

**THE MERMIGIS LAW GROUP, P.C.**  
**85 Cold Spring Road**  
**Syosset, New York 11791**  
**516.353.0075**  
**info@mermigislaw.com**

**By Electronic Mail**

October 21, 2022

Tania Tetlow, President  
Fordham University  
Rose Hill Campus  
441 East Fordham Road  
Bronx, NY 10458

Re: Fordham University Covid-19 Booster Mandate

Dear President Tetlow,

This office has been retained by a group of Fordham University students, Fordham University parents, and Fordham University employees to explore all legal options available to change Fordham's current policy which **requires** students and employees to inject the bivalent COVID-19 booster vaccine into their bodies before November 1, 2022. As I am sure you are aware, the Covid-19 bivalent booster is presently authorized under emergency use authorization ("EUA").

It is a violation of federal law to mandate receipt of a product that is only available pursuant to a EUA. Fordham University cannot lawfully require students to receive the Covid-19 bivalent booster that is being distributed under an EUA.

On August 5, 2021, the Director of the US Centers for Disease Control and Prevention ("CDC"), Dr. Rochelle Walensky, stated on CNN that "what [the COVID-19 vaccines] can't do anymore is prevent transmission." After this admission, Wolf Blitzer asks Dr. Walensky if "you get COVID, you're fully vaccinated, but you are totally asymptomatic, you can still pass on the virus to someone else, is that right?" and Dr. Walensky answers, "that is exactly right." (<https://twitter.com/CNNSitRoom/status/1423422301882748929>).

On August 11, 2022, the CDC updated its guidance for the prevention of COVID-19, in particular, the guidance:

- Recognizes the immunity and protection provided to those who have previously recovered from a COVID-19 infection: “The risk for medically significant illness increases with age, disability status, and underlying medical conditions but is considerably reduced by immunity derived from vaccination, **previous infection**, or both, as well as timely access to effective biomedical prevention measures and treatments.”
- Confirms that “[h]igh levels of immunity and availability of effective COVID-19 prevention and management tools have reduced the risk for medically significant illness and death.”
- No longer differentiates based on a person’s vaccination status because “breakthrough infections occur, though they are generally mild, and **persons who have had COVID-19 but are not vaccinated have some degree of protection against severe illness from their previous infection.**”
- (*See, Summary of Guidance for Minimizing the Impact of COVID-19 on Individual Persons, Communities, and Health Care Systems — United States, August 2022, available at <https://www.cdc.gov/mmwr/volumes/71/wr/mm7133e1.htm> (emphasis added)*).

On September 18, 2022, President Biden declared the COVID-19 pandemic “over.” (<https://www.cbsnews.com/news/president-joe-biden-60-minutes-interview-transcript-2022-09-18/>).

On September 20, 2022, Mayor Adams rescinded the COVID-19 vaccine mandate for private sector workers and student-athletes and justified keeping the Mandate in place for City workers stating, “I don’t think anything dealing with COVID makes sense, and there’s no (one) logical pathway.” (<https://nypost.com/2022/09/20/adams-ends-vaccine-mandates-for-private-biz-student-athletes/> ).

On October 7, 2022, the Surgeon General of the State of Florida conducted an analysis through a self controlled case series which is a technique developed to evaluate vaccine safety. The analysis found that there is an 84% increase in the relative incidence of cardiac-related death among males 18-39 years old following mRNA vaccination. As such, the State Surgeon General recommends against males aged 18-39 from receiving mRNA COVID-19 vaccines.

On October 11, 2022, a top Pfizer international executive admitted to a European Parliament committee that the pharmaceutical giant did not test its COVID mRNA shot **for whether it could prevent transmission of the virus before it was placed on the market.** and then mandated it in many parts of society throughout the world.

Rob Roos, a member of the European Parliament from the Netherlands, [tweeted](#) a video of his exchange with Janine Small, president of international developed markets at Pfizer. In the video, Roos asks this question of Small:

*But to you, Ms. Small, I have the following short question, to which I would like to receive a clear response. I'll speak in English so there are no misunderstandings. Was the Pfizer COVID vaccine tested on stopping the transmission of the virus before it entered the market?*

*If not, please say it clearly. If yes, are you willing to share the data with this committee? And I really want a straight answer – yes or no, and I'm looking forward to it. Thank you very much.*

Small's response:

*Regarding the question around did we know about stopping transmission before it entered the market – no (she laughs). These, um, you know, we had to really move at the speed of science to really understand what is taking place in the market.*

Fordham's coercive vaccine booster policy was announced to the Fordham community via an email dated September 26, 2022 from Marco Valera, Vice President for Administration and COVID-19 Coordinator. The email reads in part: *"All University faculty, students, and staff must be fully up-to-date as defined by the CDC as of Tuesday, November 1, 2022."*

On September 30, 2022, Spiro P. Pantazatos, PhD, Assistant Professor of Clinical Neurobiology at the Columbia University Irving Medical Center, and Attorney Kevin Barry, one of the undersigned attorneys, sent an email to Fordham University leadership which provided links to international peer-reviewed data which indicated that mandating COVID-19 boosters for those under age 25 are not evidence-based. This email, attached to this letter as EXHIBIT A, reads in part:

*"Available empirical evidence shows that COVID vaccines and boosters cannot prevent transmission, are unnecessary in people with prior infection (or vaccination), and their risk-benefit is unfavorable for the large majority of university members facing the mandates, such as **young adults who are at extremely low risk from the virus (i.e. ≤ 0.006% infection fatality rate following exposure to wild type/delta strain for ages under 25 yrs).**"*  
(emphasis added).

