

## Proposed Immunization Bill - Letter from Louise Kuo Habakus to Governor Murphy

Dear Phil and Tammy,

By now, you've heard about the vast hordes of New Jerseyans who descended on Trenton on 12/12/19 to defend our religious rights and our vaccine exemptions by opposing [S2173](#) during the Senate Health Committee meeting. Thousands of parents' hearts are breaking across your state as we've been told to anticipate this bill's arrival to your desk next week. We have not been passive. We have been working so hard, pulling together, making phone calls, sending faxes and letters, consulting with experts, and holding meetings. Perhaps you feel the collective panic and desperation? The Garden State is not celebrating democracy in action today. We are sitting with the bone deep truth that our work does not matter, that showing up to "hearings" that limit our participation and self-expression are a waste of time because we are, despite our numbers and our efforts, being disregarded as our rights are taken away. Please tell us that we are wrong.

Religious parents are in a Catch-22. Lawmakers have told us that this bill isn't about religion — they wouldn't take away our rights for nothing — it's about measles. Yet, when we bring evidence and experts to address vaccine science, herd immunity, and epidemiology, we are told this is proof that we are not religious. What is the way forward to dialogue and compromise, not coercion? This is no small matter that thousands of your people are rising up against this bill.

You will hear that S2173 will protect New Jersey against measles and so, for the greater good, you must do this abominable thing that no one wants to do — to weaken religion, religious rights, and the integrity of the First Amendment and the New Jersey Constitution. I am writing to tell you that passage of S2173 (and its companion bill A3818) will not put even the tiniest dent in our ability to stop measles. It will, however, unleash a [cascade of unintended consequences](#) that will be exceptionally challenging to address and that you will not be proud to have facilitated. I implore you to veto this bill with the objective to study this more closely and to engage with your people.

### #1: S2173 will not prevent measles

Just [2.6% of NJ children take a religious exemption](#) and not all are fully unvaccinated because some religious tenets do not apply to all vaccines. If lawmakers truly care about preventing measles, you would not be scapegoating religious children. You would be forcefully taking other steps. Why do I say this?

#### THE MEASLES VACCINE ISN'T WORKING

By the [CDC's own admission](#), the MMR vaccine is not effective in 22% of recipients for mumps, 7% for measles, and 3% for rubella. A second required dose for millions of children improves seroconversion (titers) only slightly while forcing society to absorb the unnecessary expense and exposing all children to the risks of a second dose. Most significantly, the persistent 2+ dose failure rate exceeds the numbers of children taking an exemption.

PubMed reveals that the measles vaccine failure rate is much higher than the 7% reported by the CDC. There's substantial and documented vaccine failure in vaccinated individuals including in fully vaccinated school communities. It's often called waning immunity although it's not always possible to ascertain whether the vaccine initially worked. Some of the many dozens (hundreds?) of studies are [here](#) and [here](#) and [here](#) and [here](#) and [here](#) and [here](#). Recent peer-reviewed research affirms an even [higher failure rate of the measles vaccine](#). This [2016 JAMA paper](#) says 41% of the 970 measles cases with vaccination data were vaccinated. In this [2018 study](#), 20% of the 232 laboratory-confirmed measles cases in California between 2000 and 2015 were vaccinated (over half received 2+ doses).

It's not good news:

What is still a subject of debate is the ability of the current measles vaccine to sustain long-term protective immunity and adequate herd immunity in settings with no wild-type virus exposure (i.e., no boosting of immunity resulting from asymptomatic infection).

— [Expert Rev Vaccines, 2019](#)

The [CDC now tells public health officials](#) to “maintain a high index of suspicion for measles, even in vaccinated patients.”

Vaccine failure is not a secret. Merck's MMR vaccine has been known to be failing for more than a decade. Merck has been embroiled in [litigation about this failing vaccine since 2012](#).

***If you sign this bill into law, you will be blaming vaccine failure on a failure to vaccinate, you will be blaming religious families, and you will be wrong.***

DUE TO VACCINE FAILURE, THE VACCINATED ARE SPREADING MEASLES, TOO

The press keeps repeating that “the unvaccinated spread disease.” This is repeated so often that many have come to believe that there's something inherently filthy and pestilential in unvaccinated people. Do we need to say the obvious? People with measles can spread measles, regardless of vaccination status. Increased vaccine failure means that a surprisingly large percentage of people who contract measles have been vaccinated. If you're vaccinated and you catch measles, you do not possess magic fairy powers — you can still spread measles.

