have the right to seek union representation even absent majority support, as ACE can represent employees while it is a non-exclusive representative. Moreover, the email implies the District continues to monitor the level of the support for ACE and Faculty Senate, claiming “many teachers have stated they do not support a CTA backed union,” a statement designed to delegitimize ACE as lacking teacher support. Viewed as a whole, and

notwithstanding the bare statement that “[l]egally, the District is required to remain neutral,” the email evinces the District’s preference for the Faculty Senate over ACE.

23. By its conduct, CUSD has unlawfully interfered with employee rights in violation of section 3543.5(a) of the EERA, failed to maintain strict neutrality in violation of section 3543.5(d) of the EERA, and—as this email was sent during an initial organizing campaign—violated section 3550.

Requested Remedies

The Union requests that PERB order the following remedies for the above unlawful conduct:

23. That the District immediately observe strict neutrality between ACE and other employee organizations;

23. That the District immediately cease interfering with the rights of CUSD teachers and ACE under EERA;

23. That the District post and electronically distribute notice of its unlawful conduct, that it has been directed to cease that unlawful conduct, and that it will cease that unlawful conduct; and,

23. Any other appropriate remedy.

Expedited Procedure

Because this case arises during an ongoing organizing campaign that CUSD is attempting to nip in the bud, PERB is seeking injunctive relief regarding related charges, and because early resolution of the questions presented here are likely to improve labor relations between ACE and the District, ACE requests that this case be expedited in all phases, including the investigation, issuance of complaint, scheduling of a hearing, and decision by the ALJ and, if necessary, the Board.

Exhibit A

Doc's Charge

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We believe in high standards in Clovis schools. We believe competition is an ingredient of high standards and an important motivational tool. We recognize three levels of competition. First, we want you to make sure that all of our students learn to compete against themselves; that's the toughest competition of all. Second, we want you to encourage our students to compete in specialty areas to help them build on their strengths and overcome their weaknesses, because that's the way they get jobs and that's the way they have to perform in life. Third, we want you to teach our students to work in groups and to compete in groups because we think that students who can't work in groups are going to have trouble in tomorrow's world.

Competition does not start with schooling. Competition starts with little children just wanting to play – to catch or hit or kick a ball. Eventually, they learn a few skills and all of a sudden one of them looks at the others and says hey, let's keep score. Now they're interested in winning and losing, which is mostly what life's all about.

While you are working with our children in Clovis we want you to remember the heart of the Clovis program: We want you to teach students to win with class and to lose with dignity. But we also want you to teach them that there is a lot more to being a winner than the final game score. We want you to teach them to root for their team to win, not for their other team to lose. We want you to teach our kids what to do when they lose. We want you to get them off their duffs and get them back in the fight. Don't you let them give up. And if we can teach them not to be quitters by the time they finish the twelfth grade in the Clovis schools, they will probably make it through life.

Our philosophy is very simple: A fair break for every kid. We believe the schools and the students belong to the people. If our community wants their children to read, write, do arithmetic, sing, dance, play in the band, or compete in forensics – whatever our community wants, we are going to do – but we're going to do it first class.

The professionals who work in our district are proud that we do not have collective bargaining. We are the only large school district in the state where the teachers and the administrators can still publicly say they like each other. I say that tongue in cheek, but my goodness, it's amazing how often you read in the paper of adults fighting over the rights and benefits of adults. Does anybody remember children anymore?

In Clovis, we still like children. We make no bones about it. We've got a Clovis image to keep up, and we're looking for people a cut above the average. We're concerned about your appearance, your attitude, your teaching skills, your ability to work with students, but most of all we're concerned about your character and your values. You are going to be around our children when nobody else is there. You are going to see and do things with them that nobody else will ever know about.

We're looking for role models, and we've learned an interesting thing – if you really want to develop winners you've got to surround children with winners. And a lot of people think you are a winner or you wouldn't be sitting here. Nobody gets this far without being recommended by a building administrator. And that administrator's reputation is on the line because he or she has recommended you and hopes you reciprocate a little bit by trying to make his or her judgment look good.

So what we're really saying to you is we think education revolves around teamwork and trust. We want you on our team, and we want to know that you want to be there. So we spend a lot of time telling you about the people and facilities you are going to work with and in – the school staff, the community, and the children, as well as the supplies, equipment, and materials – so from the first day of school it's all forward. We don't want you to look around at the beginning of the school year and say, "My Gosh, if I'd known it was like this I would never have signed with this district."

If you are still interested in working at Clovis under those conditions, we'd like to offer you a contract. We people in Clovis get excited when teachers and students do things nobody thought they could do. As long as you work in Clovis don't you ever lose that spirit...and never forget our motto, "*Sic 'em!*"

Exhibit B

Get free, personalized tips
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CLOVIS UNIFIED SCHOOL DISTRICT

Clovis Unified School District educators pushing to form teachers union

By Dale Yurong

Tuesday, April 6, 2021

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Supporters say if they reach 50% plus one out of close to 2,200 Clovis Unified employees, they will be recognized as a union.