The vast majority of Fordham University students are under age 25.

Included as an attachment to the September 30, 2022 email is a letter drafted by Assistant Professor Pantazatos addressed to all University Administrators regarding their COVID-19 policies. This letter includes links to 88 peer-reviewed studies from around the world which

provide evidence which indicate that vaccine mandates for young people are not evidence-based. The letter reads in part:

*“Please be advised that your university’s COVID vaccine policy makers should not blindly trust the FDA and CDC claims regarding the risk-benefit of COVID-19 vaccines when making decisions on University-wide vaccine policy ... This letter also serves to notify the university that it may not be enough to rely on public health authorities to protect the university when global data clearly contradict the recommendations upon which the University’s policy relies. We hope this letter will ultimately help to restore sanity and trust in the University’s public health policies and responses.”* The Letter to University Administrators is attached as EXHIBIT B.

To date, no one from Fordham has responded to Dr. Pantazatos and Mr. Barry’s email. There is no indication that Fordham has considered the information in the 88 references in the letter. It appears that Fordham may be blindly trusting the CDC and FDA without independently looking at the global data which contradict Fordham’s booster policy.

On October 7, 2022 a group of Fordham students, Fordham student families and Fordham employees submitted a letter addressed to President Tetlow from a new organization named FORDHAM PARENTS TOGETHER. Upon information and belief, Fordham has not replied to date to the letter from FORDHAM PARENTS TOGETHER either. This letter highlights how Fordham University’s booster requirement policy makes Fordham an outlier. The letter reads, in part:

*“Fordham is the only university in NYC and in New York State with a bivalent booster mandate. This includes such prestigious private universities as Columbia and NYU, and all public universities in the SUNY system. All but Fordham interpret CDC wording as **recommendations**. Effective November 1, NYC’s COVID-19 vaccine requirement for private sector employees will be terminated.”* (emphasis added) The FORDHAM PARENTS TOGETHER LETTER is attached as EXHIBIT C.

By implementing its vaccine mandate, Fordham University is deliberately taking away each student’s statutorily guaranteed right to decide whether to accept or refuse administration of the COVID-19 vaccines. The university is doing so openly, without any regard for the personal and autonomous right of each student to choose whether they want to receive an unapproved and unlicensed medical product. Fordham is effectively forcing each student to choose between facing expulsion from Fordham or receiving an experimental medical treatment to which they do not consent.

As explained above, these vaccines and boosters have not been proven to prevent infection or transmission. Therefore, requiring that students receive these vaccines to prevent infection is unscientific.

Additionally, Fordham is failing to take into consideration that a significant portion of its student population is likely to have had SARS-CoV-2 and fully recovered. Putting aside the immunity conferred by having been previously infected, there have been concerns raised by medical professionals that vaccinating those recently infected can lead to serious injury or death by causing antigen specific tissue inflammation in any tissues harboring viral antigens. The university should consider whether it might be liable for any damages, poor health outcomes, and loss of life due to mandatory COVID-19 vaccination policies forced upon its students. While manufacturers and vaccine administrators are protected by the PREP Act, Fordham is not.

Finally, as an on-site vaccine distribution center, Fordham would be obligated to comply with the federal rules promulgated under Section 564 of the Act, including 21 U.S.C. 360bbb-3 and the EUAs for each COVID-19 vaccine, which provide that every individual has “the option to accept or refuse administration of the product.” It appears that Fordham anticipates becoming a point of dispensing for COVID-19 vaccines and, therefore, must sign or has signed a COVID-19 Vaccination Program Provider Agreement. That document states that any parties “must comply with all applicable requirements as set forth by the U.S. Food and Drug Administration, including but not limited to requirements in any EUA that covers COVID-19 Vaccine.”

Fordham’s COVID-19 vaccination mandate would therefore also violate its COVID-19 Vaccination Program Provider Agreement which could give rise to various potential claims.

For all of the foregoing reasons, we respectfully request that Fordham University give serious consideration to the issues raised herein and withdraw its COVID-19 booster vaccine mandate forthwith since requiring an unlicensed and unapproved product violates federal law, international laws, civil and individual rights, and public policy.

We demand a reply to this letter by close of business on Monday October 24, 2022. We are preparing to explore all legal options available to protect Fordham students and employees from discrimination or adverse actions based on their decisions regarding whether or not to inject the most recent booster into their bodies.

To avoid litigation, we demand that Fordham consider the information contained in this letter, and in the more than 100 peer-reviewed links in the attached Exhibits, and reverse the bivalent COVID-19 booster requirement.

Very truly yours,

/s/

James G. Mermigis

Kevin M. Barry