

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

ALFRED RISIEN HAMMAN

O.B.O.

W.H.H., a minor

Petitioners,

Case No. 2020-CA-\_\_\_\_\_

v.

FLORIDA BOARD OF GOVERNORS in their  
official capacities

Respondents

\_\_\_\_\_ /

**MEMORANDUM OF LAW IN SUPPORT OF VERIFIED  
EMERGENCY PETITION FOR WRIT OF MANDAMUS**

“It is declared to be the policy of the state that public officers and employees, state and local, are agents of the people and hold their positions for the benefit of the public. They are bound to uphold the Constitution of the United States and the State Constitution and to perform efficiently and faithfully their duties under the laws of the federal, state, and local governments.” *Florida Statute* 112.311(6)

Florida’s Dual Enrollment statutes grant the participation in a post-secondary course as part of a secondary-student’s rightful *secondary* education as provided by law. The Program statutorily grants and extends secondary-student rights and immunities to Dual Enrollment students, intact, into Florida’s public post-secondary environment pursuant to *Florida Statute* 1007.271 *et al.* The Dual Enrollment program features the absolute right-to-participate for each legally-eligible student in an academically-appropriate college-level course for free upon the satisfaction of minimum requirements listed in plain language on the face of Florida statutes.

These statutes are sublime in their effect, and each of their eloquently-stated statutory rights due for relief in mandamus are also constitutionally protected.

### **LEGAL ARGUMENT**

Florida's Constitution Article IX Section 7 states "The people [have] establish[ed] a system of governance for the state university system of Florida ... [t]here shall be a single state university system comprised of all public universities. A board of trustees shall administer each public university and a board of governors shall govern the state university system."

The Board of Governors is assigned the ministerial and non-discretionary responsibility for UCF's compliance with state and federal laws pursuant to *Florida Statute* 1000.03(2)(c) "[t]he Board of Governors shall oversee the enforcement of all state university laws"; & *Florida Statute* 1001.706(1)&(8) "For each constituent university, the Board of Governors ... shall be responsible for ... the implementation and maintenance of high-quality education programs within law. ... The Board of Governors has responsibility for compliance with state and federal laws, rules, regulations, and requirements."

*Florida Statute* 1007.271(13) creates, grants and governs the Dual Enrollment Program (the "Program") for a Home Education student.

I am a 17 year old 12th grade Home Education student who is legally eligible to participate in the Dual Enrollment program pursuant to *Florida Statute* 1007.271(13)(a) because I have satisfied the minimum requirements listed.

UCF “must” provide the Program to “each” legally eligible Home Education student pursuant to *Florida Statute* 1007.271(13)(b). It plainly states that UCF “**must** enter into a home education articulation agreement with **each** home education student seeking enrollment in a dual enrollment course”

UCF has three requirements which illegally deny my participation as a Home Education student within Dual Enrollment program stated on their web site:

- 1) A 3.8 GPA for Home Education students
- 2) SAT or ACT scores in all three areas
- 3) Arbitrary discretion over which legally eligible students that UCF’s Board of Trustees shall choose to offer the Program to

Each of these are facially prohibited by *Florida Statute* 1007.271(13)

These policies deny my participation in the Program as granted by *Florida Statute* 1007.271(13). An integral component of the Program is the statutory grant of essentially an all-inclusive college tuition plan for the duration of a student’s

eligibility in the Program.<sup>1</sup> That is tangible property. As such, these policies are facially offensive to Florida's Constitution Article I, Section 2 entitled "Basic Rights".

The right to this property, as well as the additional statutory rights granted to the protected class of Home Education Dual Enrollment student, are each independently secured by the United States Constitution's Fourteenth Amendment's Equal Protection clause.

Additionally, because these deprive the right to the property of a pre-paid college plan which I have earned; enforcement of these policies "without due process of law" is offensive to Florida's Constitution Article I Section 9; a fundamental right which is secured in this instance through the United States Constitution's Fourteenth Amendment Due Process clause.

THEREFORE, I seek an alternative writ or order to show cause why mandamus should not lie in relief of the above

### **LEGAL AUTHORIZATION FOR MANDAMUS**

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<sup>1</sup> There are no less than five Florida statutes which specifically state that Dual Enrollment college courses be exempt from registration & tuition fees, including f.s. 1007.271(2): "A student enrolled as a dual enrollment student is exempt from the payment of registration, tuition, and laboratory fees." Florida statutes 1062(1)i, 1009.25(1), 1007.271(16), and 1001.64(10) are each equally definitive in their language as well.