Frustrated members of ACE (ACE graphic), the Association of Clovis Educators, believe it's time to form a teachers union.

"Teachers have been frustrated for a number of years, not feeling like they really had a meaningful voice," says Kristin Heimerdinger. "Not feeling that their input as experts in the classroom was valued."

But the push for unionization already has organized opposition from a group calling itself Clovis Teachers For Clovis.

"All of a sudden, this divisive circumstance is kind of adding insult to injury for our community, and I mean our community of teachers and our community of parents," says Clovis High teacher Joni Sumter.

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"I just think there's other avenues that we can go down before we go to what is a permanent and difficult solution to get rid of," says Clovis East baseball coach Ryan Smith. "Once you unionize, it's tough to come back from it."

Supporters are in the process of collecting signed petitions from teachers, counselors and psychologists.

They say if they reach 50% plus one out of close to 2,200 Clovis Unified employees, they will be recognized as a union.

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"The district has avenues right now for teachers to express their opinions and have a voice, but the issue is that the district is under no obligation to listen to those, to consider those, to adopt those," Heimerdinger said.

Heimerdinger has taught at Buchanan High for 28 years. She expects to see the petition gathering process complete by the end of the school year.

Clovis Unified said in a statement to Action News, "We recognize that during the pandemic, these traditions of collaboration and finding win-win solutions have been challenged given the sharply divided views held on the subject within our community and among our own employee teams."

Report a correction or typo

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Exhibit C

82°

NEWS

Major push underway to officially unionize Clovis teachers

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by: [Adrian Thomas](#)

Posted: Apr 7, 2021 / 06:47 PM PDT / Updated: Apr 7, 2021 / 06:47 PM PDT

CLOVIS, Calif. (KZVD) — Clovis teachers are pushing for a union... X

82°

union in the district. However, there is some pushback.

Kristen Heimerdinger is one of the main organizers of ACE. She says more than 50% of the district's 2100+ employees who aren't already in a union will have to sign a petition in support of ACE, after which the petition would be sent to the state and signatures verified to fully recognize ACE.

"The actual fear is that we would no longer put students first," Heimerdinger said. "And I just can't see how that would be the outcome."

Heimerdinger teaches economics at Buchanan High School. She says the petition will be open until enough signatures are gathered, and is hopeful of the ACE will be officially recognized by next school year. She says other district employees like bus drivers and cafeteria workers have union representation, and it's finally time to give teachers the representation they deserve.

Joni Sumter and Ryan Smith also teach in the district and started the group, Clovis Teachers for Clovis, to advocate against unionization.

"As soon as you interject a union you provide this legal barrier between teachers, administrators, students, and the community," Sumter said.

Sumter and Smith say the representation staff and faculty have with administration now is efficient, and the labor policies unions enforce could pose difficulties, such as penalizing a teacher wanting to stay after hours to work on lesson plans.

"Teachers don't feel like they can stay and do their job or their job the way they want to without upsetting the union that represents them," Smith said. "At the risk of not getting the protections or benefits of that union, that's where it really

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82°

union.

“It does not have to be adversarial,” Bonilla said. “I think in our time over the last six years we’ve proven that at Fresno Unified. Organizing a union helps to formalize that relationship in a different way.”

A statement from CUSD in response to the effort on educator to unionize can be read below.

We know there are groups currently working both toward and against the possibility of a teachers’ union in Clovis Unified, and in the midst of this dialogue among our teachers, the administration remains committed to keeping our doors open for conversation and working together with those groups representing our employees in the decision-making process.

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SHARE THIS STORY

AROUND THE WEB



Exhibit D



ASSOCIATION OF CLOVIS EDUCATORS FILE UNFAIR PRACTICE CHARGES AGAINST CLOVIS UNIFIED FOR ILLEGAL BEHAVIOR THAT HARMS EDUCATORS AND STUDENTS

6/2/2021

CUSD control of Faculty Senate undermines the ability of Clovis educators to have a real and independent say in educational decisions and is illegal under the California Educational Employment Relations Act (EERA)

CLOVIS – The Association of Clovis Educators (ACE) has filed charges with the Public Employment Relations Board (PERB) regarding Clovis Unified School District’s support of its Faculty Senate, claiming the way the district represents the Faculty Senate’s scope and power, uses district resources and undermines educators’ voices violates state labor law.

ACE leaders believe filing charges with PERB, the agency charged with administering California’s collective bargaining statutes, is necessary to safeguard students and educators and to ensure educators have a real and independent voice in future decisions that impact CUSD schools.

Prior to ACE going public on April 5, Clovis educators have reported increases in class sizes and caseloads, rising healthcare premiums and copays, unreasonable teacher transfers, serious problems identified in climate assessments that go unaddressed and bad decisions about remote work agreements.

