

## Federal judge allows lawsuit challenging San Diego's vaccine mandate for elected officials to proceed



Spangler | provided

By **Juliette Fairley**  
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A federal judge is allowing a lawsuit challenging the city of San Diego's COVID vaccine mandate for city employees, volunteers, members of boards, commissions, and elected officials to proceed.

"Defendant's description of the legal standard that applies, in this case, fails to meaningfully engage with any of the development in case law surrounding COVID-19 public health measures, restrictions, or requirements that have developed in the past two years," wrote U.S. District Judge Gonzalo Curiel in his [Aug. 16 Order Denying Defendant's Motion to Dismiss.](#)

As previously reported in the [Southern California Record](#), after the San Diego City Council approved the mandate 8-1 last year, ReOpen San Diego sued on Feb. 15 in the U.S. District Court for the Southern District of California because it excludes the unvaccinated from accessing city government buildings, such as city hall, and infringes upon their right to vote for unvaccinated candidates.

"Our lawsuit challenges the policy on first amendment grounds as well as due process grounds," said attorney Arie Spangler who filed the lawsuit on behalf of ReOpen San Diego. "So, I think just there's a lot of constitutional issues at stake. If you bar people who aren't vaccinated from running for office or serving the government, then you're really excluding a large portion of society just based on their medical choices."

On Aug. 11, the Centers for Disease Control and Prevention (CDC) updated its COVID-19 guidance to include natural immunity and no longer differentiates between vaccinated and unvaccinated status because breakthrough infections are known to occur.

"The city was originally relying on the CDC to give them a shield but this policy prevents normal citizens from accessing their government and from being represented by officials that they choose so there's definitely a lot at stake," Spangler told the *Southern California Record*.

The city council meets again on Sept. 12 and Sept. 13.

"Most governments have dropped their vaccination mandates and it seems like the city has already reached an agreement with the employees that they are no longer requiring unvaccinated employees to test so I think that the chances are fairly good that the city might just decide that this mandate is no longer needed and is just not a good policy," Spangler said.

Until then, ReOpen San Diego will proceed with discovery.

"The city (was) answering the complaint on Sept. 7 pursuant to the judge's order and then we will probably move forward with discovery or we might also file a motion for preliminary injunction depending on whether the city drops the mandate," Spangler added.

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