

IN THE CIRCUIT COURT OF THE 11TH  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION

FLORIDA EDUCATION ASSOCIATION;  
STEFANIE BETH MILLER; LADARA  
ROYAL; MINDY FESTGE; VICTORIA  
DUBLINO-HENJES; and, ANDRES HENJES,

CASE NO. 2020-015211-CA-31

Plaintiffs,

vs.

RON DESANTIS, in his official capacity as  
Governor of the State of Florida; RICHARD  
CORCORAN, in his official capacity as Florida  
Commissioner of Education; FLORIDA  
DEPARTMENT OF EDUCATION; FLORIDA  
BOARD OF EDUCATION; CARLOS  
GIMENEZ, in his official capacity as Mayor of  
Miami-Dade County,

Defendants.

---

**DEFENDANTS' MOTION TO DISMISS BASED UPON IMPROPER VENUE**

Pursuant to Rules 1.060(b) and 1.140(b)(3), Florida Rules of Civil Procedure, Defendants Ron DeSantis, in his official capacity as Governor of the State of Florida; Richard Corcoran, in his official capacity as Commissioner of Education; the Florida Department of Education (the "DOE"); and the Florida Board of Education (collectively, the "Defendants"), move the Court to apply the home venue privilege and dismiss this action as to the Defendants.

**INTRODUCTION**

Incorrectly alleging that the Department of Education's Emergency Order 2020-EO-06 (the "Emergency Order") is a top-down mandate to Florida's 67 school districts that all students and teachers must return to school in August, Plaintiffs assert a broad constitutional challenge to the

Emergency Order demanding that it be declared unconstitutional and unenforceable in all 67 districts throughout the state. The Emergency Order does no such thing. It leaves the decision on when and how to open schools to local school districts. It also facilitates innovative teaching options that allow parents and students to choose from a variety of education modalities based on a local district's view of the safety and educational needs of its students.

Plaintiffs ask this Court to collectively enjoin Defendants from providing in-person instruction, either in Miami-Dade County or elsewhere in the state at any level of occupancy. Compl. at 102. They purport to seek relief not only for themselves but also for “millions of public school students and employees.” Compl. at p. 30. Another suit, seeking virtually identical state-wide injunctive relief, was filed against some of the Defendants and others in Orange County on July 19, 2020, Case. No. 2020-CA-007327-O (a copy of the complaint in that action is attached hereto as Exhibit 1). That case was also brought, in part, by an Orange County resident and teacher and asks the Orange County court to prohibit any school district from providing in-class instruction as an option for any students anywhere in the state.

Maintaining these overlapping suits in separate circuits is exactly what the home venue privilege is designed to prevent. As discussed below, that privilege applies here and requires this case to be dismissed as to the State of Florida Defendants.

### **BACKGROUND**

The Complaint in this case is a catalogue of news reports, statistics of various origin, and public statements about the dangers of COVID-19. It concludes by asking the Court to give an advisory opinion on the Emergency Order and, critically, to prohibit the opening of all schools in Florida for any level of face-to-face instruction, for any students, anywhere across the state; require the development and implementation of an online instruction plan aimed at all children; require the appropriation of funds to make internet connectivity and computer devices available to all

students; and require that schools be equipped with a host of resources including personal protective equipment, hand-sanitizing stations, plexiglass shields, and more. Compl. at 30-31. With respect to the Defendants, Plaintiffs' claims are based entirely on a misinterpretation of the Emergency Order. As discussed below, the Emergency Order contains no absolute, state-wide mandate requiring in-person classes without regard to health or safety. It is a lawful and reasonable exercise of executive discretion that provides a flexible approach to school reopening and funding that incentivizes districts to carefully consider the needs of all students, parents, and staff.

### **I. Background of COVID-19 Executive Orders**

On March 9, 2020, due to the COVID-19 pandemic, Governor DeSantis, under the authority vested in him by Article IV, section 1(a) of the Florida Constitution, and Chapter 252, Florida Statutes, issued Executive Order 20-52. This order declared a State of Emergency for the State of Florida and authorized state agencies to suspend statutes and rules if strict compliance would in any way prevent, hinder or delay necessary action in coping with the emergency where prescribed in the State Comprehensive Emergency Management Plan or ordered by the Florida's Division of Emergency Management's State Coordinating Officer.

On March 13, 2020, Florida's Emergency Management State Coordinating Officer issued DEM Emergency Order 20-004. That order authorized 'the Department of Education to take all appropriate actions coordinated with Florida's school districts, state colleges, and other educational providers to promote the health, safety, welfare and education of Florida students under the circumstances presented by this emergency.'" The order directed that these actions must be informed by guidance from the Centers for Disease Control and Prevention and the State Health Officer and Surgeon General.

On July 6, 2020, the Department of Education issued the Emergency Order. Consistent with safety precautions provided by health officials, the order recognizes the need to open schools to ensure not only the continuity of the educational process for students, but their well-being. Emergency Order at 1.

## **II. The Flexible Approach of the Emergency Order**

The Emergency Order provides a means for school districts to maintain funding for schools that would not otherwise be available. Since school districts receive funding based upon the reported number of students who attend the district, (see, Section 1011.62, Fla. Stat.), a decrease in reported in-person attendance in a school district would reduce the funds available to the district. Accordingly, school districts faced a potentially significant funding loss this fall given the number of parents and students who are considering virtual school or home schooling. Depending upon the extent of the loss, districts could face the need to reduce services to students and their workforce.

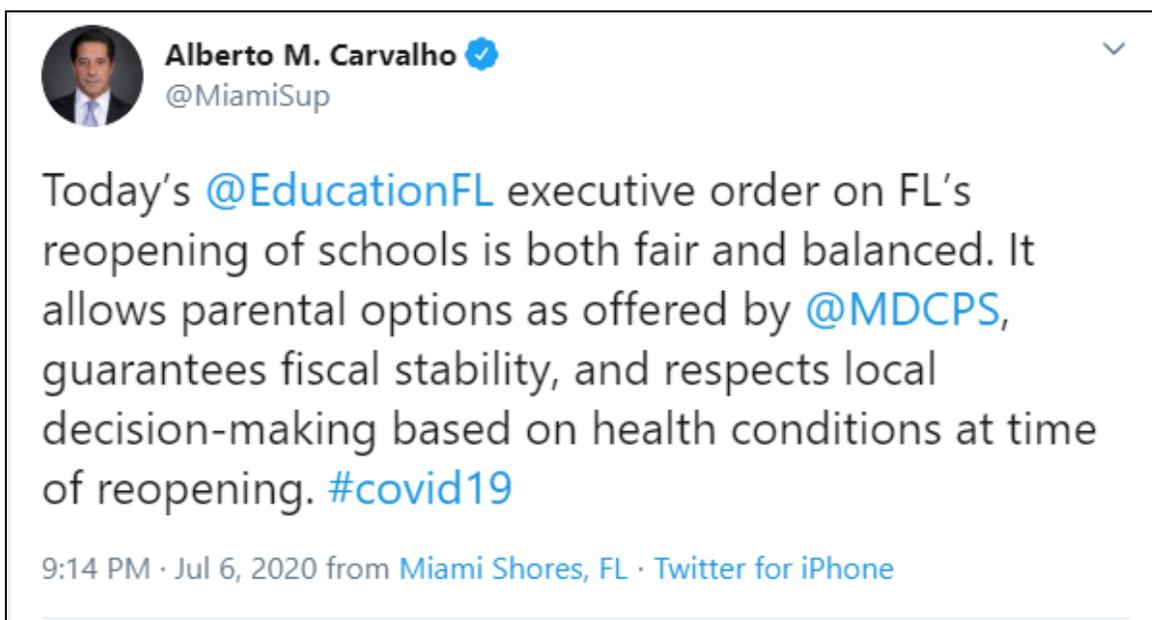
The Emergency Order addresses these concerns and promotes the welfare and education of Florida students by offering to waive those statutes and related rules if a school district submits a plan that provides multiple learning options for parents and students who need them.<sup>1</sup> A school district with an approved plan receives reporting flexibility and financial stability, without any reduction in funding that would occur as a result of declining in-person attendance. Emergency

---

<sup>1</sup> While Florida law allocates to local school districts decisions on staffing, start dates, and the like, it requires multiple student membership surveys each year so the Department can allocate funding to the districts. The Emergency Order waives requirements surrounding the October 2020 student membership survey to allow for funding flexibility—namely, to count students participating in innovative learning environments as full-time equivalents. Several school district proposals have already been approved by the Department; they clearly demonstrate the flexibility provided by the Emergency Order. Approved plans are available on the Department of Education’s website at <http://www.fldoe.org/em-response/index.stml>.

Order at 6. A school district that does not wish to avail itself of the flexibility provided by the Emergency Order, will simply follow the statutes and rules as they are written, without any need to file a plan. “Nothing herein requires a district or charter school to submit a plan if the district or charter school wishes to open in traditional compliance with statutory requirements . . . ” Emergency Order at 6.

Tellingly, upon issuance of the Emergency Order, Alberto M. Carvalho, Superintendent of Schools for Miami-Dade County—the largest school district in the State and not a party here—recognized the balanced and flexible approach taken by the Emergency Order, stating publicly:



Carvalho, Alberto M. (@MiamiSup), TWITTER (Jul. 6, 2020 9:24 PM), <https://twitter.com/MiamiSup/status/1280309191543062528>.

For those school districts that wish to seek reporting flexibility and funding stability, the Emergency Order does direct the school boards to provide a plan that includes in person learning along with innovative distance learning options for the school year beginning in August it also very clearly confirms that how schools open, which students and teachers are physically present when school opens, what safety measures are in place, as well as all other opening decisions and

procedures, are left to the local school boards. The Emergency Order further provides that school opening is always subject to the guidance of state and local health officials. On its face, the Emergency Order does not implicate let alone impinge upon any constitutional rights of parents, students, or teachers.