“Mandamus is a recognized remedy to require a public official, who is clothed with the authority, to discharge his duty,” *Dante v. Ryan*, 979 So. 2d 1122, 1123 (Fla. 3d DCA 2008). Mandamus is “a civil remedy to compel a public official to discharge a ministerial duty,” *Browning v. Young*, 993 So. 2d 64, 65 (Fla. 1st DCA 2008). “Mandamus is a remedy by which administrative officials or agencies may be coerced to perform ministerial duties which they have a clear legal duty to perform” *Fair v. Davis*, 283 So. 2d 377, 378 (Fla. 1st DCA 1973).

In *Radford v. Brock*, 914 So. 2d 1066 (Fla. 2d DCA 2006), the Second District Court of Appeal outlined the requirements for issuance of an alternative writ of mandamus:

“A party petitioning for a writ of mandamus must establish a clear legal right to performance of the act requested, an indisputable legal duty, and no adequate remedy at law. When a trial court receives a petition for a writ of mandamus, its initial task is assessing the petition to determine whether it is facially sufficient. If it is not facially sufficient, the court may dismiss the petition. If the petition is facially sufficient, the court must issue an alternative writ of mandamus requiring the respondent to show cause why the writ should not be issued.”

Showing the factors in *Radford* (out of order,)

UCF & THE BoG HAVE AN INDISPUTABLE STATUTORY DUTY TO PROVIDE THE PROGRAM PURSUANT TO FLORIDA STATUTE 1007.271(13)(b) *ET AL*

(b) Each public postsecondary institution eligible to participate in the dual enrollment program pursuant to s. 1011.62(1)(i) **must** enter into a home education articulation agreement with **each** home education student seeking enrollment in a dual enrollment course and the student’s parent.

UCF is indisputably “eligible to participate in the dual enrollment program pursuant to s. 1011.62(1)(i)”. Therefore UCF & the BoG have a mandatory and non-discretionary duty to provide the Program pursuant to *Florida Statute* 1007.271(13)(b) *et al*

I HAVE A CLEAR STATUTORY RIGHT TO THE RELIEF PURSUANT TO FLORIDA STATUTE 1007.271(13)

“The Legislature shall establish education policy, enact education laws, and appropriate and allocate education resources.” *Florida Statute* 1000.03(2)(a) “For each constituent university, the Board of Governors ... shall be responsible for ... the implementation and maintenance of high-quality education programs within law.”

*Florida Statute* 1001.706(1) The duty of UCF and the BoG as agents of the Executive branch are to fulfill education policy set by Legislature through faithful execution of the laws.

*Florida Statute* 1007.271(13)(a) states:

The dual enrollment program for a home education student, including, but not limited to, students with disabilities, consists of the enrollment of an eligible home education secondary student in a postsecondary course creditable toward an associate degree, a career certificate, or a baccalaureate degree. **To participate in the dual enrollment program, an eligible home education secondary student must:**

1. Provide proof of enrollment in a home education program pursuant to s. [1002.41](#).
2. Be responsible for his or her own transportation unless provided for in the articulation agreement.
3. Sign a home education articulation agreement pursuant to paragraph (b).

I do in fact meet the requirements making me “eligible” for the Program. Therefore whatever the Program is, I have a clear legal right to.

#### THE PROGRAM MAY NOT HAVE THE FOLLOWING REQUIREMENTS

*Florida Statute* 1007.271(13)(b) goes on to mandate things which the program **must** include as well as to prohibit things which **may not be required**. It explicitly states that

**“A high school grade point average may not be required for home education students** who meet the minimum score on a common placement test adopted by the State Board of Education which indicates that the student is ready for college-level coursework” *Florida Statute* 1007.271(13)(b)(2)

**The first policy for which I seek relief in mandamus** is explicitly prohibited on the face of *Florida Statute* 1007.271(13)(b)(2) in plain language. In order to participate in the program through UCF, a high school grade point average **is required** for home education students; but “a high school grade point average **may not be required** for home education students who meet the minimum score” on the PERT. The word “is”, a form of the most basic verb in English; prohibited by its negation, the words “may not be”. With the single point of fact being stated in plain language, hosted on a state server, and not in dispute between the parties.