ACE’s charges to PERB allege that CUSD administration illegally provides the Faculty Senate with support and violates state law when it controls Faculty Senate affairs through overseeing elections, reviewing the organization’s bylaws and evaluating the Faculty Senate President. This control allows the district to decide whether to address issues that arise as employees do not have collective bargaining rights.

Back in 1983, Clovis educators who were unionizing also filed unfair practice charges against the CUSD administration for illegal interference by supporting and favoring the Faculty Senate. The unfair practice charges were upheld by PERB and CUSD was ordered (among other remedies) to stop contributing financial support to Faculty Senate alone—a ruling CUSD is disregarding today.

Buchanan High School educator and ACE leader, Kristin Heimerdinger, states that “we are concerned that CUSD



ACE is made up of educators from across Clovis Unified who are committed to providing their students with the best learning conditions possible. Clovis educators announced the formation of ACE on April 5, 2021, to build a union so educators can have a real and independent voice in the decisions that impact their schools.

Clovis Unified School District is one of the last large school districts in California without a union that represents educators.

For a copy of the letter ACE leaders sent to CUSD administration announcing the formation of ACE and to request that CUSD stop supporting the Faculty Senate, go [here](#).

Learn more:

- Pro-union teachers say Clovis school leaders undermine unionizing efforts in complaint, Fresno Bee
- Budding Clovis Teachers Union Files Labor Complaint Against District, GV Wire
- Clovis Unified teachers pushing to unionize files charges claiming 'unfair practices' by district, ABC 30

The Association of Clovis Educators (ACE) believes in people, not programs.
We want to see our students, fellow educators, and community thrive.
Learn more about ACE.

Exhibit E

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FEATURED

Budding Clovis Teachers Union Files Labor Complaint Against District



Published 3 months ago on June 2, 2021
By **Nancy Price**, Multimedia Journalist



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The Association of Clovis Educators, which is trying to organize a teachers union in Clovis Unified, Tuesday filed an unfair labor practice complaint against the district with the California Public Empl Relations Board.

The complaint alleges that the Faculty Senate, which the district says is the representative body fo Unified educators, is controlled by and beholden to the district administration.

That puts Clovis Unified in violation of a PERB order 38 years ago requiring the district to stop pro financial support to the Faculty Senate, and to stop meeting exclusively with the Faculty Senate, th complaint alleges. The order came in response to a complaint filed by another nascent teachers un Clovis Unified Teachers Association.

“They’ve been knowingly breaking the law for 38 years. And that is not acceptable,” ACE spokeswoman Kristin Heimerdinger said Wednesday.

Clovis Unified officials did not immediately respond to a request for comment Wednesday morning. Wednesday afternoon, district spokeswoman Kelly Avants emailed the following statement:

“On multiple occasions since the late 1970s, teachers in Clovis Unified have voted to have no union representation. Resulting from these votes, was a desire from teachers to have an organization made up of their peers to meet and confer with the administration on issues of interest. That organization is the Faculty Senate, which has been in existence for decades.

“The PERB unfair practice complaint that we received late Tuesday on behalf of the Association of California Educators (ACE), care of the California Teachers Association (CTA), contains many allegations that the district fundamentally disagrees with and sees as inaccurate.

“Clovis Unified has a history of high rates of teacher satisfaction and student performance and has used a collaborative and mutually respectful decision-making process to benefit students and staff. The District respects that employees have a legal right to attempt to form a union. In light of Tuesday’s allegations, we will exercise our right to respond through the appropriate PERB procedures.”

Numerous Violations Alleged

The complaint catalogs alleged government code violations by the district over the past six month timeframe is set by PERB – of interference, including providing teachers an off-schedule pay raise without a vote, implying that district employees do not approve of collective bargaining; domination and unlawful assistance; deterring and discouraging union activity; and violating ACE’s rights under the Education Employment Relations Act.

The timeframe coincides with efforts by ACE to collect signatures from teachers that would authorize union representation. Clovis educators began union discussions last summer as concerns arose about worker safety during the pandemic.

ACE went public in April with its union organizing campaign. At the time, Heimerdinger said they hope to complete the effort by the end of this school year.

Related Story: [*Is It Time for Clovis Unified to Have a Teachers Union?*](#)

The campaign is ongoing, but the signature-gathering is slower than organizers had hoped, Heimerdinger told GV Wire.

She blames “illegal” statements that the Faculty Senate has made about the representation it provides teachers.

“We just are battling an incredible amount of confusion on the part of our employees who think they have already with Faculty Senate exactly what a union could provide,” she said.

But the Faculty Senate does not have the same legally protected bargaining rights that a union has, Heimerdinger said.

Who Does Faculty Senate Work For?