This Court should dismiss the case, allowing Plaintiffs to re-file in Leon County, so that the court there may consider these substantive issues of statewide application.

### **MEMORANDUM OF LAW**

#### **I. The Home Venue Privilege Requires the Suit Against the State of Florida Defendants to be Transferred to Leon County.**

The home venue privilege requires this case to be brought in Leon County where all of the Florida State Defendants maintain their headquarters. *Bush v. State*, 945 So.2d 1207, 1212 (Fla. 2006) (requiring civil actions against the State of Florida or any of its agencies or subdivisions to be brought where they maintain their principal headquarters); *Sch. Bd. of Osceola County v. State Bd. of Educ.*, 903 So. 2d 963, 966 (Fla. 5th DCA 2005) (noting that “the home venue privilege appears to be a matter of right . . . A trial court does not have discretion to ignore the application of the home venue privilege.” (citations omitted)).

It is well established in Florida that “venue in civil actions brought against the state or one of its agencies or subdivisions, absent waiver or exception, properly lies in the county where the state, agency, or subdivision, maintains its principal headquarters.” *Bush*, 945 So. 2d at 1212 (quoting *Carlile v. Game & Fresh Water Fish Comm'n*, 354 So.2d 362, 363–64 (Fla. 1977) (citations omitted)). The “home venue privilege,” as it is known, “promotes orderly and uniform handling of state litigation and helps to minimize expenditure of public funds and manpower.” *Id.* No waiver or exception applies here. This action was brought in the wrong venue and should be dismissed as to the State of Florida Defendants. See Affidavit of Jacob Oliva, attached hereto as Exhibit 2.

## **II. The Home Venue Privilege Has Not Been Waived and No Recognized Exception Applies.**

There are only four narrow exceptions to the home venue privilege: (1) the Legislature has, by statute, waived the privilege; (2) a government defendant is sued as a joint tortfeasor; (3) a “good cause” petition is filed to access otherwise confidential public records; or (4) the “sword-wielder” doctrine applies. *Fla. Dep’t of Children and Families v. Sun-Sentinel, Inc.*, 865 So. 2d 1278, 1287-89 (Fla. 2004). The Florida Legislature has not waived the home venue privilege for suits challenging the constitutionality of an emergency order of the Department of Education; no allegations are made that the government was a joint tortfeasor; and no access to public records is sought.

To avoid the home venue privilege, Plaintiffs attempt to invoke the ‘sword wielder’ exception, which applies when a party seeks direct judicial protection from an invasion of constitutional rights directly threatened in the county where suit is brought. *Id.* However, where the conduct alleged is a government rule or statute that is uniform, statewide, and does no particularized harm to the plaintiff as compared to others affected by the rule, the sword-wielder exception does not apply and strict compliance with the home venue privilege is required. Here, because there are no allegations of particularized harm to the Plaintiffs separate and apart from the harm allegedly suffered by all parents, students, and staff throughout the state, the home venue privilege unquestionably applies.

In *Worldwide Appraisal Services, Inc. v. Dep’t of Bus. & Prof’l Regulation*, 905 So. 2d 968 (Fla. 5th DCA 2005), for example, an appraisal company sued in Volusia County to enjoin enforcement of a rule issued by the Department of Business and Professional Regulation (DBPR) regulating appraisers state-wide. *Id.* at 971. The court rejected plaintiff’s attempt to invoke the sword-wielder exception because “[t]he rules, and statutes being questioned are statewide in scope” and the department “has taken no affirmative acts in Volusia County for enforcement of

the subject rules against any of the appellants.” *Id.* (citing *Dickinson v. Florida Nat. Org. for Women, Inc.*, 763 So. 2d 1245, 1247 (Fla. 4th DCA 2000)). As such, pursuant to the home venue privilege, the Fifth DCA held that the plaintiffs there were required to bring their case in Orange County where the DBPR was headquartered. *Id.* at 971.

This case is identical in all relevant respects. Plaintiffs’ alleged constitutional invasion does not appreciably differ from that which could be asserted, albeit improperly, by students, teachers, and parents throughout the state. The Defendants have taken no affirmative acts in Miami-Dade County or elsewhere to enforce the Emergency Order against any of the Plaintiffs. Moreover, in this case, Plaintiffs seek a statewide remedy that wholly ignores the constitutional rights, should they be found, of myriad students and families throughout the state who require and reasonably rely upon the benefits of in-person instruction. This includes students with special educational needs and those in vulnerable populations, such as students from low-income families, students of migrant workers, students who are homeless, students with disabilities, students in foster care, and students who are English language learners. That oversight only further highlights this matter’s tenuous local connection and establishes that, at least insofar as it relates to the State of Florida Defendants, this case is not properly brought in Miami-Dade County.

The pendency of another, virtually identical lawsuit in Orange County underscores the pernicious nature of allowing suits such as this to be prosecuted in venues other than the Defendants’ home venue. The Defendants are also seeking to dismiss and transfer the Orange County case to Leon County where it can be consolidated with this case in front of a single judge and thereby avoid the potential for inconsistent treatment of the Emergency Order and the identical constitutional issues raised in both cases. Accordingly, this case should be dismissed as to the Defendants.

The addition of other defendants, even those with different home venues, does not change this result. *Dep't of Agric. v. Middleton*, 24 So. 3d 624, 629 (Fla. 2d DCA 2009) (reversing and remanding order denying venue motion with instructions to transfer the case to Leon County, even though other named defendants did not reside there). In *Sch. Bd. of Hernando County v. Rhea*, 213 So. 3d 1032 (Fla. 1st DCA 2017), for example, the Department of Education was joined with some local school boards in a lawsuit that was filed in Leon County. The school boards moved to be dismissed from the case, each one separately asserting their home venue privilege. *Id.* *Rhea* involved a challenge to local school board decisions to retain plaintiffs' children in the third grade that was allegedly based on the Department of Education's interpretation of a statute. *Id.* at 1035-6. The court held that the local school boards were entitled to be dismissed from the case based on the home venue privilege. The court also found that Department of Education was not an indispensable party to the suit against the school boards and, even if it was, "there is no indispensable party exception to the home-venue privilege and the trial court lacked the authority to create one." *Id.* at 1039-40.

Like in *Rhea*, the Defendants here are not indispensable parties to Plaintiffs' case against the Miami-Dade County Mayor. Regardless, as observed in *Rhea*, there is no indispensable party exception to the home venue privilege. The case against the Defendants must therefore be dismissed or severed and transferred to Leon County.

### **CONCLUSION**

Requiring the Defendants to defend this case in Miami-Dade would frustrate the goals of orderly, efficient, and economical government and risk conflicting judicial rulings in different jurisdictions—exactly what the home venue privilege was designed to prevent. Based on Defendants' home rule privilege, this case should be dismissed and Plaintiffs allowed to refile in

the Circuit Court of the Second Judicial Circuit, in and for Leon County, Florida. Alternatively, the Defendants should be severed from the remaining Miami-Dade County Mayor Defendant, and the Defendants transferred to Second Judicial Circuit in Leon County.

GUNSTER  
600 Brickell Avenue, Suite 3500  
Miami, Florida 33131  
Telephone: 305-376-6000  
Facsimile: 305-376-6010  
[acortinas@gunster.com](mailto:acortinas@gunster.com)  
[jkaskel@gunster.com](mailto:jkaskel@gunster.com)  
*Counsel for Defendants Governor Ron DeSantis, Commissioner Richard Corcoran, Florida Department of Education, and Florida Board of Education*

By: /s/ Angel A. Cortiñas  
Angel A. Cortiñas, FBN 797529  
Jonathan H Kaskel, FBN 52718

### **CERTIFICATE OF SERVICE**

I hereby certify that on August 3, 2020, the foregoing was electronically filed using the E-filing Portal System, and a copy was furnished by email on the following Service List:

By: /s/ Angel A. Cortiñas

### **SERVICE LIST**

COFFEY BURLINGTON, P.L.  
**Kendall B. Coffey, Esquire**  
**Josefina M. Aguila, Esquire**  
**Scott A. Hiaasen, Esquire**  
[kcoffey@coffeyburlington.com](mailto:kcoffey@coffeyburlington.com)  
[jaguila@coffeyburlington.com](mailto:jaguila@coffeyburlington.com)  
[shiaasen@coffeyburlington.com](mailto:shiaasen@coffeyburlington.com)  
[yvb@coffeyburlington.com](mailto:yvb@coffeyburlington.com)  
[service@coffeyburlington.com](mailto:service@coffeyburlington.com)  
[lperez@coffeyburlington.com](mailto:lperez@coffeyburlington.com)  
*Counsel for Plaintiffs*

FLORIDA EDUCATION ASSOCIATION  
**Kimberly C. Menchion, Esquire**  
[kimberly.menchion@floridaea.org](mailto:kimberly.menchion@floridaea.org)  
*Counsel for Plaintiffs*

MEYER, BROOKS, BLOHM & HEARN, P.A.

**Ronald G. Meyer, Esquire**

[rmeyer@meyerbrookslaw.com](mailto:rmeyer@meyerbrookslaw.com)

[lthomas@meyerbrookslaw.com](mailto:lthomas@meyerbrookslaw.com)

*Counsel for Plaintiffs*

PHILLIPS, RICHARD & RIND, P.A.