Since the vast majority, [almost 92% of children, receive at least one dose of measles containing vaccine](#) and most receive two doses. Whether the failure rate of the measles vaccine is 7% or 12% or 20% or 41%, it is already a massive issue and it's growing. We're talking about millions of vaccinated children whose parents and schools think they're protected. These children will not be kept home during an outbreak. These legions of vaccine failure children possess the same immune status as the tiny numbers of the unvaccinated *because the vaccine did not work*.

SELECTIVE SCAPEGOATING WILL NOT PROTECT THE IMMUNE-COMPROMISED

[Children with a religious exemption do not threaten immune-compromised children any more than do students in whom the vaccine failed, and less than the recently vaccinated.](#) It is discriminatory to single out religious children, which, by definition, does not provide them equal protection under the law.

## WHAT ABOUT THE REAL HERD IMMUNITY THAT ISN'T BEING DISCUSSED?

Lawmakers who are determined to prevent measles outbreaks would listen to researchers who understand that the [shocking and documented ineffectiveness of the MMR vaccine](#) has been camouflaged by the gradual and inexorable erosion of true herd immunity. The numbers of people who had measles as children and subsequently earned lifelong plus societally protective immunity decline every year because they are passing away:

Persons born before 1957 generally can be considered immune to measles and mumps. In addition, persons born before 1957, except women who could become pregnant, generally can be considered immune to rubella.

— CDC, MMWR, 1988

They were the last generations who did not receive the measles vaccine that was introduced in 1963. As our grandparents and parents die, they take more than a piece of our hearts with them. They take our biological inheritance, earned over generations, that protected babies, teens, and adults. The measles vaccine destroyed this profoundly protective human adaptation. We no longer allow children to be vulnerable to measles in childhood precisely during the window that the disease poses the least risk. So they don't grow up to be adults with lifelong immunity. Girls don't grow up to be mothers who pass robust passive immunity to their babies. And so now, infants, teens, and adults are not protected. We are much less safe against measles in 2019 than we were a half century ago.

The ecological equilibrium has been destroyed — and measles, [as was predicted](#), is returning to become a disease of vaccinated persons at rates that will exceed the prevaccine era. If lawmakers want to prevent measles, they would be demanding real solutions that acknowledge and address the documented and growing failure of an increasingly ineffective vaccine.

## SO, WHAT CAN BE DONE?

Vaccines are not perfect. They work for some and not for all and we don't know why. They offer temporary immunity, which wanes over time so it's not a "once and done" proposition. They cause catastrophic injury and even death to some — we aren't currently able to identify who's susceptible in advance — so the feds "apologize" with a [vaccine injury compensation program](#). Vaccine makers know the very real risks. It's why they [obtained liability protection](#). Some want their children to get measles so they will benefit from lifelong immunity. Some want vaccines because they are terrified to get measles. Some don't want certain or all vaccines because vaccination conflicts with the dictates of their religious beliefs, conscience, or morals. One thing is for sure: This is something that cannot be legislated. There's only one path. People must have the right to make their own health care decisions.

As you know, in June, I shared a detailed 65 page measles briefing report with you, your Commissioners of Health and Education, and my three legislators. Constituents in every legislative district wrote to 120 legislators in all 40 districts, enclosing this urgent bulletin and requesting meetings. We reached so many lawmakers that Senate President Sweeney had to resear three members of the Senate Health Committee who were voting no to S2173. He had such difficulty that he actually put himself on the committee to brute force the bill through by the skin of its teeth, 6 to 4.

Is this the way to respond to constituents who have taken the time and care to work with their elected officials?

It's time to host a legislative roundtable to discuss the peer-reviewed literature documented in this report. Before you take away our rights, you owe New Jersey parents the opportunity to bring our experts and engage in a real discussion to address very real and complex concerns.

## #2: S2173 will not keep children in school

### S2173 IS A "KEEP CHILDREN OUT OF SCHOOL" BILL

The test for school attendance is not immunity. We balk at the cost of titer testing and say nothing about the millions of unnecessary second vaccine doses? This makes profits for vaccine manufacturers but doesn't make sense for society or children. And what do we do about the children who never respond? Is the answer always another dose of a failing vaccine?