In addition, the PERB complaint alleges that the Faculty Senate has a conflict of interest because it is financially supported by the district: The Faculty Senate president does not teach but is on the district payroll for pay and benefits, the Faculty Senate president reports to and is evaluated by Superintendent Eimear O’Farrell, and the Faculty Senate office is in the administration building.

“Effectively, any work that the Faculty Senate does on behalf of the teachers, ultimately they’re really doing it on behalf of the district,” Heimerdinger said. “The Faculty Senate model creates a situation where effectively the district is just negotiating with itself.

“And so really, the representation that teachers are receiving from Faculty Senate, it is not meaningful. It is not truly representing the interests of teachers because by default, it’s representing the interests of the district.”

The complaint allegations acknowledge that the district recently agreed to a number of additional benefits, including a \$4,000 one-time stipend, an extra \$1 million for the district’s self-funded health plan to reduce out-of-pocket costs for employees, and reducing duty days from 188 to 186 for teachers and certificated employees without a reduction of pay.

Heimerdinger said that the employees serving on committees that developed those pay and benefit improvements deserve some credit, but she believes the district was motivated to make the changes because the union-organizing efforts began ramping up.

Same Issues 40 Years Later

The original complaint in 1985 was filed in the name of the Clovis Unified Teachers Association, which argued that the district had favored and illegally given financial support to the Faculty Senate at a time when employees were deciding whether to have union representation.

Despite the PERB decision, the district's support of the Faculty Senate continued over the next four years.

"Certainly, you could argue that as employees, we've allowed them to do it," Heimerdinger said. "In the end, ultimately, we've not been in a position to hold their feet to the fire and force them to adhere to the rules."

Clovis Unified Teachers Association and the Association for Clovis Educators shared an affiliation with the California Teachers Association, whose legal department filed Monday's complaint with PERB.

Clovis Unified is one of the largest school districts in California where teachers are not union-represented. It's spelled out in "Doc's Charge," former Superintendent Dr. Floyd B. "Doc" Buchanan's vision and philosophy for guiding the district that is provided to all newly hired teachers and is on the district website.

It includes this paragraph: "The professionals who work in our district are proud that we do not have collective bargaining. We are the only large school district in the state where the teachers and the administrators can still publicly say they like each other. I say that tongue in cheek, but my goodness, it is amazing how often you read in the paper of adults fighting over the rights and benefits of adults. Can anybody remember children anymore?"

However, the district does have collective bargaining for some employees, including custodians and janitorial service workers.

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Nancy Price, Multimedia Journalist

Nancy Price is a multimedia journalist for GV Wire. A longtime reporter and editor who has worked for newspapers in Florida, Alaska, Illinois and Kansas, Nancy joined GV Wire in July 2019. She previously worked as an assistant metro years at The Fresno Bee. Nancy earned her bachelor's and master's degrees in journalism at Northwestern University School of Journalism. Her hobbies include singing with the Fresno Master Chorale and volunteering with Fresno Film can reach Nancy at 559-492-4087 or [Send an Email](#)

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LOCAL EDUCATION

Clovis Unified Considers Letting Parents Decide About Their Kids' Mask Use in School



Published 1 month ago on July 28, 2021

By **Nancy Price**, Multimedia Journalist



Some parents want to decide whether their kids should wear face masks in school.

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Will face masks be required for students and staff when Clovis Unified schools reopen on Aug. 16? Parents say parents ought to be able to make that choice for their kids, and staffers make the choice for the

A revised school guidance from the California Department of Public Health may give parents the authority to decide whether their child should have an exemption from wearing a mask, and not leave that decision up to a medical professional or a school district employee, Clovis Unified Trustee David DeFrank said during Wire's "Unfiltered" show Tuesday.



DeFrank introduced a resolution at last week's Clovis Unified School Board meeting seeking greater control over "mask choice." The School Board is scheduled to hold a special meeting at 6:30 p.m. Tuesday and the resolution will be attached to the agenda, district spokeswoman Kelly Avants said.

The resolution is more of a general declaration by the board that the district is seeking autonomy from California Public Health face mask requirements, DeFrank said.

Exemption Policy Revision?

The trustees also may consider changing the policy for how exemptions are allowed, giving parents more input in the matter, he said.

DeFrank said parents could "self-attest" as to their child's need to go maskless, much as businesses self-attested that employees or customers are not infected with COVID-19.

Parents know their children better than a state bureaucracy and can make better informed choices, he said.

But during the "Unfiltered" show, Dr. John Zweifler, a medical consultant with the county public health department, cautioned that parents are not trained clinicians.

Avants said that forms and systems for the exemption process were still being finalized Wednesday, "intending to follow CDPH guidance requirements for all non-exempt adults and students," she said.

Mask use also should be a matter of choice for teachers, Trustee Susan Hatmaker said at last month Board meeting. “When teachers are wearing a mask, it makes it more difficult for students to learn,

Kristin Heimerdinger, a Buchanan High teacher who heads the budding teachers union, Association of Educators, said she and other teachers don’t feel safe teaching students in poorly ventilated classrooms while the coronavirus continues to rage.