**Lucia Piva, Esquire**

**Mark Richard, Esquire**

Kathleen M. Phillips, Esquire

[lpiva@phillipsrichard.com](mailto:lpiva@phillipsrichard.com)

[mrichard@phillipsrichard.com](mailto:mrichard@phillipsrichard.com)

[mmcdougald@phillipsrichard.com](mailto:mmcdougald@phillipsrichard.com)

*Counsel for Plaintiffs*

MIAMI-DADE COUNTY ATTORNEY'S OFFICE

**Angela Benjamin, Esquire**

[angela.benjamin@miamidade.gov](mailto:angela.benjamin@miamidade.gov)

[jeane.neal@miamidade.gov](mailto:jeane.neal@miamidade.gov)

*Counsel for Miami-Dade County Mayor*

*Carlos Gimenez*

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA**

**MONIQUE BELLEFLEUR, individually and on  
behalf of D.B. Jr., M.B., and D.B. and  
KATHRYN HAMMOND**

**Plaintiffs,**

**CASE NO: \_\_\_\_\_  
DIVISION NO: \_\_\_\_\_**

**vs.**

**RON DESANTIS, Governor of Florida, in his  
official capacity as Chief Executive Officer of the  
State of Florida, ANDY TUCK, in his official  
capacity as the chair of the State Board of  
Education, STATE BOARD OF EDUCATION,  
RICHARD CORCORAN, in his official capacity  
as Commissioner of the Florida Department of  
Education, FLORIDA DEPARTMENT OF  
EDUCATION, JACOB OLIVA, in his official  
capacity as Chancellor, Division of Public  
Schools, TERESA JACOBS, in her official  
capacity as the chair of the School Board of  
Orange County, SCHOOL BOARD OF  
ORANGE COUNTY, BARBARA JENKINS in  
her official capacity as the Superintendent of  
Orange County Public Schools, and ORANGE  
COUNTY PUBLIC SCHOOLS**

**Defendants.**

\_\_\_\_\_ /

**VERIFIED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF  
AND REQUEST FOR EXPEDITED RELIEF**

**COMES NOW, Plaintiffs, MONIQUE BELLEFLEUR, individually and on behalf of D.B. Jr., M.B., and D.B. and KATHRYN HAMMOND, by and through Undersigned Counsel, and sues Defendants, RON DESANTIS, Governor of Florida, in his official capacity as Chief Executive Officer of the State of Florida, ANDY TUCK, in his official capacity as the chair of the State Board of Education, STATE BOARD OF EDUCATION, RICHARD CORCORAN, in his official capacity as Commissioner of the Florida Department of Education, FLORIDA DEPARTMENT OF EDUCATION, JACOB OLIVA, in his official capacity as Chancellor, Division of Public Schools, TERESA JACOBS, in her official capacity as the chair of the School Board of Orange County, SCHOOL BOARD OF ORANGE**

**COUNTY, BARBARA JENKINS**, in her official capacity as the Superintendent of Orange County Public Schools, and **ORANGE COUNTY PUBLIC SCHOOLS**, and alleges as follows:

## **INTRODUCTION**

This is a suit seeking declaratory and injunctive relief in which the Plaintiffs, a parent and teacher in Orange County, FL, are suing Defendants to ensure and to protect the health, safety, well-being, and security of Florida's 2.8 million children, our state's most precious resource. Plaintiff's suit is also being made in an effort to protect the more than 204,000, full-time Instructional Staff; including 179,000 Teachers; as well as the part-time Instructional Staff and part-time and full-time Support Staff; working in Florida's 4,200, public schools.<sup>1</sup> Plaintiffs file this Complaint with the encouragement of many teachers, parents, and physicians throughout Orange County, FL; including support of the Orange County Classroom Teachers Association (CTA). Due to the arbitrary and capricious decisions of the Defendants in this case; the health, safety, well-being and security of our Students, Teachers, Instructional Staff and Support Staff will be unnecessarily jeopardized; asserting these actions are in violation of the Constitution of the State of Florida.

Under Florida's Constitution, Plaintiffs suit for declaratory relief and injunctive relief seeks specifically to prevent Defendants from requiring in-person attendance at the start of the 2020-2021 School Year. Knowing the Florida Department of Education is requiring all public schools in "Phase Two," as defined by the Centers for Disease Control and Prevention (CDC), provide in-person face-to-face instruction in the 2020-2021 School Year; notwithstanding, Sunday, July 19, 2020, the State of Florida reported 12,523, new coronavirus cases; making it the fourth-highest daily increase reported by the state; with a total of 350,047, people now having been infected statewide since the COVID-19 pandemic began.

Due to insufficient resources, Florida's Public Schools are unable to meet the guidelines required to safely re-open schools, or to transport students to school in a safe manner; published by the CDC. By their very nature, schools prohibit the adequate social distancing that is demanded in the current environment; understanding extreme steps must be taken to protect the health, safety, well-being, and security of students, teachers, workers and parents.

<sup>1</sup> See: Total Enrollment/Membership by District by Race/Ethnicity, Final Survey 2 2019/2020 School year, last viewed July 18, 2020 at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/students.stml>

Defendants have known about the COVID-19 pandemic since the spring of 2020. Only last week, Friday, July 17, 2020, did the School Board of Orange County (SBOOC) agree, by a vote of 6 to 2, to submit a local plan for state approval with board members acknowledging during their meeting if they did not submit such a plan, they risked losing state funding and having to lay-off thousands of full-time teachers.

The 2019-2020 Contract between the SBOOC, and the CTA was unanimously ratified by the SBOOC at their meeting held on December 6, 2019. While responding to an Emergency Order by the Florida Department of Education (FLDOE), on July 6, 2020, the SBOOC has refused to provide for the health, safety, well-being, and security of students and teachers in accordance with their existing Contract with the CTA. The Contract requires the SBOOC to maintain safe and healthful working conditions, including the provision of safety equipment.

As a result, teachers, staff, and children are at severe risk of exposure to COVID-19, which will no doubt lead to serious illness and death. The unsafe opening of Public Schools will also worsen the spread of COVID-19 throughout our communities, state and country. This will unnecessarily placing more lives at risk, further increasing the severity of the COVID-19 pandemic. Not wanting to jeopardize essential and expected funding for full-time teachers, OCPS is left with no choice, despite the rapid rise in infections, but to provide in-person, face-to-face instruction for the start of the 2020-2021 School Year; once again, due to the arbitrary and capricious decisions of the Defendants in this case; the health, safety, well-being, and security of our Students, Teachers, Instructional Staff and Support Staff will be unnecessarily jeopardized; asserting again, these actions are in violation of the Constitution of the State of Florida.

Consequently, Plaintiffs are seeking relief in three (3) forms; Plaintiffs seek declaratory relief, injunctive relief; and are asking this Honorable Court to find that the Defendants are in violation of the Florida Constitution and relevant Florida Law; the basis for these claims as follows:

(1) Declaratory Relief - Plaintiffs seek that this Honorable Court grant declaratory relief, finding that Defendants have failed to provide a satisfactory plan to re-open Orange County Public Schools to in-person, face-to-face instruction that provides for the health, safety, well-being and security of its students, teachers and staff as required by the Florida Constitution, and to direct the Defendants to provide a satisfactory plan, which relies upon the advice of medical experts and takes into account current COVID-19 infection rates prior to any such reopening.

(2) Injunctive Relief - Plaintiffs further seek temporary injunctive relief, preventing Orange County Public Schools from opening for in-person, face-to-face instruction until Defendants can demonstrate compliance with the Florida Constitution by providing a safe and secure teaching environment in light of the COVID-19 pandemic.

(3) Violation of the Florida Constitution – Defendants are violating Plaintiffs’ rights to a safe and secure environment in public schools as provided in Article IX, § 1(a) of the Florida Constitution. Plaintiffs request that this Court order Defendants to refrain from re-opening Orange County Public Schools until such a time when Defendants can demonstrate compliance with Plaintiff’s right to a safe and secure environment in public schools.

### **NATURE OF THE EMERGENCY**

Emergency relief is warranted because the 2020-2021 School Year is scheduled to start on August 21, 2020; only thirty (30) days away; knowing the current plan is certain to lead to devastating health consequences for our entire community resulting in needless sickness and useless death.

Directly put, Parents, Students, Teachers, Instructional Staff and Support Staff, and especially School Administrators and Facility Directors, need more time to properly prepare Public Schools for the start of the 2020-2021 School Year. With time so short and understanding the existing situation is complicated by the current state of uncertainty, with medical and scientific findings in conflict, additional time is required if Public Schools are to open without unnecessarily risking the health, safety, well-being and security of everyone involved.

At this time, Plaintiffs are unable to provide conclusive and definitive answers regarding the various options for in-person face-to-face instruction for the 2020-2021 School Year understanding the State of Florida is currently showing a rate of infection that surpasses all states and that of most countries. Florida has now been labeled a “hot spot” when it comes to the spread of COVID-19.

Because the current rate of infection in the State of Florida is on the increase, Pubic Schools will be unable to achieve and maintain the recommendations of most medical experts. The current situation is especially problematic because of limited testing; knowing results from testing, as a matter of routine, often take two weeks or more. Further, many hospitals are now in danger of reaching capacity, with local plans now being considered to convert the Orange County Convention Center into a makeshift hospital, should our current upward track of COVID-19 patients continue to skyrocket.

At this time, **OCPS**, like other public-school systems in the State of Florida, is not equipped to produce and preserve a safe and secure environment for Parents, Students, Teachers, Instructional Staff and Support Staff.

As a result, it is imperative this Honorable Court act quickly to protect the health, safety, well-being, and security of our community, state and country. The actions (or in actions) by Defendants warrant emergency injunctive relief because appropriate social distancing measures and other necessary policies, protocols and procedures cannot be successfully advanced and observed by August 21, 2020, the scheduled start of the 2020-2021 School Year. The current path will result in the untimely and unintended spread of the coronavirus being accelerated by the ill-advised opening of our Public Schools, an aggravated and unnecessary grievance that cannot be undone.

Absent emergency relief, Plaintiffs will suffer irreparable harm by avoidable exposure to COVID-19, exposure which is certain to lead to devastating health consequences for the entire community; resulting in needless sickness and useless death.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this lawsuit pursuant to Article V, § 20(c)(3), of the Florida Constitution, § 86.011, Fla. Stat. (2020), § 86.061, Fla. Stat. (2020), and § 26.012(2)(c), (3), Fla. Stat. (2020).