I therefore have a clear legal right to relief in mandamus from the policy requiring a high school GPA for Home Education students who meet minimum score on the PERT placement test pursuant to *Florida Statute* 1007.271(13)(b)(2)

The second policy for which I seek relief in mandamus is expressly prohibited pursuant to *Florida Statute* 1007.271(3) and *Florida Statute* 1008.3. In order to participate in the Program at UCF, all three parts of the SAT or ACT are required as initial eligibility requirements. But as a Home Education student I am legally eligible to participate with the satisfaction of the minimum requirements listed in *Florida Statute* 107.271(13)(a), conditional on any other limitations listed in statute. For any Dual Enrollment student *Florida Statute* 1007.271(3) states that

“Student eligibility requirements for initial enrollment in college credit dual enrollment courses must include ... the minimum score on a common placement test adopted by the State Board of Education which indicates that the student is ready for college-level coursework”  
*Florida Statute* 1007.271(3)

The above indicates that the test which grants legal eligibility is Florida’s PERT test, a fact which is confirmed by *Florida Statute* 1008.3(1)

“The State Board of Education, in conjunction with the Board of Governors, shall develop and implement a common placement test for the purpose of assessing the basic computation and communication skills of students who intend to enter a degree program at any public postsecondary educational institution. Alternative assessments that may be accepted in lieu of the common placement test shall also be identified in rule” *Florida Statute* 1008.3(1)

Note that *Florida Statute* 1008.3(1) only grants discretion to determine what “alternative assessments that may be **accepted**”. It does not grant the BoG the discretion to determine which alternative assessment tests may be **required**.

*Florida Statute* 1008.3(6) seems to show that it would only be one piece of the PERT which “demonstrated adequate precollegiate preparation”

“A student may not be enrolled in a college credit mathematics or English course on a dual enrollment basis unless the student has demonstrated adequate precollegiate preparation on **the** section of the basic computation and communication skills assessment required pursuant to subsection (1) that is appropriate for successful student participation in **the** course.” *Florida Statute* 1008.3(6)

Because “eligibility” is granted pursuant to satisfaction of requirements listed in *Florida Statute* 1007.271, even a most-favorable-read for Respondent would only allow all three parts of the PERT to be required for participation and would have to overlook *Florida Statute* 1008.3(6). This does not allow for UCF to deny access to the Program as granted by law on the basis of SAT or ACT satisfaction.

The omitted-case canon of statutory interpretation does not allow for the revisiting of this topic by UCF as a matter of law.

Therefore the SAT / ACT requirement must be stricken for all Dual Enrollment students.

**The third policy for which I seek relief in mandamus** is explicitly prohibited on the face of *Florida Statute* 1007.271(13)(b)(2) in plain language. UCF states on the Dual Enrollment page of their web site that “satisfying minimum requirements does not guarantee admission” into the Program. They plainly state their claim of arbitrary discretion over who they allow to participate.

But as cited above, *Florida Statute* 1007.271(13) mandates that UCF “**must** enter into a home education articulation agreement with **each** home education student seeking enrollment in a dual enrollment course.”

The legislature has “establish[ed] education policy [and] enact[ed] education laws” per *Florida Statute* 1000.03(2)(a) as is their responsibility. *Florida Statute* 1007.271 *et al* mandate a ministerial & non-discretionary legal responsibility upon UCF & the BoG to deliver the Program to “each” “eligible” student using the rare term of imperative mandate “must”.

I stated on page 2 that “The Dual Enrollment program features the absolute right-to-participate for each legally-eligible student in an academically-appropriate college-level course for free upon the satisfaction of minimum requirements listed in plain language on the face of valid Florida statutes.” We have previously described these as *secondary-student* rights fully extended into Florida’s public post-secondary system.

That is not correct. At least not entirely. Having now read the entirety of the K-20 education laws, beyond realizing the breathtakingly intentionality & effectiveness with which they have been crafted, two more things become obviously clear.

First, nowhere in Florida's statutes are the rights to a secondary-student's education nearly as explicitly nor forcefully laid out as they are granting the rights for Dual Enrollment students. The word "must" is used on the face of the single subsection governing Dual Enrollment for Home Education students *three times*, once for who "must" be allowed to participate, once for which institutions "must" ministerially provide the program without arbitrary discretion, and once for what the Program "must" consist of, as well as including some "may not's" which UCF and the BoG inexplicably choose to break. Secondary students' traditionally-delivered public school option seems to mostly either assume that these are the case for high school participation, or rely on Florida's Constitution for fundamental descriptions of the state being responsible for granting each person a basic level of education.