The nation is still in the grips of a public health crisis, and masking is the last line of defense when teachers and students are together in a classroom, she said.

Districts Must Keep Students, Staff Safe

Districts are required as public agencies and as employers to keep students and staff as safe as possible, and requiring face masks helps accomplish that, Heimerdinger said.

Parents who feel their students can’t risk being in a classroom where others may be unmasked have the option of enrolling in the district’s online school, which up until this year was for high schoolers but has expanded to include elementary and middle school students, DeFrank said.

Forcing parents to make that choice is wrong, Heimerdinger said. Virtual learning is not the best educational model for most students, and the district’s goal should be to provide the best education for all students in the safest possible environment, she said.

The public outcry that erupted at the July 21 Clovis Unified board meeting is part of a growing local effort by some parents in the Central Valley and across California to drop mask mandates, even as state and federal government have revised recommendations on mask use indoors.

Mask Rules Keep Revising

While the California Department of Public Health did not change its requirement for masks inside schools, the Centers for Disease Control had dropped its recommendation for mask use indoors, only to reverse course last week as coronavirus infection rates are climbing across the the nation.

On Wednesday, the California Public Health department recommended masking for all indoor public spaces in light of the new CDC guidelines.

Fresno County Supervisor Steve Brandau said on “Unfiltered” that the county won’t be weighing in on the issue of masks in schools, even though he’s heard from many parents who want to be able to choose

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the supervisors next month will take up a resolution he and Supervisor Buddy Mendes are sponsor supports school districts doing “whatever they believe is in the best interest of their students.”

Districts should make the decision of whether to give parents more choice in mask usage or wheth continue requiring masks, he said.

Tulare County supervisors last month passed a resolution in support of local school districts detern whether or not to require masks for students and staff indoors.

Heimerdinger said mask use doesn't seem to be a big issue for students, however. Elementary and school teachers who taught summer school reported that “everyone was masked, it was fine, they l they got things done. ... If that's what we have to do to be in school, that's what we have to do.”

Clovis Unified Draft Student Mask Exemption Form

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Nancy Price, Multimedia Journalist

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Local doctor talks safety in schools as kids head back to class (KSEE) **positivity rate rises at Valley Children's Hospital**

Local doctor talks safety in schools as kids head back to class (KSEE)

by: Jocelyn Moran

Posted: Aug 9, 2021 / 07:51 PM PDT / Updated: Aug 9, 2021 / 08:14 PM PDT

CENTRAL VALLEY, Calif. (KSEE) – Last week, Valley Children's released data that showed hospital visits due to COVID-19 jumped from 13 visits in June to 81 in July. ✕

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because schools are not open yet and we're seeing that increase," said Dr. Nael Mhaissen, the medical director for infectious diseases and infection prevention at Valley Children's Healthcare.

In addition to masking in schools, Mhaissen urged families to get vaccinated if they're eligible.

"Think about the benefit to those around you, to your children, to those who are not eligible for the vaccine," Mhaissen said.

"I'm not propagating fear, I'm just drawing the public's attention to the situation. I think it's better that we stop this before it gets out of hand. Before we get to a situation where we have many patients that require hospitalization and we don't have beds for them. We are not there yet. We're far from it, luckily. But I just worry if that pace continues that we may get to a situation like this," Mhaissen added.

Mhaissen said a majority of kids aren't getting severely sick from COVID-19, but still, some require hospitalization.

"Some of them are getting really sick. The numbers are obvious on that. Some of them are requiring stay in the hospital really because of the symptoms of COVID, not because of a broken arm who just happened to have COVID," Mhaissen said.

"Some of them are requiring to be in the intensive care unit. Requiring oxygen therapy, requiring to be on the mechanical ventilator."

Mhaissen said children being physically back in school is important, but schools should be taking safety measures to ensure they're being as safe as possible.

"My son is six years old, I'm very excited that he's going to first grade. He will be



73°

CEO Todd Suntrapak sent Fogg a letter saying in part, “I realize the debate is passionate regarding masks, but as one who deals daily with the emotional trauma that strikes too many of our families, I implore you to weigh this carefully – there is a significant amount of evidence about kids, COVID-19, and the science behind masks to slow its spread.”

On Friday, the California Department of Public Health clarified its mask exemption guidelines in schools, saying that families would need a doctor’s note to exempt their child from wearing a mask due to things like a mental health issue, a medical condition, or a disability.

Clovis Unified allowed parents to self attest, and many submitted those forms last week.

Clovis Unified said parents will now need to submit a doctor’s note.

Kristin Heimerdinger, the Association of Clovis Educators spokesperson, said there are still unanswered questions on how schools will exactly look like come next Monday.

“We’re hoping that our district administration and school board will follow the state guidelines and not put up a fight, that we will have the significant majority of our students masked except where there are medical reasons that they cant,” Heimerdinger said.