2. As a general rule, home venue for some Defendants named herein lies outside Orange County. However, the “sword-wielder” doctrine applies in this action and therefore venue is proper in Orange County.

3. The general rule for venue is that school boards and other governmental entities may only be sued in their "home venue" — the county in which they maintain their headquarters — unless (1) an exception to the home-venue privilege applies or (2) the privilege is waived by the governmental entity. *See Carlile v. Game & Fresh Water Fish Comm'n*, 354 So.2d 362, 363-64 (Fla. 1977); *Jacksonville Elec. Auth. v. Clay Cty. Util. Auth.*, 802 So.2d 1190, 1192 (Fla. 1st DCA 2002) (hereafter "JEA"); *Levy Cty. Sch. Bd. v. Bowdoin*, 607 So.2d 479, 481 n.1 (Fla. 1st DCA1992).

4. The "sword-wielder" doctrine applies where a state agency directly threatens an individual's constitutional rights. An individual may bring suit in the county where the alleged wrong occurs or is threatened. *See School Bd. of Osceola v. State Board of Education*, 903 So. 2d 963 (Fla. 5th

DCA 2005); *see also Triple "A" Enters., Inc.*, 387 So.2d at 942; *Nyberg v. Snover*, 604 So.2d 894 (Fla. 1st DCA 1992).

5. The sword-wielder doctrine also applies in cases where the official state action being complained of has been, or is being performed, in the county where the suit is filed, or when the threat of such action in that county is both real and imminent. *Carlile*, 354 So.2d at 365; *see Smith v. Williams*, 160 Fla. 580, 35 So.2d 844 (1948); *Stovall v. Cooper*, 860 So.2d 5, 8 (Fla. 2d DCA 2003); *Fla. Dep't of Ins. v. Amador*, 841 So.2d 612, 614 (Fla. 3d DCA 2003). The sword-wielder exception is for the instant type of case where the primary purpose is to obtain direct judicial protection from an alleged unlawful invasion of the constitutional rights of the Plaintiffs in the county where the suit is instituted.

6. The unlawful invasion of constitutional rights would in fact occur in Orange County where teachers and children would be placed in unsafe and unsecure situations at public schools. Should the schools be forced to open their doors, the injuries to include death would be occurring to Plaintiffs in Orange County due to the unsafe and unsecure public schools due to Covid-19.

## **PARTIES**

7. Plaintiff, **MONIQUE BELLEFLEUR**, is a resident of Orange County, Florida and the parent and next friend of D.B. Jr., M.B., and D.B., all three of whom are students within the School District of Orange County and will attend public school in the 2020-2021 school year. Plaintiff is also an Assistant Nurse Manager in Labor/Delivery at Advent Health. Plaintiff's children are referenced herein as D.B. Jr., M.B., and D.B. D.B. Jr. is 12 years old and will be entering 7th grade at Timber Springs Middle School. D.B. Jr. plays soccer and is also involved with the school band. M.B. is 8 years old and will be entering 3rd grade at Camelot Elementary School. M.B. is asthmatic and has been hospitalized for this condition. He sees a pulmonologist every three months. D.B. is 5 years old and will be entering kindergarten, at Camelot Elementary. D.B. is also asthmatic.

8. Plaintiff, **KATHRYN HAMMOND**, is a teacher within the School District of Orange County, currently employed as a middle school teacher. Ms. Hammond has been a teacher in Orange County for more than 13 years and a school teacher for 16 years. Ms. Hammond intends to teach in the 2020-2021 school year in the public-school system. In her capacity as a middle school teacher Ms. Hammond regularly sees 30-35 students per class, which rotate approximately every hour, for a total of 125-130 different students in her class per day (with some days as many as 200 students). Students are seated at 6-8 foot round tables around her room, with 4-5 students per table, with no possibility for the

proper 6 feet of social distancing. She is also the mother of two children and pregnant. Ms. Hammond's son is also set to enter kindergarten, while her 2 year old son is immunocompromised. Additionally, Ms. Hammond is currently 13 weeks pregnant and has pregnancy complications, which have resulted in a recommendation from her treating OB-GYN to avoid returning to live classroom instruction in the presence of students to protect herself and her unborn child. Using a conservative rate of 10% COVID-19 positive students, this means Ms. Hammond would be exposed to between thirteen (13) and twenty (20) COVID-19 positive students in her classroom.

9. Defendant, **RON DESANTIS**, is the Governor of Florida, and receives his authority pursuant to Art. IV, § I, Fla. Const. and Ch. 14 of the Florida Statutes. As governor, Governor **DESANTIS** is the Chief Executive Officer of the State of Florida and is responsible for administering executive planning and budgeting functions, of the State of Florida, along with assessing the efficiency and effectiveness of State programs and agencies. The governor is further charged with protecting the life, liberty, and property of the inhabitants of the state pursuant to §14.01, Fl. Stat. (2020).

10. Defendant, **ANDY TUCK**, is the chair of the State Board of Education. He was appointed by the Governor of Florida to the Board and elected to be chair by its Board Members.

11. Defendant, **STATE BOARD OF EDUCATION**, (SBOE) is a corporation created pursuant to §1001.01, Fla. Stat., and consists of seven (7) members appointed by the Governor. SBOE is responsible for adopting comprehensive educational objectives for public education and approving plans for cooperation with other public agencies in the development of rules and enforcement of laws for which it and such agencies are responsible. Unless provided otherwise by statute, the general powers of the SBOE are delegated to the commissioner.

12. Defendant, **RICHARD CORCORAN**, is the Commissioner of Education and the chief education officer of the state and the agency head of the Florida Department of Education. He is appointed by the Governor of Florida. Defendant **CORCORAN** is responsible for providing assistance to the State Board of Education in enforcing compliance with the mission and goals of Florida's K-20 education system. He is sued in his official capacity.

13. Defendant, **FLORIDA DEPARTMENT OF EDUCATION** (FLDOE), is created pursuant to §1001.20, Fla. Stat. and acts as an administrative and supervisory agency under the implementation direction of the State Board of Education.

14. Defendant, **JACOB OLIVA**, is the Chancellor for the Division of Public Schools.

15. Defendant, **TERESA JACOBS**, is the elected chair of the School Board of Orange County.

16. Defendant, **SCHOOL BOARD OF ORANGE COUNTY (SBOOC)**, is a constitutionally created body pursuant to Article IX, § 4, Fla. Const., and § 1001.32(2), Fla. Stat., and a corporation pursuant to § 1001.40, Fla. Stat., with the power to sue and be sued pursuant to § 1001.41(4) Fla. Stat. It operates the School District of Orange County.

17. Defendant, **BARBARA JENKINS**, is the Superintendent of Orange County Public Schools, appointed by the School Board of Orange County. Barbara Jenkins operates as the administrator or manager of Orange County Public Schools and carries out the directives of the School Board of Orange County.

18. Defendant, **ORANGE COUNTY PUBLIC SCHOOLS (OCPS)**, is the public-school district for Orange County and is established by § 1001.30 Fla. Stat. OCPS is responsible for the education of the youth of Orange County.

#### **RELEVANT FACTS**

19. In early 2020, the citizens of Florida, along with the rest of the world, learned of a “novel coronavirus,” which causes the disease COVID-19 in humans.

20. The virus that causes COVID-19 is thought to spread mainly from person to person, mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs. Spread is more likely when people are in close contact with one another (within about 6 feet).

21. COVID-19 seems to be spreading easily and sustainably in the community (“community spread”) in many affected geographic areas. Community spread means people have been infected with the virus in an area, including some who are not sure how or where they became infected. <sup>2</sup>

22. In response the distinct threat of COVID-19, Defendant Governor **DESANTIS** issued Executive Order 20-51 on March 1, 2020, directing the State Health Officer and Surgeon General to declare a public health emergency in Florida. A copy of said Order is attached as Exhibit A. Defendant Governor DESANTIS also directed the State Health Officer and Surgeon General to follow the guidelines

<sup>2</sup> See Centers for Disease Control and Prevention Coronavirus Disease 2019 (COVID-19) Frequently Asked Questions, last viewed July 18, 2020 at <https://www.cdc.gov/coronavirus/2019-ncov/faq.html>

provided by the CDC and establish protocols to control the spread of COVID-19 and educate the public on the prevention of the virus.

23. Defendant Governor **DESANTIS** followed up with Executive Order 20-52 on March 9, 2020, declaring a State of Emergency in Florida, as citizens of eight counties had tested positive for COVID-19. A copy of said Order is attached as Exhibit B. Defendant Governor **DESANTIS** again references CDC guidelines, which at the time, recommended mitigation measures for communities experiencing an outbreak, including staying at home when sick, keeping away from others who are sick, limiting face-to-face contact with others as much as possible, consulting with your healthcare provider if individuals or members of a household are at high risk for COVID-19 complications, wearing a facemask if advised to do so by a healthcare provider or by a public health official, staying home when a household member is sick with respiratory disease symptoms if instructed to do so by public health officials or a health care provider.

24. On March 23, 2020, Defendant Commissioner **CORCORAN** entered DOE Order 2020-EO-01, closing public schools in the state of Florida due to COVID-19. A copy of said Order is attached as Exhibit C. The 2019/2020 school year was ultimately completed through distance learning.

25. On April 29, 2020, Defendant Governor **DESANTIS**, “based on guidance provided by the White House and the Centers for Disease Control and Prevention (CDC), the Occupational Safety and Health Administration (OSHA), and the Florida Surgeon General and State Health Officer, Dr. Scott Rivkees” entered Executive Order 20-112, detailing the beginnings of a phased approach to re-opening Florida, moving most of Florida, including Orange County, from Phase 0 to Phase 1. A copy of said Order is attached as Exhibit D. All of Florida was moved into Phase 1 on May 15, 2020. See Executive Order 20-113.