Further, it should be obvious that the elimination of exemptions does not increase community immunity. These children may not be in school but they are of course still with us... they don't go away. How far does the State propose to go? There are 30,000 to 40,000 children (and adults) impacted by S2173 who are moving through the system, from day care and [pre-K, kindergarten, elementary and secondary school](#) to [college/higher ed.](#)

### LAWMAKERS ARE BEING MISLED, MOST PARENTS WILL NOT COMPLY

Lawmakers in New York, Maine, California, and yes, New Jersey [were told that these new laws will eliminate vaccine refusal and keep children in school](#). They heard that parents will cave in to pressure and vaccinate, like they did in California. They are wrong. The data do not bear this out. California shows slowly declining school enrollments because [SB277 had a deliberately prolonged phase-in to eliminate protests](#):

- 100% of California students were granted a one year extension
- 100% of 8th grade and above students were permitted to graduate
- all 1st through 6th grade students were grandfathered until they reached 7th grade

Seventh graders plus new enrollments affect just 8% of all potentially affected students. [And despite the above, California school enrollments are still down significantly](#). Enrollments outside the purview of SB277 (i.e., charter schools, homeschool) are up.

### IS NEW JERSEY PREPARED FOR THE CHAOS AND DISLOCATION?

Has the Board of Education Commissioner Repollet provided his input? Before passing this bill, please ask school superintendents what will be the impact of excluding from school every student with less than 100% of all vaccine injections? Read about the impacts that other states are facing [here](#) and [here](#):

- Opposition parent groups have become permanent fixtures at board meetings.
- Districts are scrambling to figure out how to exclude children without violating State and Federal education requirements.

- Districts are scrambling to prevent FTEs from leaving to retain numbers for funding formulas.
- Some are having to create parallel instructional paths.
- Record numbers of students are shifting to homeschooling, online, and charter programs that are outside the vaccine rule. Families are also leaving the state.
- Individual families are suing home districts to provide services.

Ask New Jersey schools if they can handle this added emotion, stress, disruption, and financial pressure.

### PARENTS WHO DECLINE VACCINES DO NOT DO SO LIGHTLY

There are no casual exemptors. The medical, societal, and school pressures are monumental. Families declining vaccination are extremely committed to exemptions. Huge numbers will not comply no matter what.

### EDUCATING CHILDREN IS A PARAMOUNT DUTY OF THE GOVERNMENT

The issue is not whether children should be vaccinated. It is whether the failure to have every single dose of every single vaccine on the schedule should force children to forfeit their educational right to [Free and Appropriate Public Education](#) in the US.

It sounds simple but it isn't. Please read [this](#). There is a legitimate discussion and negotiation regarding a balance between the twin imperatives of safety and education. It is directly on point with the vital concerns that the California chapter of the ACLU [raised in its letter](#) about state overreach.

Should a child's education be conditioned on compliance with public health objectives? Our Educational System is at a pivotal crossroads. It will either cede its authority regarding enrollment and attendance to public health dictates or it will become an active participant in determining the extent to which it will fulfill its paramount duty to deliver on the educational right of children to remain in school while maintaining safety.

## **#3: S2173 will not protect vulnerable children**

### BEING FORCED FROM SCHOOL IS DANGEROUS TO CHILDREN

Children who are suddenly suspended or expelled for disciplinary reasons are known to be extremely vulnerable to self-harm and other risks:

Suspension and expulsion [from school] may exacerbate academic deterioration, and when students are provided with no immediate educational alternative, student alienation, delinquency, crime, and substance abuse may ensue. Social, emotional, and mental health support for students at all times in all schools can decrease the need for expulsion and suspension and should be strongly advocated by the health care community... Suicidal ideation and behavior may be expected to occur more often at these times of isolation among susceptible youth.

— American Academy of Pediatrics, 2003

Does New Jersey propose to rip children from school, including those with unknown mental status, without a process for support, monitoring, or screening? Will we acknowledge there

are real risks? Isn't there a duty to warn? Isn't there an obligation to offer learning options for these children? How do we handle the inconvenient inconsistencies, including children with known positive Hepatitis B and HIV infections who are not denied school admission under the ADA?

One 8th grade boy in New York, prohibited from attending school, sustained grievous harm following an attempted suicide in the wake of Governor Cuomo's decision to sign a similar bill earlier this year. Though many are/did, not all parents are in a position to homeschool or move. Perhaps this child's deep suffering will not be completely in vain if it helps sensitize lawmakers to the unspeakably overwhelming social, economic, and psychological pressures that are increasingly placed on growing numbers of affected families.

### MEDICAL EXEMPTIONS ARE INADEQUATE TO PROTECT PATIENTS

In fact, medical exemptions are going the way of the dodo bird. Doctors aren't writing them because they know they will be targeted by state licensing boards.