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CLOVIS UNIFIED SCHOOL DISTRICT

Masks required at Clovis Unified schools unless a doctor signs off on student's exemption

By Alyssa Flores

Wednesday, August 11, 2021

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Safety Plan was presented at Wednesday night's board meeting that aligns with state mandates and will require a doctor evaluation for kids to receive an exception from wearing a mask.

"This is not going to work for a lot of people in this district," said one parent during public comment.

Several Clovis Unified parents kept the commentary coming during the district board meeting.

"I will not be sending any of my kids to school with masks," another said.

Up until last week, the district had said parents could fill out a form that would exempt their child from wearing a mask for physical or mental health reasons.

After criticism from parents pushing for masks to be worn and a six-page letter from Valley Children's Hospital CEO Todd Suntrapak about neglecting the severity of the virus, district officials said clarification from the state led them to require a doctor's signature before students can be exempt from wearing a mask.

"About the 5.5% of parents who had requested exemptions or filed exemption paperwork, we contacted them directly to let them know," said Kelly Avants, spokesperson for CUSD.

If an exemption form is not submitted to the district before the first day of school Monday, students will be expected to mask up until the exemption form is submitted.

"Until you have an exemption that has a medical verification on file with it, then it's not truly an exemption and you would need to comply with the face-covering requirement," said Avants.

For some, stricter exemptions are welcomed news.

"We do have students who are unable to wear them and we know that, but we would like to limit the number of students who just don't want to wear them," said Kristin Heimerdinger, spokesperson for the Association of Clovis Educators.

Heimerdinger is thrilled to be back in her classroom with high school students and hopes

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masks will help keep it that way.

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"Our next challenge then is keeping them in class, keeping the teachers in class, and keeping support staff there to help support them," she said.

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LOCAL EDUCATION

Valley Schools Scramble After State Hands Down New Vaccine, Testing Mandate



Published 3 weeks ago on August 11, 2021

By **Nancy Price**, Multimedia Journalist



School employees will need to be vaccinated or have weekly testing for COVID-19.

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Valley school districts scrambled Wednesday to determine how best to implement the new state public health order announced by Gov. Gavin Newsom that will require staff in public and private schools across California to either provide proof of COVID-19 vaccination or undergo testing at least once weekly.

Newsom's announcement comes the same week that many districts, including Central and Fresno, start the first day of school.

California is the first state in the nation to make vaccination and weekly testing a requirement for teachers and other school staffers, the governor said.

"We think this is the right thing to do, and we think this is a sustainable way to keeping our schools open and to address the No. 1 anxiety that parents like myself have ... knowing that the schools are doing everything in their power to keep our kids safe, to keep our kids healthy," Newsom said.

The announcement of the new public health order made by the California Department of Public Health was made at an Oakland school.

Schools have until Oct. 15 to fully comply. Staffers will need to be vaccinated no later than Oct. 21 to be considered fully vaccinated by the Oct. 15 deadline.

Keeping Focused

The announcement from Newsom came one day before Fresno Unified schools are back in session. Fresno Unified spokeswoman Vanessa Ramirez said school officials remain focused on being ready for the first day but also are examining what will need to be done to meet the requirements of the public health order.

“We plan to continue complying with mandates that come our way, such as indoor mask-wearing and vaccination/testing requirement for staff, but we will not be distracted from our mission of providing excellent, equitable education to our students by the ongoing politicization of such mandates,” she said.

Vaccinations, testing, and mandatory face masks are among the layered mitigations that will protect students and staff at schools, but the primary component is vaccination of employees as well as families, Fresno Teachers Association said in a Facebook post Wednesday afternoon.

“We are in talks with district leadership about systemic mitigation layers that will encourage families and educators to take the vaccine and we will work with district leadership about the implementation of this new statewide policy. We will communicate with members as new information becomes available,” the post said.

Clovis Unified, like other school districts across the state, will comply with the new requirements, but district officials first need to determine how best to implement them, district spokeswoman Kelly Avants said. Students will return for the first day of school on Monday.

“We will be looking into the new orders and then will begin developing details on what is needed to meet this new requirement” by the Oct. 15 deadline, she said.

Staying in School is Key

The new public health order will help keep students and teachers in class consistently, said Kristin Heimerdinger, a Buchanan High teacher who is spokeswoman for the Association of Clovis Educators, which aims to be the labor union for Clovis Unified teachers.

“We are thrilled to be back in person with our students and we want to make sure it stays that way,” she said.

Gilbert Magallon, spokesman for Central Unified, said the district was reviewing the information from the governor’s office on Wednesday.

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When asked how the state would enforce the mandate, Newsom said he expects districts will comply with this order as they do with all the other rules and regulations in the state Education Code.

“We’re not concerned about that. We think we have enlightened leaders, people that recognize what’s at stake, their own health, the health and safety of the children that they’re serving. That’s their mission and our mandate. And we’re confident that we’ll see compliance.”