26. The phased re-opening plan is detailed in a report by the Re-Open Florida Task Force. The plan details four phases, Phase 0, 1, 2, and 3. This plan is available for public viewing online. <sup>3</sup>

27. Both Phases 0 and 1 strongly discourage public gatherings of more than ten (10) people at a time, which would eliminate the ability of public schools to operate.

28. On June 3, 2020, Defendant Governor **DESANTIS** “in concert with the efforts of President Donald J. Trump, and based on guidance provided by the White House and the Centers for Disease Control and Prevention (CDC), the Occupational Safety and Health Administration (OSHA), and the Florida

<sup>3</sup> See Safe. Smart. Step-by-Step. Plan for Florida’s Recovery. Report to Governor DeSantis from the Re-Open Florida Task Force, last viewed July 18, 2020 at <https://www.flgov.com/wp-content/uploads/covid19/Taskforce%20Report.pdf>

Surgeon General and State Health Officer,” moved most of Florida, including Orange County, to Phase 2 by Executive Order 20-139, a copy of which is attached as Exhibit E.

29. Since that time, COVID-19 infections, hospitalizations, and deaths have been on the rise throughout the Central Florida area.

30. Phase 2 should begin after successful conclusion of Phase 1, meaning a downward trajectory of the syndromic and epidemiology criteria, while maintaining adequate health care capacity. This occurs when there is no evidence of a rebound or resurgence of COVID-19 cases.<sup>4</sup>

31. Pursuant to the Re-Open Florida Task Force guidelines, all individuals should continue to maximize physical distance from others in public, particularly in enclosed environments. Individuals should further avoid socializing in groups of more than 50 people in circumstances that do not readily allow for appropriate social distancing of at least 6 feet.

32. It is impossible to follow these recommendations in public schools, where hundreds of children will gather in indoor classrooms for multiple hours a day, in close proximity to each other.

33. On August 9, 2019 Orange County Public School Impact Fee Update Study was published which found that the minimum student station requirements are 110.8 square feet per student station for elementary students and approximately 130 square feet per student station for middle and high school students.<sup>5</sup> To properly follow social distancing guidelines, this would increase the minimum student station square footage to 134.8 square feet for elementary students and 154 square feet per student station for middle and high school students. The defendants have admitted they cannot meet the CDC and Re-Open Florida Task Force’s social distancing guidelines when reopening schools for live face-to-face in person learning.

34. It should be noted that public schools are rarely mentioned in the Re-Open Florida Task Force guidelines, and little to no direction is given as to how to safely open and operate schools. In comparison, explicit direction is given for state parks. In Phase 2, “All state parks should be opened for daytime use. Some facilities within state parks—including overnight accommodations, pavilions, interpretive programs, any large group activities or events—will remain closed.”

<sup>4</sup> See Safe. Smart. Step-by-Step. Plan for Florida’s Recovery. Report to Governor DeSantis from the Re-Open Florida Task Force, last viewed July 18, 2020 at <https://www.flgov.com/wp-content/uploads/covid19/Taskforce%20Report.pdf>

<sup>5</sup> See the August 9, 2019 Orange County Public School Impact Fee Update Study at [https://www.ocps.net/UserFiles/Servers/Server\\_54619/Image/Departments/Facilities/Departments/Facilities%20Planning/School%20Impact%20Fees/OC%20Schools%20IF%20Update%20Study%20-%20FINAL%208-9-19.pdf](https://www.ocps.net/UserFiles/Servers/Server_54619/Image/Departments/Facilities/Departments/Facilities%20Planning/School%20Impact%20Fees/OC%20Schools%20IF%20Update%20Study%20-%20FINAL%208-9-19.pdf)

35. The Re-Open Florida Task force only refers to public schools in a section on ongoing considerations, almost as an afterthought. “The Department of Education and the State University System, in consultation with state health officials, should monitor the re-opening phases as set by this report. Comprehensive plans, however, should be made to resume on-campus learning, full-time, for the 2020-2021 school year.” There is no direction given as to how, or when, schools should actually resume on-campus learning.

36. After Defendant Governor **DESANTIS** moved most of Florida to Phase 2, COVID-19 infections have skyrocketed throughout Florida. This has included Orange County and prompted Orange County Mayor Jerry Demings to impose a mandate for facial coverings on June 18, 2020 in Emergency Executive Order 2020-23. A copy of said Order is attached as Exhibit F. Masks are mandated for all persons over the age of two, unless an exemption applies.

37. At the time of filing of this Action, the Florida Department of Health provides an online Dashboard with daily infection information for the past thirty days.<sup>6</sup> Florida, as well as Orange County is seeing record rates of infection each day. According to the Dashboard, several hundred positive cases of COVID-19 are being recorded in Orange County on a daily basis. July 15, 2020 was a particularly high day, where 1,381 new infections were recorded. On July 16, 2020, Orange County Mayor Jerry Demings held a press conference stating Orange County had COVID-19 positivity rate of 12.5% over the past two (2) weeks, and there has been a 500% increase in hospital orders for convalescent plasma.<sup>7</sup>

38. Florida set a national record for new infections on a single day on July 11, 2020 with 15,259 new cases.<sup>8</sup> This is higher than New York has recorded on any single day, which was the epicenter of the pandemic in April. It should be noted that Disney World reopened its theme parks that same day. As of July 18, 2020, the New York Times reported that Florida is leading the nation in cases within the last 7 days, reporting 83,090 new cases.<sup>9</sup>

<sup>6</sup> See Florida’s COVID-19 Data and Surveillance Dashboard, Florida Department of Health, Division of Disease Control and Health Protection, last viewed July 18, 2020 at

<https://experience.arcgis.com/experience/96dd742462124fa0b38ddedb9b25e429>

<sup>7</sup> See July 16, 2020 Coronavirus Update/News Conference from Orange County Government,

<https://newsroom.ocfl.net/media-advisories/press-releases/2020/06/coronavirus-updates-2/>

<sup>8</sup> See Florida Breaks U.S. Coronavirus Record for Most New Cases in a Day, written July 12, 2020 at

<https://www.nytimes.com/2020/07/12/us/florida-coronavirus-covid-cases.html>

<sup>9</sup> See Coronavirus in the U.S.: Latest Map and Case Count, written July 18, 2020 at

<https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>

39. Florida has also seen a drastic increase in the daily deaths attributed to COVID-19. According to the Florida Department of Health, 132 new deaths were reported on July 17, 2020 alone.<sup>10</sup>

40. COVID-19 is currently running rampant through our community, and the numbers for infection, hospitalization, and death are clearly on the rise.

41. On July 6, 2020, Defendant Commissioner **CORCORAN** has required, by DOE Order Number 2020-EO-06, as an “emergency order” that all schools throughout the State of Florida, provide in-person, face to face instruction at least 5 days a week for the upcoming school year. A copy of said Order is attached as Exhibit G. This Order severely limits the authority of the **SBOOC** to start the upcoming school year as it sees fit. Instead, Defendant **CORCORAN** has required that all schools provide face to face education between parents and teachers at a minimum of five days a week. See Paragraph I(a) on Page 2 of Order 2020-EO-06.

42. As a result, on July 17, 2020, the **SBOOC** approved a plan for instruction that includes three options from which parents can choose. These options are face-to-face instruction, OCPS LaunchED@Home, which is an innovative approach that appears to operate by live streaming the classroom to students at home, and Orange County Virtual School. At the time of filing of this lawsuit, the **SBOOC** is seeking permission, or a waiver, from the State of Florida to return their power and allow them to decide, at a local level, when it is best to re-open “brick and mortar” schools for face-to-face instruction. Further, the **SBOOC** is seeking input from parents as to their preference for schooling in the upcoming school year. The plan can be viewed online, but the information seeking a waiver is not yet available.<sup>11</sup> It is clear that Defendants **SBOOC** and **OCPS** feel that opening schools to in-person face-to-face instruction is not in the best interest of its teachers or staff, as they are strongly encouraging parents to register students for the innovative option, OCPS LaunchED@Home, which is still awaiting State approval.<sup>12</sup>

43. As it currently stands, **SBOOC** and **OCPS** have been left with no choice but to open schools for in-person face-to-face instruction, or risk losing funding for at least one thousand (1,000) teachers.

<sup>10</sup> See Florida COVID-19 Response, What you need to know about COVID-19 in Florida, last viewed July 18, 2020 at <https://floridahealthcovid19.gov>

<sup>11</sup> See [https://go.boarddocs.com/fla/orcpsfl/Board\\_nsf/files/BRLFZF4188B4/\\$file/2020-21%20Florida%27s%20Optional%20Re-opening%20Plan.pdf](https://go.boarddocs.com/fla/orcpsfl/Board_nsf/files/BRLFZF4188B4/$file/2020-21%20Florida%27s%20Optional%20Re-opening%20Plan.pdf)

<sup>12</sup> See Florida Department of Education 2020-21 Florida’s Optional Innovative Reopening Plan, Orange County Public Schools, last viewed July 18, 2020 at <https://www.ocps.net/cms/One.aspx?portalId=54703&pageId=1455756>

44. At the July 17, 2020 board meeting, it was clear that the school board members were acutely aware of this predicament and chose to prioritize the need for funding over the health and safety of its teachers and students.<sup>13</sup>

45. The CDC has issued guiding principles on re-opening schools safely.<sup>14</sup> In addition to these principals, the CDC has prepared a readiness handbook, titled “Considerations for K-12 Schools: Readiness and Planning Tool.”<sup>15</sup> This tool is an extensive checklist to attempt to provide for the health and safety of students and teachers in schools. **FLDOE**, **SBOOC** and **OCPS** have done nothing to instill confidence that these guidelines are achievable or will even be attempted.