This is in keeping with the landmark *Brown v. Board of Ed. of Topeka, Shawnee County, Kan.*, 347 U.S. 483 (1954) in which the Supreme Court opines "In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education". Therefore Florida seems to assume these fundamental rights which Brown further grants by stating that "[t]he opportunity of an education, where the state has undertaken to provide it, is a right which must be made available to all on equal terms." But nowhere are the rights of a traditional high school student as explicitly laid out as the rights which have been crafted and granted to Dual Enrollment students within the collegiate environment.

Second and more stunning is realizing that the closest thing to the rights as they are laid out for DE students are the rights granted to VPK preschool students. *Florida Statute* 1002.53(2) states “Each child who resides in this state who will have attained the age of 4 years on or before September 1 of the school year is eligible for the Voluntary Prekindergarten Education Program during either that school year or the following school year. The child remains eligible until the child is admitted to kindergarten, or unless he or she will have attained the age of 6 years by February 1 of any school year under s. [1003.21\(1\)\(a\)1.](#)” This at least states that “each” child is “eligible”, but the VPK statutes do not use the term “must” nor do they mandate that each public school shall offer the VPK program during the school year and is also perishable.

While the Dual Enrollment program mandates that “each” public post-secondary school “must” offer the program; those level of right-to-participate do not even exist in the VPK program, as *Florida Statute* 1002.63 states: “ (1)Each school district **may** administer the Voluntary Prekindergarten Education Program [and] ... (3) (a) The district school board of each school district shall determine which public schools in the district **may** deliver the prekindergarten program during the school year.” UCF must offer the Dual Enrollment program, but your local elementary school may elect not to provide VPK during the school year.

The right-to-participate granted by the Dual Enrollment laws is more explicit with more right-to-equality baked-in than the rights granted to VPK four-year-old students.

It is generally-known that VPK students enjoy a right-to-participate without illegal denials. But individual schools may arbitrarily choose to deny providing the VPK program to eligible VPK students, where no public college or university may legally deny the DE Program to any eligible DE student. And there is literally a clause within *Florida Statute* 1007.271(3) which demands that any additional requirement beyond that listed in law “may not ‘arbitrarily’ prohibit students who have demonstrated the ability to master advanced courses from participating in dual enrollment courses” at any public college or university.

Therefore, UCF and the BoG have a ministerial and non-discretionary duty to provide the program. They do not have the legal right to exercise arbitrary discretion over which legally eligible Dual Enrollment student they shall allow into the program, UCF & the BoG “must” grant the program to “each” eligible DE student.

## PARTICIPATION PROTECTED BY FLORIDA’S CONSTITUTION

The Program is explicitly protected by Florida’s Constitution Article I Section 2 - “Basic Rights,” which explicitly protects my “inalienable right” to “acquire, possess and protect property.” The right to an Articulation Agreement with the attendant Pre-paid college plan is itself property. That property includes a direct right to acquire other property, credit hours and degrees, which are more valuable than the

sum of their parts. And there is no way to defend that property when UCF denies granting it to you.

Denial of the Program without Due Process is prohibited under Florida's Constitution Article 1 Section IX - "Due Process," which states that "No person shall be deprived of life, liberty or property without due process of law".

### THE PROGRAM IS SECURED BY THE UNITED STATES CONSTITUTION EQUAL PROTECTION

The Fourteenth Amendment to the United States Constitution reads in part "No state shall ... deny to any person within its jurisdiction the equal protection of the laws"

The right to the property of the pre-paid college plan "earned" upon legal eligibility is constitutionally protected. The program may also have property interests as shown under *Brown v. BoE*, but more fundamentally there is actual property being abused. That makes these policies cognizable Equal Protection claims pursuant to the Equal Process doctrine and *Brown v. Board of Ed. of Topeka, Shawnee County, Kan.*, 347 U.S. 483 (1954).

Because each of these are arbitrary government actions which abuse a fundamental right, the three policies will each be subjected to the Strict Judicial Scrutiny standard which demands that the policy achieve a compelling government interest

and that it is crafted as narrowly as possible to achieve that substantial government interest. None of the three policies will survive being subjected to Strict Judicial Scrutiny.

Independently of that, these policies will also fail as Equal Protection claims in that they impinge on a suspect classification. Legislature has exercised it's discretion to define protected classes directly in statutes.