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Clovis Teachers Union Group Files New Labor Complaint Against School District

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State’s Water Curtailment Order Could Have Long-Reaching Effects



Nancy Price, Multimedia Journalist

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EDUCATION LAB

Clovis parents urge school board to ignore mask mandate as classrooms reopen for fall

BY ASHLEIGH PANOO

UPDATED AUGUST 12, 2021 08:20 AM



The Clovis School Board announced adoption of the California Department of Health's guidelines for kids in school during the board meeting Wednesday, Aug. 11, 2021 in Clovis. BY [ERIC PAUL ZAMORA](#)



More than a dozen parents spoke out at Clovis Unified’s board meeting on Wednesday, threatening to take their children out of school, shouting out of turn at trustees, and begging the board to turn against a state mandate that says K-12 students and staff must wear masks while indoors at schools.

Several parents said they attempted to get a mask exemption signed by a doctor, but many doctors are refusing to sign exemption forms.

Board President Steven Fogg asked the board if they would explore a possible loophole in the mask mandate because there is technically no language that says schools cannot offer a grace period for students to avoid mask-wearing while parents seek a doctor’s exemption.

TOP ARTICLES

Fresno faces more unhealthy air, triple-digit heat. When to expect cooler weather

Superintendent Eleanor O'Farrell and Trustee Susan K. Hatmaker, an attorney, also advised against the move. It could lead to the health department issuing clarification as it did after the district attempted to let parents [exempt their own children from masks in July](#). The California Department of Public Health issued a clarification Friday that only doctors could make exemptions, forcing Clovis Unified to backtrack its policy.

About 5% of students had a mask exemption form filled out as of Friday, which was the deadline for parents to exempt their child.

SOME CLOVIS PARENTS URGE SCHOOL BOARD TO IGNORE MASK MANDATE

During the meeting Wednesday, some parents demanded trustees go against the state mandates, and many wondered how much authority the health department held.

Fogg said no one will ever convince the district to break the law, and O'Farrell told speakers that the California Department of Public Health has the full force of the law behind it, and the district must follow orders.

One parent, who said she had a preschool son in a special education class, said her son's speech learning would only work without a mask.

"He is learning how to socialize, how to read facial expressions and needs to be watching his teacher's mouth to know how to properly pronounce, imitate, and correct his letter sounds," she said. "She (the teacher) needs to see his mouth moving to know how to correct him."

The parent said she would not send her son to school with a mask, and he was too young to qualify for independent study.

"Am I supposed to stay home and collect absences and get sent truancy notices, and then get dropped from the program that I spent so many months jumping through hoops (for)?"

Parent Danielle Stockdale said her nurse practitioner gave her a list of 50 doctors in the area she could try to get an exemption from.

“I called many of them. None of them return my phone calls. None of them have availability right now ... that’s even for telemedicine calls.”

Stockdale said she went back and forth with several doctors but didn’t get anywhere.

“What are you going to do?” she asked the board, “Because I have instructed my son to tell them, ‘No, you’re not putting that face diaper on me.’ My kid is not sick. My kid is not at risk of getting anybody else sick. They should not be having to do this.”

O’Farrell said while parents who spoke had valid concerns, so did parents who advocated for masking in schools.

“I’m quite sure that none of our teachers, none of our students, want to wear a mask. I personally don’t enjoy wearing a mask,” she said.

“Remember, our number one goal is to get our kids back in school. And we’ve had to endure many obstacles, but the one thing we want to do is to get them into our classrooms because we know just being in class, mask or no mask, our children will thrive,” she said. “We had that happen in the spring.”

Near the end of the board discussion, Fogg told parents that having their children in school, even with a mask, is a huge improvement from last year.

Fogg, an ophthalmologist, wears masks for his job and says they work to protect people.

“I’ve heard a lot of people say, ‘Hey, you know what, my kid has to wear a mask? I’m not sending him to school.’ But I sure think that’s short-sighted — really, over a mask?”

CLOVIS, FRESNO TEACHERS UNIONS SUPPORT NEWSOM’S MASK MANDATE

The criticism from Clovis parents came just hours after Gov. Gavin Newsom

Schools have until Oct. 15 to verify that their staff are vaccinated and put in place weekly testing.

The new rules apply to public and private schools, making California the first state to mandate vaccines or tests for all school employees. [Hawai'i last week mandated vaccines for all public employees](#), including teachers, but that order does not apply to private schools.

The first day of school was already underway for Fresno's Central Unified students when the governor handed down the abrupt announcement. Fresno Unified — the state's third-largest school district with more than 70,000 students — reopens classrooms Thursday. Clovis schools begin the fall semester on Monday.

Both the Fresno Teachers Association and the Association of Clovis Educators — a group of Clovis teachers working to unionize — said they support the new vaccine mandate.