46. In fact, Defendant Superintendent **JENKINS** indicated at the July 17, 2020 board meeting that OCPS cannot meet the guidelines for transportation alone. The school district cannot afford the staff and busses needed to allow children to properly social distance while being transported to and from school.<sup>16</sup> It appears the current remedy is to require masks by all students, who will be crowded together on the busses. Whether OCPS will provide these masks, or parents will be required to provide them, remains to be seen.

47. On July 16, 2020, **OCPS** issued their COVID-19 Clinic Staff Overview of 2020, stating “[p]arents and visitors will not be allowed to enter the school past the main office to limit exposure to students, staff and teachers.”<sup>17</sup> Yet, the **SBOOC** still feels comfortable with the children of these same families and teachers returning to live in classroom instruction.

48. In contrast to Defendant Governor **DESANTIS**, and Defendant Commissioner **CORCORAN**, the Orange and Osceola County court system has recognized the dangers of the rise in infections in Central Florida. The Florida Supreme Court, with the guidance of the COVID-19 Work Group, has established its own phased approach for re-opening the courts. On June 26, 2020, in response to skyrocketing rates of infections in the community, Chief Judge Don Myers entered Administrative Order 2020-06-05, an Amended Temporary Order Governing Trial Court Proceedings. This Order returned the courts to Phase 1, where in-person contact is inadvisable, court facilities are effectively closed

<sup>13</sup> See Special School Board Meeting on July 17, 2020 at <https://www.youtube.com/watch?v=6iEZHghsHG0>

<sup>14</sup> See Centers for Disease Control and Prevention, Coronavirus Disease 2019 (COVID-19), Considerations for Schools, last viewed July 18, 2020 at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/schools.html>

<sup>15</sup> See Considerations for K-12 Schools: Readiness and Planning Tool, CDC Readiness and Planning Tool to Prevent the Spread of COVID-19 in K-12 Schools, last viewed July 18, 2020 at <https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/School-Admin-K12-readiness-and-planning-tool.pdf>

<sup>16</sup> See See Special School Board Meeting on July 17, 2020 at <https://www.youtube.com/watch?v=6iEZHghsHG0>

<sup>17</sup> See COVID-19 Clinic Staff Overview of 2020 at [https://www.ocps.net/UserFiles/Servers/Server\\_54619/File/Departments/Exceptional%20Student%20Education/Related%20Services/FINAL\\_CLINIC\\_OVERVIEW.pdf](https://www.ocps.net/UserFiles/Servers/Server_54619/File/Departments/Exceptional%20Student%20Education/Related%20Services/FINAL_CLINIC_OVERVIEW.pdf)

to the public, and in-person proceedings are rare. Jury trials are not permissible under Phase 1, and many hearings are either cancelled, or must be conducted telephonically or virtually until further Order of the Court.<sup>18</sup> Further, Administrative Judge Jessica J. Recksiedler, on behalf of Chief Judge Lisa Davidson announced that the 18<sup>th</sup> Judicial Circuit will also be moving back the judicial circuit to Phase 1 cancelling all jury trials and live hearings, except in emergency circumstances.

49. Note the contrast: public officials have determined it is too dangerous for jurors to meet and deliberate, but our students and teachers are being asked to return to crowded schools. How can this be under the same government in Florida?

50. Despite the rise in COVID-19 infections, Mayor Demings has not yet issued a new stay-at home order for Orange County, a decision that was not lost on the **SBOOC** during their July 17, 2020 meeting. The Board Members discussed openly the likely pressure from Disney to refrain, as it would effectively shut down Disney parks, which only re-opened on July 22, 2020.<sup>19</sup>

51. While the cost to the economy has been quite severe, many of Florida's elected and appointed officials are prioritizing financial considerations over the health and safety of our community.

52. As parents look to the new school year, they are faced with filling the gap(s) left by Defendants. Consider 2.7 million children in Florida's public schools regarding COVID-19 outcomes according to current medical experts, without considering the impact on teachers, parents, bus drivers, caregivers, etc.

53. Using publicly-available child data from the Florida Department of Health, and presuming, conservatively, that the infection rate continues at the same average rate over the entire pandemic to date, which includes both times of low community spread and current community spread, and covers a time period during which schools were largely closed: (1) Florida's schools opening would result in 361,800 students testing positive for COVID-19 (at least) in the first month (this using the 13.4% infection rate among children aged <18 years from the Florida Department of Health); (2) Among these 361,800 children with COVID-19, if schools open-up there will be at least 3,841 children hospitalized for COVID-19, of whom 576 may require critical and intensive care unit stays (this using conservative estimates from child data published by the CDC); and (3) there would be between 62 and 383 completely avoidable deaths

<sup>18</sup> See Administrative Order No. 2020-06-05, Amended Temporary Order Governing Trial Court Proceedings, entered June 26, 2020 at <https://www.ninthcircuit.org/sites/default/files/2020-06-05%20-%20Amended%20Temporary%20Order%20Governing%20Trial%20Court%20Proceedings.pdf>

<sup>19</sup> See Special School Board Meeting on July 17, 2020 at <https://www.youtube.com/watch?v=6iEZHghsHG0>

(this is applying a 1.62% mortality rate and 9.98% mortality rate, based on FLDOH and CDC estimates, respectively, to the 3,841 hospitalized children hospitalized).<sup>20</sup>

54. This model is based on the most conservative estimates available at the time of filing. This model does not take into account the rapid increase of new cases, or the likely growth-rate of infections of having children in school together for seven (7) hours a day, five (5) days a week. This also does not include the unknown amount of long-term effects to children as a result of COVID-19. Further, this does not include the certain increase of cases among adults resulting in teachers, parents, caregivers, and countless other getting infected, being hospitalized, and some passing away.

55. Teachers and students are not alone in their fear of returning to public school in the fall. Pediatricians and doctors in the community have voiced their concern at the prospect of thousands of students returning to school, and the effect that it will have on the health of the community. Letters from concerned doctors in our community are attached as Exhibits H through P. Some of the highlights are as follows:

- a. Dr. Annette Nielsen, Medical Doctor, Fellow of the American Academy of Pediatrics and owner of Tree House Pediatrics in Orlando, FL wrote a letter that is attached to this Complaint. Dr. Nielsen states, “Children do get COVID.” Dr. Nielsen went further writing about a teenager with Covid, “... a 15-year-old patient who had a massive stroke. She was a healthy, straight A cheerleader and now she can’t walk or talk due to COVID-19.” The Dr.’s practice “lost a 3 weeks old to COVID.” Letter attached as Exhibit H.
- b. Dr. Allison Haughton-Green, Medical Doctor, Fellow of the American Academy of Pediatrics and medical director of The Orlando Institute of Weight Management & Metabolic Medicine wrote a letter that is attached to this Complaint. Dr. Haughton-Green writes, “[i]t is simply reckless to reopen schools with COVID-19 cases increasing at an exponential rate. ***Let’s be clear, if you reopen schools in August 2020, students will die. Teachers will die.***” Emphasis added. Letter attached as Exhibit I.
- c. Dr. Victoria Wurster Ovalle, a medical doctor, who works in pediatric emergency medicine in Orlando, FL wrote a letter that is attached to this Complaint. Dr. Ovalle

<sup>20</sup> See John’s Hopkins University of Medicine, Coronavirus Resource Center, Timeline of COVID-19 policies, cases, and deaths in your state, A look at how social distancing measures may have influenced trends in COVID-19 cases and deaths, last viewed July 18, 2020 at <https://coronavirus.jhu.edu/data/state-timeline/new-confirmed-cases/florida/38>

writes, “[t]he best way to help keep the most people healthy would be to keep schools closed for even a few more weeks or months.” Additionally, the Dr. provides, “... a third of kids in the state who get tested (with cough/fever/etc) are testing positive for COVID-19. Kids can indeed get sick, and they can pass on the virus.” Letter attached as Exhibit J.

- d. Dr. Deborah Kahal, a dual-board certified adult internal medicine/infectious diseases specialist wrote a letter signed by both her and her husband that is attached. Dr. Kahal, “[t]his is the time to place the health and protection of our entire communities at the forefront of what we all hope will be a relatively short-lived storm in the grand scheme of our lives. However, there is absolutely no excuse for the approval of short-sighted policies that may contribute to increasing community spread of a lethal, highly infectious virus that, even when it does not kill, has proven to cause extensive morbidity for individuals of all ages.” Letter attached as Exhibit K.
- e. Elizabeth Barger, MSN, APRN-C, wrote a letter that is attached. The medical professional on the front lines of this epidemic writes, “I have never feared for my life in all my healthcare years before this.” She rightly asks, “Why would we open schools with 15k cases a day when we closed them with 200 a day?” Letter attached as Exhibit L.
- f. Dr. Eric M. Jaryszak, a medical doctor with a Ph.D. who works in pediatrics, wrote a letter that is attached to this Complaint. Dr. Jaryszak states, “...I have seen catastrophic outcomes in children, particularly in high risk populations. ... It doesn’t matter how rare something is if it happens to your child.” Speaking of teachers, the Dr. writes, “[p]utting them unnecessarily at risk is short sighted and foolish especially in light of there being reasonable, temporary alternative.” Letter attached as Exhibit M.
- g. Dr. Keyne Johnson, M.D., a private practice pediatric neurosurgeon practicing in Orlando, wrote a letter that is attached. Dr. Johnson writes, “[d]espite what some people think or are being told young people and children can be symptomatic. We have seen strokes and seizures in children due to Covid-19. I urge given the tremendous increase in positive results that we do not reopen schools at this time.” Letter attached as Exhibit N.

