

FREEDOM FROM RELIGION *foundation*

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August 4, 2021

SENT VIA EMAIL & U.S. MAIL: president@uwsa.edu; board@uwsa.edu

Interim President Tommy Thompson
1720 Van Hise Hall
1220 Linden Drive
Madison, WI 53706

Office of the Board of Regents
1860 Van Hise Hall
1220 Linden Drive
Madison, WI 53706

Re: Follow the Science and Protect UW Students by Mandating COVID-19 Vaccines

Dear Interim President Thompson & Esteemed Board Members:

We are writing on behalf of the Freedom From Religion Foundation and our Wisconsin membership to urge the University of Wisconsin to protect the health and safety of UW students, faculty, staff, and community members by adopting common sense, data-driven COVID-19 prevention measures. This necessarily includes doing whatever it takes to advocate for mandating vaccinations for all staff and students. Mandating masking-only while ignoring the cure of the disease — COVID-19 vaccinations — is neither acceptable public policy nor good science.

FFRF is a national nonprofit headquartered in Wisconsin, with more than 35,000 national members, including more than 1,500 throughout Wisconsin. FFRF works to protect the constitutional principle of separation between state and church, and to educate about nontheism. The nonreligious in the United States in fact are the demographic most apt to be and willing to be vaccinated, according to Pew.¹ In addition to our concerns based on principle and science, FFRF has a personal stake in University of Wisconsin policies regarding COVID-19 mitigation. Our office, which re-opened fully to staff in June because all staff are fully vaccinated, is located near the UW-Madison campus in downtown Madison. We have great reason to be concerned about an influx of tens of thousands of students this month to downtown Madison who are not vaccinated, who will inevitably jeopardize local public health and contribute to the recent surge of COVID-19 cases involving the far more contagious delta variant. Countless businesses and individuals across the UW's 26 campuses statewide are equally concerned and affected by the lack of a vaccine mandate by the UW System. The UW System is not operating in a vacuum.

We were dismayed by the high-handed and anti-democratic decision of the Joint Committee for Review of Administrative Rules to interfere with UW's attempts to curtail the spread of this deadly virus within the UW community, with its enormous impact on the health and safety of UW campuses and the greater communities in which they are located. While the extremists on the Rules Committee have signaled their intent to reject any reasonable and science-based recommendations for preventing the spread of COVID-19, this remains a

¹ <https://www.pewresearch.org/fact-tank/2021/03/23/10-facts-about-americans-and-coronavirus-vaccines/>

matter of life and death. It is imperative that the University, nonetheless, propose the necessary protective measures to keep its students safe. If the Rules Committee wishes to impose its majority members' personal anti-vaccination beliefs upon the students and staff at every UW campus in the state, the UW System is obligated to actively challenge such impediments to specific life-saving policies.

The University of Wisconsin System Mission Statement reads:

“The mission of the system is to develop human resources, to discover and disseminate knowledge, to extend knowledge and its application beyond the boundaries of its campuses and to serve and stimulate society by developing in students heightened intellectual, cultural and humane sensitivities, scientific, professional and technological expertise and a sense of purpose. Inherent in this broad mission are methods of instruction, research, extended training and public service designed to educate people and improve the human condition. Basic to every purpose of the system is the search for truth.”

It is the UW System's duty to engage in “fearless sifting and winnowing by which alone the truth can be found.” This Joint Committee's actions are not just a threat to public health, but to the very mission of the UW System, which is to educate. In pandemic times, that educational mission includes ensuring the UW community is vaccinated.

Public university policy must be based on science, reason, data, compassion and expertise, especially during a deadly pandemic. Since this pandemic began, the Wisconsin Legislature failed time and again to pass any COVID-19 related legislation, leaving Governor Evers, and other state and local actors, with no choice but to take action, based on science and data, to reduce the spread of the virus without help from the Legislature. Indeed, many of Governor Evers' appropriate measures have been voted down, challenged or sabotaged. As you are aware, the explosion of COVID-19 across the country and in Dane County in the fall of 2020 coincided with college students returning to campus and in-person classes. Universities in nearly every state quickly became hot spots for the outbreak, with UW-Madison becoming a case study after the virus rampaged through campus so quickly that classes had to go virtual after two weeks.

Now is the time for the UW System to act, to the best of its ability, to curb the spread of the COVID-19 delta variant. The average number of cases in Wisconsin has grown from a 7-day average of 889 on Aug. 3 to 962 on Aug. 4, 2021, with more than 3,600 new cases reported over the past two days. This steep increase has led state health officials to urge eligible state citizens to get vaccinated now to slow the spread and stop an even more deadly variant from developing.²

We applaud your previous pledge that “the UW System will continue to use its authority to take nimble and reasonable steps that enable us to keep our campuses open for the education students need, parents expect, and Wisconsin deserves.”³ Please do not let the Rule Committee's actions dissuade you from this course. The UW must follow in the steps of

² <https://www.nytimes.com/interactive/2021/us/wisconsin-covid-cases.html>

³ <https://www.wisconsin.edu/news/archive/uw-system-president-thompson-statement-on-proposed-jcrar-resolution/>

other prestigious academic institutions, including Indiana University, whose vaccination and masking mandate was recently upheld by a federal court, with the Seventh Circuit Court of Appeals denying a stay of that ruling pending appeal this week. As you know, the Seventh Circuit presides over Wisconsin federal courts. In that appeals decision, Judge Frank H. Easterbrook, a Reagan appointee, joined by Judges Michael Y. Scudder and Thomas L. Kirsch, the latter both Trump appointees, wrote: “Given *Jacobson v. Massachusetts*, which holds that a state may require all members of the public to be vaccinated against smallpox, there can’t be a constitutional problem with vaccination against SARS-CoV-2.” The panel noted that universities are free to mandate other vaccinations and health exams, and dictate many other requirements, such as tuition and even reading and writing assignments. “If conditions of higher education may include surrendering property and following instructions about what to read and write,” the ruling states, “it is hard to see a greater problem with medical conditions that help all students remain safe while learning. A university will have trouble operating when each student fears that everyone else may be spreading disease.”

The UW is well within its rights to adopt the same protective measures.

Everyone must do their part to prevent the spread of COVID-19. Devastatingly, more than 8,287 Wisconsinites have died from Covid-19 and more than 686,225 have tested positive.⁴ **COVID-19 mitigation efforts have worked in Wisconsin.** We went from being one of the nation’s most consistent hotspots last fall to flattening the curve.⁵ We simply cannot accept any additional preventable deaths or the prolonging of the pandemic when the remedy is at hand. Thank you for your efforts to be part of the solution.

Very truly,



Annie Laurie Gaylor & Dan Barker
Co-Presidents

⁴ <https://www.nytimes.com/interactive/2021/us/wisconsin-covid-cases.html>

⁵ “COVID-19: Wisconsin Summary Data,” Wisconsin Department of Health Services, January 26, 2021, <https://www.dhs.wisconsin.gov/covid-19/data.htm#summary>