“We are in talks with district leadership about systemic mitigation layers that will encourage families and educators to take the vaccine and we will work with district leadership about the implementation details of this new statewide policy,” Fresno Teachers Association President Manuel Bonilla wrote in a statement on Facebook.

Kristin Heimerdinger, the Association of Clovis Educators spokesperson, said teachers are “thrilled” to be back in the classroom with students, and “we want to make sure it stays that way.”

“We want our students to have consistency in their education this year, which depends on keeping students and teachers in class,” Heimerdinger told The Bee. “The governor’s mandate is another way to ensure that students and staff are kept safe and that we all have access to the consistency they deserve.”

The Fresno Bee's Isabel Sophia Dieppa and The Sacramento Bee's Sophia Bollag contributed to this report.

The Education Lab is a local journalism initiative that highlights education issues critical to the advancement of the San Joaquin Valley. It is funded by donors. [Read more from The Bee's Education Lab here.](#)

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**ACCEPT
COOKIES**

Exhibit K

From: Jerry Inchaurregui <JerryInchaurregui@clovisusd.k12.ca.us>
Sent: Sunday, August 15, 2021 5:43 PM
To: Kristin Heimerdinger
Subject: children

I hope you're putting our kids first....

Sent from my Verizon, Samsung Galaxy smartphone

Exhibit L

From: Eimear OFarrell <EimearOFarrell@clovisusd.k12.ca.us>
Sent: Friday, August 27, 2021 1:11:22 PM
To: Eimear OFarrell <EimearOFarrell@clovisusd.k12.ca.us>
Subject: Message to our Certificated Educators

Good afternoon,

Clovis Unified is a special place. You've heard me say it, you've heard previous superintendents say it, and you've heard it from colleagues and families moving into our school district from outside the area. I'm sharing some news with our certificated educational team because I want you to hear it from me and not through rumor or misinformation.

Earlier this year, the California Teachers Association (CTA), on behalf of ACE, filed an unfair labor practice charge with the Public Employment Relations Board (PERB) that, in part, challenged the District:

- Providing Faculty Senate resources, at its request, since our teachers' last vote to remain self-represented,
- Funding stipends for teachers serving on Faculty Senate,
- Providing the Faculty Senate President, Vice-President, and Secretary release from full-time teaching schedules to serve teachers, and
- Displaying Doc's Charge on the walls of learning spaces in the District.

ACE has asked PERB to get an injunction in Fresno County Superior Court to stop the District from providing such support to our teachers. The District believes this action disturbs the status quo and threatens the existence of Faculty Senate before teachers have had a full say on whether they want to unionize.

We understand employees have the right to seek union representation if they have enough support. We also understand many teachers have stated they do not support a CTA backed union. Legally, the District is required to remain neutral during union organizing activities. Since CTA and ACE came forward, we have met with their representatives and included them in meetings where other employee groups are represented. We are doing our best to meet our legal obligation.

However, we also believe that until the issue of representation is resolved, the status quo should remain in place. The District has a legal right to defend itself against unfair practice charges and to oppose CTA's and ACE's efforts to shut down Faculty Senate. In the coming weeks and months, the District will exercise those rights.

You may hear more about these issues through the news media or other sources in the community, and I felt it important for you to hear from your Superintendent. We believe the process should be fair to all. We will stand by that belief.

Sincerely,

Eimear O'Farrell, Ed. D.

Superintendent

Clovis Unified School District

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Los Angeles,
State of California. I am over the age of 18 years. The name and address of my
Residence or business is 801 N. Brand Blvd., Ste. 950, Glendale, CA 91203

On 9/20/21, I served the Unfair Practice Charge
(Date) (Description of document(s))

_____ in Case No. _____
(Description of document(s) continued) PERB Case No., if known)

on the parties listed below by (check the applicable method(s)):

- placing a true copy thereof enclosed in a sealed envelope for collection and delivery by the United States Postal Service or private delivery service following ordinary business practices with postage or other costs prepaid;
- personal delivery;
- electronic service - I served a copy of the above-listed document(s) by transmitting via electronic mail (e-mail) or via e-PERB to the electronic service address(es) listed below on the date indicated. (May be used only if the party being served has filed and served a notice consenting to electronic service or has electronically filed a document with the Board. See PERB Regulation 32140(b).)

(Include here the name, address and/or e-mail address of the Respondent and/or any other parties served.)

Clovis Unified School District
1450 Herndon Ave.
Clovis, CA 93611
David Moreno
damoreno@f3law.com
Katy McCully Merrill
kmccullymerrill@f3law.com
Lynn Beekman
lbeekman@f3law.com

Clovis Unified School District
1450 Herndon Ave.
Clovis, CA 93611
Eimear O'Farrell, Superintendent
Email: eimearofarrell@cusd.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on 9/20/2021,
(Date)
at West Covina, CA _____
(City) (State)

Ashlie Kennedy

(Type or print name)

(Signature)