- h. Mary Lee Downey, founder and CEO of Community Hope Center in Kissimmee, FL wrote a letter that is attached to this Complaint. Community Hope Center works to assist poor and homeless families in central Florida. Ms. Downey, in her letter states that the narrative of poor families all wanting to send their children back to school is false. Speaking of these narratives, she writes “These claims are simply not true. ... On behalf of these families, and with my own children’s safety in mind, I support this injunction to keep schools closed.” Letter attached as Exhibit O.
- i. Dr. Salma Elfaki, a medical doctor and board-certified Pediatrician, wrote a letter that is attached to this Complaint. Dr. Elfaki, “I am appalled that our government’s leaders, ..., are forcing the schools to re-open this August. As you are aware, cases in Florida are spiraling out of control ... We are at the tip of the iceberg when it comes to this virus and its effect on our community and hospitals as a whole ... We are running out of ICU beds ...” Letter attached as Exhibit P.

56. In addition to members of the medical community, several elected officials have written letters voicing their objections to re-opening Orange County Schools. These letters are attached as Exhibit Q through T. Specifically, our elected officials have argued:

- a. Representative Rene “Coach P” Plasencia, representative in the FL House of Representatives for District 50 wrote a letter that is attached to this Complaint. Representative Plasencia writes, “I strongly encourage you to postpone bringing the majority of our students back for face-to-face instruction in August. An August 10<sup>th</sup> start date for students, with an expected teacher return date of July 31<sup>st</sup> is potentially catastrophic ... **if I, as a member of the Florida House of Representatives, had the statutory authority to vote for the postponement of face-to-face instruction, I would.**” Emphasis added. Letter attached as Exhibit Q.
- b. Senator Linda Stewart, elected member of the Florida Senate, wrote a letter that is attached to this Complaint. The Senator writes, “No school district should be forced into opening because of an executive order that is written as one size fits all.” In the letter to Governor DeSantis, the Senator urges, “roll back the rushed reopening, ... **delay any school reopening’ until it is actually, verifiably, safe to do so.**” Emphasis added. Letter attached as Exhibit R.

- c. Representative Joy Goff-Marcil, representative in the FL House of Representatives for District 30 wrote a letter that is attached to this Complaint. Representative Goff-Marcil writes, “I urge the school board to reconsider offering a brick and mortar option. ... there is insufficient time or funding to outfit schools with the needed protective equipment. ... **We cannot reopen our schools until we can guarantee the safety of teachers, administrators, support staff, students, and their families.**” Emphasis added. Letter attached as Exhibit S.
- d. Representative Anna V. Eskamani, representative in the FL House of Representatives for District 47 wrote a letter that is attached to this Complaint. Representative Eskamani emphasized the statement from the American Academy of Pediatrics that stated, “... **we must pursue re-opening in a way that is safe** for all students, teachers and staff. Science should drive decision-making on safely re-opening schools.” Emphasis added. Letter attached as Exhibit T.

57. Central Florida hospitals are already near capacity,<sup>21 22</sup> and the Orange County Convention Center is once again being considered for use as a makeshift hospital.<sup>23</sup> Hospitals are starting to reduce or cut elective procedures in order to make room for more COVID-19 patients.<sup>24</sup>

58. “The rate of positivity is an important indicator because it can provide insights into whether a community is conducting enough testing to find cases. If a community’s positivity is high, it suggests that that community may largely be testing the sickest patients and possibly missing milder or asymptomatic cases. A lower positivity may indicate that a community is including in its testing patients with milder or no symptoms. The WHO has said that in countries that have conducted extensive testing

<sup>21</sup> See Coronavirus strains Florida health system as some hospitals run out of ICU beds in largest counties, published July 7, 2020 at <https://www.cnbc.com/2020/07/07/coronavirus-strains-florida-health-system-as-some-hospitals-run-out-of-icu-beds-in-largest-counties.html>

<sup>22</sup> See Central Florida’s largest hospitals out of ICU beds but say they can scale up if COVID-19 demand increases, written July 8, 2020 at <https://www.clickorlando.com/news/local/2020/07/07/central-floridas-largest-hospitals-out-of-icu-beds-but-say-they-can-scale-up-if-covid-19-demand-increases/>

<sup>23</sup> See Orange County Convention Center looked at for potential field hospital, written July 14, 2020 at <https://www.wesh.com/article/orange-county-convention-center-looked-at-for-potential-field-hospital-1594721424/33307443>

<sup>24</sup> See Some Central Florida hospitals delaying elective procedures as COVID-19 cases rise, written July 16, 2020 at <https://www.clickorlando.com/news/local/2020/07/16/some-central-florida-hospitals-delaying-elective-procedures-as-covid-19-cases-rise/>

for COVID-19, should remain at 5% or lower for at least 14 days.”<sup>25</sup> The positivity rate has been well over 10% for the last 14 days in Central Florida.<sup>26</sup>

59. Plaintiff, Kathryn Hammond, along with fellow teachers was recently made aware of confirmed cases within the staff/employees of Defendant, OCPS, but Defendants have refused to advise teachers from which campus staff/employees came.

### **CAUSE OF ACTION: COUNT I (Violation of Article IX § 1(a) Florida Constitution)**

60. Plaintiffs reiterates and adopts paragraphs 1 through 59 as if fully set forth herein.

61. Article IX § 1(a) of the Florida Constitution provides “[a]dequate provision shall be made by law for a uniform, efficient, *safe, secure, and high quality system* of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.” Emphasis added.

62. Merriam-Webster defines “safe” as 1) “*free from harm or risk*, 2) secure from threat of danger, harm, or loss, 3) affording safety or security from danger, risk, or difficulty.” (emphasis added).<sup>27</sup> Children and teachers will not be free from harm or risk should live and in person classes resume as currently ordered by the State.

63. Cambridge University Press’ Dictionary defines “safe” as “*not in danger or likely to be harmed*.” *Cambridge Dictionary* (emphasis added).<sup>28</sup> Children and teachers will be in danger and are likely to be harmed should live and in person classes commence as ordered by the State.

64. Merriam-Webster defines “secure” as 1) “a. *free from danger*, b. affording safety c. trustworthy, dependable d. free from risk or loss, 2) a. easy in mind b. assure in opinion or expectation: *having no doubt*.” *Merriam-Webster Dictionary* (emphasis added).<sup>29</sup> It is certain that a reasonable person

<sup>25</sup> See Johns Hopkins University & Medicine Coronavirus Resource Center, Daily State-by-State testing trends, last viewed July 18, 2020 at <https://coronavirus.jhu.edu/testing/individual-states>

<sup>26</sup> See Floridians adds 10,328 new coronavirus cases; death toll tops 5,000, written July 18, 2020 at <https://www.orlandosentinel.com/coronavirus/os-ne-florida-coronavirus-saturday-july-18-20200718-4tf27qennrdzbdnduxjgu5ce-story.html>

<sup>27</sup> See Merriam-Webster dictionary, definition of safe, last viewed July 18, 2020 at <http://www.merriam-webster.com/dictionary/safe>

<sup>28</sup> See Cambridge Dictionary, definition of safe, last viewed July 18, 2020 at <https://dictionary.cambridge.org/us/dictionary/english/safe>

<sup>29</sup> See Merriam-Webster dictionary, definition of secure, last viewed July 18, 2020 at <https://www.merriam-webster.com/dictionary/secure>

could not honestly say, “I have no doubt that teachers and students will be safe at school right now under these circumstances.” Children and teachers will not be free from danger should live and in person classes resume as currently ordered by the State.

65. Cambridge University Press’ Dictionary defines “secure” as “*able to avoid being harmed by any risk, danger, or threat.*” (emphasis added).<sup>30</sup> Cambridge University Press claims to be the oldest publishing house in the world, having published its first book in 1584. Children and teachers will not be able to avoid being harmed by any risk or danger should live and in person classes commence as ordered by the State.

66. Since schools cannot open safely and be secure, no reasonable person could state that live and in person classrooms in the near term would be providing anything resembling high quality education as demanded by Florida’s Constitution. High quality education cannot be provided in unsafe and unsecure schools. The requirement that the State of Florida provide safe, secure and high-quality system of free public schools unquestionably applies to the current situation.

67. Florida’s Constitution mandates the Government follow this most sacred duty at all times in providing for safe, secure and high-quality institutions of public learning.

68. It is not possible at this time nor is it possible in the foreseeable future for the State to open public schools to live and in person classrooms and comply with the standards set forth in Florida’s Constitution.

69. Forcing schools to open classes for live and in person classes would cause irreparable harm and is a violation of Article IX §1(a) of the Fl Constitution that mandates safe and secure public schools.

70. Based on the scientific models of the experts in their field, the irreparable harm will be the hospitalization and death of children and teachers in Orange County and the State of Florida.

71. Currently and for the foreseeable future, the public schools of Orange County are and will continue to be unsafe and unsecure because the schools cannot prevent the spread of Covid-19. Florida’s Constitution demands high quality schools. Schools where this epidemic would be knowingly spread certainly do not meet the constitutional requirements.

72. Additionally, the teachers, through their respective union and the **SBOOC** have incorporated these ideas and principles of our constitution of providing a safe and secure classroom into their contracts.

<sup>30</sup> See Cambridge Dictionary, definition of secure, last viewed July 18, 202 at <https://dictionary.cambridge.org/us/dictionary/english/secure>

73. Pursuant to the Article VI of the 2019-20 Contract Ratified December 6, 2019, between the **SBOOC** and the CTA, Subsection K (regarding Working Conditions), “The Board agrees to maintain *safe and healthful working conditions*, including the provision of safety equipment. The District shall investigate complaints of harmful indoor air quality and take measures to reasonably accommodate employees if necessary. No employee shall be disciplined for refusal to work in an unsafe or hazardous situation where there is an eminent danger to the employee’s health, safety or well-being, provided that this shall not be applicable in any circumstances where the health and safety of students otherwise clearly require employee intervention. In the case of an infectious disease outbreak that affects the District’s workforce, the procedures in the Emergency Procedures Manual shall be followed. If a school or work location has cause to be shut down because of an outbreak, the CBLT shall meet in an emergency session to bargain the impact.”