Look closely at [California's new law SB276](#). The [devil is in the details](#). Any doctor who writes 5 exemptions is automatically referred to the state licensing board for review and all 5 exemptions are automatically invalidated. How does a doctor decide which 4 of his or her patients are deserving of the exemption? It's easier to simply declare, as a matter of policy and self-preservation, that none will be offered. Oh, and no doctors are permitted to charge for writing exemptions although we know full well that pediatricians and family practice doctors are already under severe financial pressure and must expedite appointments to stay afloat. In contrast, doctors who properly code the vaccines for a 2 month well visit can make \$300 in 5 minutes.

By definition, if most doctors aren't writing exemptions, then the few who do will be writing the majority of them. This isn't about abusing the system and it is most definitely not about monetizing exemptions. It's just simple math in a system that increasingly fails to support the physician-patient relationship while actually creating even more vulnerable children.

## #4: Where is the implementation + non-discrimination plan?

This is a highly nuanced and complex issue that does not lend itself to pat answers. If New Jersey is hell bent on eliminating its sole non-medical exemption, these questions must be addressed in advance:

- This process is a kind of bullying and segregation that parents know will create the [adverse childhood experiences that you seek to reduce](#). Will you come to the table and work with us?
- How are you proposing to phase this in so you do not damage children and their families in the process and you help facilitate a transition that maximizes the numbers of children who can stay in school?

- Does S2173 require that all students be fully caught up with required vaccines by the 180th day of enactment?
- Where is the data for New Jersey's children who are vulnerable to vaccine injury and how is it being addressed in the implementation of S2173? Please examine the vitally important considerations raised in the following two bills: [S2828](#), which requires NJ doctors to report vaccine adverse events and [S2827](#), which requires the investigation of an association between NJ SIDS cases and vaccination.
- What resources will the state offer to screen, monitor, support, and educate children including those with IEPs who are banned from school?
- Parents stand accused by legislators of the insincere use of the religious exemption as the justification for implementation of S2173. Instead of a blanket elimination of religious rights, why isn't the State utilizing its [New Jersey Immunization Information System](#) (NJIS) for oversight of the religious exemption?
- If the concern is measles, why not instead limit religious exemptions to the measles vaccine instead of a blanket removal of exemptions to all vaccines.
- If the concern is contagion in school, why not allow a religious exemption to vaccines for diseases that are not transmitted in the classroom? For example: Hepatitis B is spread by sex and IV drug use; it is not air transmissible. Tetanus is not transmissible. IPV polio vaccine prevents symptomatic expression [not transmission](#).
- If the concern is the very small numbers of immune-compromised, shouldn't their parents weigh the risks of attending school? Johns Hopkins and other leading hospitals warn that the recently vaccinated with live virus vaccines such as [MMR are a threat to the immune-compromised](#). In fact, [many common infections are a known threat](#) to the immune-compromised.
- If the concern is measles, why punish small numbers of religious children when huge numbers of vaccine failure children possess comparable status in the immunity hierarchy?
- How will you protect the integrity of the physician-patient relationship and the ability of New Jersey families to obtain a medical exemption from their licensed providers without state interference?

\*\*\*

Thank you for the opportunity to speak with health commissioner Elnahal prior to his departure in June. He was clear that he takes his lead from the CDC and is not equipped to speak to what he described as legitimate Constitutional, liberty, and personal rights issues that also must be brought to bear. Of the latter, he said, "Not my wheelhouse." This is true. This is where The People must be heard. Mandatory vaccination is a states' rights issue and a limitation on human rights. Any action taken must be strictly necessary, it must be the least restrictive and intrusive means available to achieve the goal, and it must be applied in a non-discriminatory manner. S2173/A3818 do not hold up to the test. Please see the important

work of the late and esteemed health and human rights professor, Jonathan M. Mann, MD, PhD, starting on page 20 of [my book](#).

With your leadership, New Jersey can take a different approach. Wrestling with these difficulties, many states are not clamoring to be out in front. Nearly a dozen states chose not to advance similar bills. Concerned about measles, [Washington state removed the philosophical exemption to MMR only](#) and preserved exemptions for all other vaccines. It preserved the religious exemption — can't we do the same? The [National Conference of State Legislatures acknowledges the permeability between philosophical and religious exemptions](#), that personal belief exemptions are encompassed in states which only provide for religious exemptions. There are [different names in 47 US states for the laws \(and rights\) that serve the same non-medical exemption function](#).

Please work with us. Americans are struggling mightily with our political process and our political leaders. The system appears all but broken. And still, we will not become the monsters that Nietzsche warns about. We will find a way because that's what parents do. We will breathe life and hope and love into our truth and we will rise. We hope it will be with you by our side, and us by yours.

It's Christmas, a sacred time imbued with the spirit of peace and understanding and goodwill towards all.

Respectfully yours,

Louise Kuo Habakus