The Equal Protection Clause directs that "all persons similarly circumstanced shall be treated alike." *F. S. Royster Guano Co. v. Virginia*, 253 U.S. 412, 415, 40 S.Ct. 560, 561, 64 L.Ed. 989 (1920) . But so too, "[t]he Constitution does not require things which are different in fact or opinion to be treated in law as though they were the same." *Tigner v. Texas*, 310 U.S. 141, 147, 60 S.Ct. 879, 882, 84 L.Ed. 1124 (1940) . **The initial discretion to determine what is "different" and what is "the same" resides in the legislatures of the States. A legislature must have substantial latitude to establish classifications that roughly approximate the nature of the problem perceived, that accommodate competing concerns both public and private, and that account for limitations on the practical ability of the State to remedy every ill.** *Plyler v. Doe*, 457 U.S. 202 (1982) (emphasis added)

Therefore, by virtue of the Dual Enrollment statutes which grant different statutory rights to a class of people in order to secure that suspect classes' fundamental rights; any policy which impinges on the suspect classification of either Dual Enrollment student or it's sub-class Home Education student will also be subjected to Strict Judicial Scrutiny, which it will fail again.

ALSO SECURED BY THE DUE PROCESS CLAUSE

The Due Process clause of the Fourteenth Amendment reads “No State shall ... deprive any person of life, liberty, or property, without due process of law”. Therefore, in any instance in which these policies which deprive my property have been enforced will fail as a Due Process claim. As a Due Process claim pursuant to the Due Process doctrine, a secondary student’s absolute right to due process is abused if that education is denied in excess of 10 days before the due process of a school-level fair hearing as described in *Goss v. Lopez*, 419 U.S. 565 (1975) and *Carey v. Piphus*, 435 U.S. 247 (1978). I am in excess of ten days of excluded education to which I had a right and have not yet received what could be seen as a “Piphus Hearing”

THEREFORE, when we said that the statutes extend VPK rights into the post-secondary environment in Florida, we were again not entirely correct. It is the United States Constitution itself which directly extends protection of these fundamental rights into the colleges and universities and secures the rights to participate for Dual Enrollment students.

It is uncontroversial that Florida’s colleges and universities are responsible for protecting disabled persons’ rights on campus as well as the rights of other protected classifications, that their fundamental rights do not stop at the campus edge. Nor do the constitutionally-protected fundamental rights of Dual Enrollment students in Florida.

It is worth noting that each of the above three constitutional claims, seeking Equal Protection from abuse of the fundamental right to property, Equal Protection from the impingement of rights of a suspect classification, and Due Process protection; are simply the General Allegations and Legal Claims for each. And even though these skeleton claims and allegations are obvious on their face, we do also stand ready to defend each of them with individual legal briefs of equal depth, breadth, detail and binding Supreme Court precedent.

#### NO ADEQUATE REMEDY AT LAW

There is no remedy at law satisfying abuses which require extraordinary remedies of equity.

“Mandamus is a recognized remedy to require a public official, who is clothed with the authority, to discharge his duty.” *Dante v. Ryan*, 979 So. 2d 1122, 1123 (Fla. 3d DCA 2008).

Deprivation of constitutional rights “for even minimal periods of time, unquestionably constitutes irreparable harm.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976), itself lending toward the expedience of an extraordinary remedy. This would definitively favor mandamus over other equitable relief, such as declaratory and injunctive relief. Where a fundamental right is being abused, the speed and process due are part and parcel of the need for extraordinary procedure.

Furthermore, the extraordinary process has been determined to be correct in this instance for those very reasons. Citing Florida's Supreme Court in *State ex rel. Forty-Fifty Two-Thirty Corp. v. Dickinson*, 322 So.2d 525 (Fla. 1975), "the Court held that issuance of the writ was correct in a circumstance where "the speedy determination of the purely legal questions involved will not only put the dispute between the parties at rest but also will furnish an authoritative guide for the conduct of the Comptroller in respect of like matters in the future."