74. Further, FL Statute §1000.02(1)(e) provides the legislative intent, policy and guiding principles for K-20 education in the State. The statute provides that “[i]t is the policy of the Legislature: to provide for the decentralization of authority to the schools, ... that deliver education services to the public.” Commissioner Richard Corcoran’s executive order from Tallahassee flies in the face of that legislative intent.

75. Florida Statute section 1006.07 states “[t]he district school board shall provide for the proper accounting for all students...for proper attention to health, safety, and other matters relating to the welfare of students.” Similarly, Florida Statute section 1006.08(1) states “[t]he district school superintendent shall recommend plans to the district school board for the proper accounting for all students of school age... for the proper attention to health, safety, and other matters which will best promote the welfare of students.

76. To this end, it is clear the **SBOOC** and Superintendent **JENKINS** cannot provide for the proper attention to health and safety as required by Florida Statute sections 1006.07 and 1006.08(1).

77. Unless the defendants conduct is declared unconstitutional and permanently enjoined, Plaintiffs will continue to suffer great and irreparable harm.

**CAUSE OF ACTION: COUNT II  
(Injunctive Relief / Irreparable Harm)**

78. Plaintiffs reiterates and adopts paragraphs 1 through 77 as if fully set forth herein.

79. Plaintiffs have a substantial likelihood of success on the merits as there is no way for the government to open schools to live and in person classrooms and provide safe, secure and high-quality classrooms as required by Article IX § 1(a) of the Florida Constitution and previously cited Florida Law.

80. Absent injunctive relief, Plaintiffs will be irreparably harmed by Defendants' actions because the data and research show that children will be attacked by COVID-19 and many will suffer serious illness, to include death to some students.

81. Further, absent injunctive relief, Plaintiffs will be irreparably harmed by Defendant's actions because the data and research show that teachers will either have to choose to resign their position, forfeiting their salary and benefits, or return to their jobs and will be attacked by COVID-19 and suffer serious illness to include death to some teachers.

82. The requested injunction serves the public interest because Defendants' proposed arbitrary and capricious decision to open live and in person classes with full knowledge and understanding CDC guidelines and recommendation cannot be followed, will cause additional harm to the attending students and teachers.

83. Plaintiffs have no other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights to a safe, secure and high-quality public schools.

84. The irreparable harm stated herein is not speculative, the scientific models show with certainty that the irreparable harm to children and teachers will occur if live and in person classes are held. Even if it could be said that the irreparable harm is only a risk of significant injury or death, that risk would still be sufficient to cause public schools to be unsafe, unsecure and not of a high quality and therefor a significant infringement upon the rights of citizens to have a safe, secure and high quality public school system.

**CAUSE OF ACTION: Count III  
(Declaratory Relief)**

85. Plaintiffs reiterates and adopts paragraphs 1 through 84 as fully set forth herein.

86. Florida Statute § 86.011 states “[n]o action or procedure is open to objection on the ground that a declaratory judgment is demanded. The court’s declaration may be either affirmative or negative in form and effect and such declaration has the force and effect of a final judgment.” The statute provides that any right may be brought before the court for determination of judgment.

87. Florida Statute § 86.051 states that “[a]ny declaratory judgment rendered pursuant to this chapter may be rendered by way of anticipation with respect to any act not yet done or any event which as not yet happened...”

88. Based on the violation of Article IX § 1(a) alleged herein and to be proven with competent evidence at an evidentiary hearing, Plaintiffs seek a declaration that its constitutional rights have or will be violated by the State and County. Plaintiffs seek an order of the Court to enjoin the State of Florida and Orange County from beginning in person and live classes until such time that a safe, secure and high-quality environment is assured as is necessary under Florida’s Constitution.

89. The Court has an opportunity to save countless lives; there is no greater purpose for having co-equal branches of government, to save the people from sins of the Executive Branch.

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiffs respectfully request the following relief:

- (1) A preliminary injunction enjoining defendants from opening public schools in Orange County until such time as the defendants can demonstrate to the Court that the Government can and is compliant with Article IX § 1(a) of the Constitution of the State of Florida throughout the course of the school year.
- (2) Injunctive relief from the Court to order the Governor and appropriate government agents or agencies to not re-open schools as it does not meet the fundamental principle to protect citizens, and their posterity, from the Pandemic’s known and unknown effects on all ages.
- (3) Injunctive relief from the Court to order the Governor and appropriate government agents or agencies from restricting state funds to **OCPS** should they refuse to permit face-to-face education when 2020-2021 School Year commences.
- (4) Attorney’s fees and costs.
- (5) Such other relief as the Court deems necessary and just.

[SPACE INTENTIONALLY LEFT BLANK]

Dated this 19<sup>th</sup> day of July, 2020.

Respectfully Submitted,

/s/ Jacob V. Stuart, Jr.

Jacob V. Stuart, Jr.

Fl. Bar No. 86977

Jacob V. Stuart, P.A.

1601 East Amelia Street

Orlando, FL 32803-5421

Office: (407) 434-0330

Email: [jvs@jacobstuartlaw.com](mailto:jvs@jacobstuartlaw.com)

*Attorney for Plaintiffs*

/s/ William J. Wieland, II

William J. Wieland, II

Fl. Bar No. 84792

Wieland & DeLattre, P.A.

226 Hillcrest Street

Orlando, FL 32801-1212

Office: (407) 841-7699

Email: [billy@wdjustice.com](mailto:billy@wdjustice.com)

*Attorney for Plaintiffs*

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION

CASE NO: 2020-015211-CA-24

FLORIDA EDUCATION ASSOCIATION;  
STEFANIE BETH MILLER; LADARA  
ROYAL; MINDY FESTGE; VICTORIA  
DUBLINA-HENJES; and ANDRES HENJES,

Plaintiffs,

v.

RON DESANTIS, in his official capacity as  
Governor of the State of Florida; RICHARD  
CORCORAN, in his official capacity as  
Florida Commissioner of Education;  
FLORIDA DEPARTMENT OF  
EDUCATION; FLORIDA BOARD OF  
EDUCATION; CARLOS GIMENEZ, in his  
official capacity as Mayor of Miami-Dade  
County,

Defendants.

\_\_\_\_\_ /

**AFFIDAVIT OF JACOB OLIVA,**  
**CHANCELLOR, FLORIDA DIVISION OF PUBLIC SCHOOLS**

Before me personally appeared Jacob Oliva who, being first duly sworn, states:

1. I am the Chancellor of the Division of Public Schools.
2. I have served Florida public schools since the year 2000 as a teacher; school-based administrator; district-based administrator, including superintendent; and state-level administrator, including Chancellor of the Division of Public Schools.
3. My responsibilities include implementing the priorities of the State Board of Education (“State Board”) and the Commissioner of Education (“Commissioner”) relating to K-12 public schools; managing the Division of Public Schools, which includes 12 office units; developing legislative, rule, budget and strategic plan priorities; presenting K-12 policy to the Florida Legislature; serving as the Commissioner’s designee on several boards and commissions; ensuring compliance with state statute and rule in Florida’s school districts;

supporting the teaching and learning of Florida's approximately 2.89 million students in 4,340 public schools; promoting student achievement and the closing of student achievement gaps; and providing statewide leadership and communication between the Florida Department of Education ("Department") and school districts.

4. I have personal knowledge of the facts stated herein.
5. As explained briefly herein, the Department, the State Board, and the Division of Public Schools are headquartered in Tallahassee, Florida. All statewide coordination of both the Department and the State Board is done from the headquarters of the Department.
6. **The State Board of Education.** The State Board consists of seven members appointed by the Governor to staggered four-year terms, subject to confirmation by the Senate. The State Board is the chief implementing and coordinating body of public education in Florida, overseeing all systems of public education except for the State University System. All coordination between the Commissioner and the State Board is done from the headquarters of the Department, located in Tallahassee, Florida.
7. **Commissioner of Education.** The Commissioner is the chief educational officer of the state. The Commissioner is responsible for providing full assistance to the State Board of Education in enforcing compliance with the mission and goals of the PreK-20 education system, except for the State University System. The general powers and duties of the Commissioner are authorized in sections 1001.10 and 1001.11, Florida Statutes. The Commissioner is appointed by and reports to the State Board. The offices of the Commissioner are located in the Department headquarters in Tallahassee, Florida.
8. **The Florida Department of Education.** Under the leadership of the State Board and the Commissioner, the Department is responsible for enforcing education law and regulations, and for promoting and implementing policies and programs to reform and improve public school programs at the state level. The headquarters for the Department is located in Tallahassee, Florida at:

Ralph D. Turlington Florida Education Center, the "Turlington Building"  
325 West Gaines Street  
Tallahassee, Florida 32399-0400

All of the directors of the statutory divisions and offices provided in section 20.15(3), Florida Statutes, are physically located in Tallahassee.

9. **The Division of Public Schools.** One of the statutory divisions of the Department is the Division of Public Schools. As set out above, I serve as the Chancellor of the Division of Public Schools. In this role I support the work of the Department to promote K-12 student achievement, strategic improvement, and educator quality. The headquarters of the Division of Public Schools is in Tallahassee, Florida.

**FURTHER AFFIANT SAYETH NOT.**

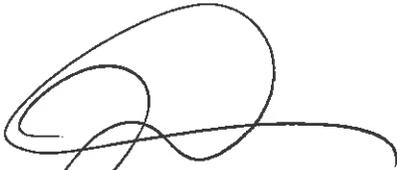


Jacob Oliva  
Chancellor of the Division of Public Schools  
Florida Department of Education

STATE OF FLORIDA     )  
COUNTY OF LEON     )

SWORN and SUBSCRIBED before me this 3<sup>rd</sup> day of August, 2020,  
by Jacob Oliva, who is personally known to me or has shown identification of

\_\_\_\_\_



\_\_\_\_\_  
Notary Public