THEREFORE, a prima facie case has been shown for relief pursuant to *Florida Civil Rules of Proceeding* Rule 1.630

### **EXTRAORDINARY PROCESS UNDER RULE 1.630**

*Florida Rule of Civil Procedure* 1.630 also critically sets forth the required procedure for a trial court's issuance of extraordinary writs, including a writ of mandamus. Pursuant to Rule 1.630(d)(2) (Quoting *Florida Appellate Practice, 2018 ed.* Vol. 2, Florida Practice Series by the Honorable Philip J. Padovano, pg # 12-18)

**"In circuit court proceedings governed by Fla.R.Civ.P 1.630, the court has an obligation to review the complaint and decide whether it states a prima facie case for relief. *Moore v. Ake*, 693 so.2d 697 (Fla. DCA 1997). If a prima facie case for relief is stated, the court must issue an alternative writ of mandamus ex parte Rule 1.630(d)(2); *Bellamy v. McNeil*, 7 So..3d 638 (Fla. 1st DCA 2009)" (emphasis added)**

Continuing to quote the above, Judge Padovano summarizes the Supreme Court's informative decision regarding "what", "why" "how" & "when" of the issue at hand:

" In the case of *State ex rel. Four-Fifty Two-Thirty Corp. v. Dickinson*, 322 So.2d 525 (Fla. 1975), The Supreme Court, following ample precedent, held that mandamus was the appropriate remedy to seek a refund from the State Comptroller of tangible property taxes alleged to have been erroneously paid. More importantly, **the Court held that issuance of the writ was correct in a circumstance where "the speedy determination of the purely legal questions involved will not only put the dispute between the parties at rest but also will furnish an authoritative guide for the conduct of the Comptroller in respect of like matters in the future"** In essence, the Court undertook to review a question of the variety that would ordinarily be presented to it upon appeal, even though, as Justice England noted in his dissent, the Court was aware that similar cases were working their way through the judicial system." (emphasis added)

We certainly meet all the factors identified by Florida's Supreme Court in *State ex rel. Four-Fifty Two-Thirty Corp. v. Dickinson*:

**Speedy Determination** - the need for a speedy determination is utmost of importance for the issuance of mandamus. My fundamental and statutory rights are currently being illegally abused; and while the semester has started and the regular courses have been stolen from me, I am still able to immediately begin on-line courses as well as Directed Independent Study courses in advanced science for which I am legally eligible.

This is a truly extraordinary circumstance which qualifies for relief in mandamus.

**Purely Legal Questions** - none of the three policies before this court have a single controverted fact. Each are incontrovertible by virtue of being hosted on state run

servers. There is no appendix. UCF does not deny the existence of these policies. The sole question at issue is whether UCF may legally make these policies.

**Put The Dispute at Rest** - this will clearly resolve the dispute between the parties. Each will settle the controversy as well as completely clear the process for disposal of the suits.

**Authoritative Guide for Conduct in Respect of Like Matters** - in addition to putting the matter to rest between the parties, each student in grades 6-12 are being misled as to their rights to seek this educational program for which they are statutorily due. Each of these minors is therefore being denied constitutionally-protected fundamental rights in relation to this program. There could not be a greater need and justification for an “extraordinary remedy” than the timely resolution for something of such great importance which effects so many naive minors.

It is clear from the above that we meet the standards the extraordinary pleading process for an action under *Rule* 1.630

### **JUDICIAL DISCRETION**

Binding vertical precedent has been available to be applied to all points herein. This is also true on the matter of this Court’s discretion which is provided by Florida’s Supreme Court. Again quoting the Honorable Judge Padovano:

**“if the act sought to be compelled is indisputably required by a valid statute, the court is left with no room for the exercise of discretion and must grant the writ in keeping with the law.**

*Comcoa v. Coe*, 587 So.2d 474 (Fla. 3d DCA 1991). See also *Tweed v. Sistrunk*, 697 So.2d 888 (Fla. 5th DCA 1997); *Mattson v. Kolhage*, 569 So.2d 1358 (Fla. 3d DCA 1990).” *Fla. Appellate Practice* pg#12-6

That’s because

“The discretion resting in the court to grant or deny a writ of mandamus is not an arbitrary one but a judicial or legal discretion, regulated by established rules of law. It connotes the exercise of opinion and judgment circumscribed by law, and where the right is indisputable, there is no room for the exercise of discretion other than in keeping with the law.” *Comcoa v. Coe*, 587 So.2d 474 (Padovano, Fla. 3d DCA 1991)

Which is in harmony with the duty of *Florida Statute* 1000.03(2) “The Legislature shall establish education policy, enact education laws and ... [t]he Board of Governors shall oversee the enforcement of all state university laws”.

Mandamus is the correct remedy, a prima facie case for relief has been shown, and there is no discretion for this Court not to grant the alternative writ pursuant to *Rule* 1.630, a right secured by the Constitutions of both the United States and Florida.

Respectfully submitted February 4, 2020

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