

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

Andrew Spar on behalf of himself and his minor child; Laura Bell on behalf of herself and her minor child; **Tamara Haleem** on behalf of herself and her minor child; **Stephanie Vanos** on behalf of herself and her minor children; **Earlishia Oates** on behalf of herself and her minor child; **Suzanne Sapp** on behalf of herself and her minor child; **Aaryn Frick**, on behalf of herself and her minor children; **Robert Lyons**; and **Florida Education Association**,

Plaintiffs,

v.

Case No.: 2026 CA 000929

Anastasios “Stasi” Kamoutsas, in his official capacity as the Commissioner of Education for the State of Florida; the **Florida Department of Education**; **Ryan Petty**, in his official capacity as Chair of the Florida State Board of Education; **MaryLynn Mager**, in her capacity as Vice Chair of the Florida State Board of Education; **Grazie P. Christie**, in her official capacity as member of the Florida State Board of Education; **Layla Collins**, in her official capacity as member of the Florida State Board of Education; **Daniel P. Foganholi, Sr.**, in his official capacity as member of the Florida State Board of Education; **Erika Fritz-Ochs**, in her official capacity as member of the Florida State Board of Education; **Luis Fuste**, in his official capacity as member of the Florida State Board of Education; and the **Florida State Board of Education**,

Defendants.

MOTION TO INTERVENE AND MEMORANDUM OF LAW IN SUPPORT

For the reasons below, Parents Tatiana Cox Lopez, Jessica Tillmann, and Alyssa Hines, and Julie Schulman (“Parents”) respectfully move for leave to intervene as defendants to defend the Family Empowerment Scholarship Programs against Plaintiffs’ challenges in Counts 1, 2, and 4 of their Complaint and their demands for relief. In support of this Motion to Intervene, Parents set forth the following grounds and attach a proposed Answer as Exhibit E.

INTRODUCTION

Florida has been a national leader in providing educational choice options for its parents and students for more than two decades. Now, more than half of all Florida's K-12 students voluntarily participate in an education choice program. Like hundreds of thousands of other families, Parents have children who are currently receiving the Family Empowerment Scholarship for Educational Options or the Family Empowerment Scholarship for Students with Unique Abilities (collectively, the "Scholarship Programs"). § 1002.394, Fla. Stat. The Scholarship Programs provide education savings accounts for eligible students to fund qualified educational expenses and were enacted by the Florida Legislature to improve primary and secondary education and to provide Florida families with increased educational options. *See id.* Parents are the intended and direct beneficiaries of the Scholarship Programs and are effectively the real parties in interest for claims against those programs.

In Counts 1, 2, and 4, Plaintiffs' complaint seeks to enjoin the scholarships provided under the Scholarship Programs. Parents seek intervenor-defendant party status to defend the constitutionality of the Scholarship Programs that they depend on to afford the best educational options for their families. Intervention by Parents is warranted under Rule 1.230 of the Florida Rules of Civil Procedure. Parents have a strong interest in providing for their children's educational needs. Indeed, parents of children participating in educational choice programs are routinely granted intervention to defend the programs when they are challenged in court. *See infra* pp. 13–14 nn.3–4. This case is no different, and intervention is warranted.

This motion is based on the facts and law set forth here and on Parents' declarations, attached as Exhibits A–D.

STATEMENT OF FACTS

I. The Scholarship Programs & Plaintiffs' Challenge

The Scholarship Programs are education savings account (ESA) programs that have both existed in Florida for many years. Both programs provide ESA scholarships for qualified families to ensure all families can access the best education for their children. Participation is optional, and families may continue to attend their traditional public schools. But if a family determines that a traditional public school is not the best option for their child, the Scholarship Programs create additional opportunities and flexibility in education. They also help address disparities in educational options to children throughout the state.

The Family Empowerment Scholarship for Students with Unique Abilities (“Unique Abilities Scholarship”) originated in 2014. It was originally named the Personal Learning Scholarship Accounts and provided ESAs to students with certain special needs. This program was expanded and renamed twice, first to the Gardiner Scholarship in 2016, and then to its current name in 2021. Ch. 21-27, § 4, Laws of Fla.

The Family Empowerment Scholarship for Educational Options (“Educational Options Scholarship”) began in 2019. Ch. 19-23, § 6, Laws of Fla. It initially provided ESAs to students who met certain income and other eligibility requirements but were not eligible for the Unique Abilities Scholarship or its predecessor programs. It was expanded in 2022 (Ch. 22-154, § 12, Laws of Fla.) and again in 2023 (Ch. 23-16, § 5, Laws of Fla.), becoming a universal scholarship program for all children in the state.

All school-aged students in Florida are eligible for the Educational Options Scholarship, while students ages 3-22 who have an Individualized Education Plan (“IEP”) under the federal Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400–1482, or a diagnosis of a qualifying condition are eligible for the Unique Abilities Scholarship. § 1002.394(3)(a)–(b), Fla. Stat. Scholarship amounts for

the Educational Options Scholarship are based on the grade level and school district in which a student was assigned, with scholarships approximating the per-student funds for their assigned school. Unique Abilities Scholarship students receive a higher amount that includes their portion of special education funds. § 1002.394(12). Parents and guardians can use Scholarship Program funds to pay for a variety of educational expenses, including tuition and fees for various kinds of qualified schools, tutoring programs, and supplies like textbooks. § 1002.394(4)(a)–(b). Unique Abilities Scholarship students can use the funds for a variety of services and therapies that can address their needs. § 1002.394(4)(b).

Plaintiffs, the Florida Education Association, a current school teacher, and seven public-school parents, filed this lawsuit on May 5, 2026, challenging the Scholarship Programs on state constitutional grounds. Plaintiffs argue that the Scholarship Programs violate Article IX, Sections 1(a) and 6 of the Florida Constitution. Compl. ¶¶ 71–80, 85–89. Plaintiffs also argue that charter schools violate Article IX, Section 1(a) of the Florida Constitution. Compl. ¶¶ 81–84. Based on these claims, Plaintiffs assert irreparable harm and ask this Court to declare that the Scholarship Programs violate Article IX of the Florida Constitution and to issue an injunction prohibiting the State from funding Scholarship Program scholarships for Florida families and prohibiting the funding of charter schools. Compl. pp. 37–38.

II. Applicant Parents and Their Interest in the Scholarship Programs

Parents Tatiana Cox Lopez, Jessica Tillmann, Alyssa Hines, and Julie Schulman are the parents of children approved for scholarships from the Scholarship Programs. *See* Exhibits A–D. Accordingly, Parents are the Scholarship Programs’ direct beneficiaries. They now seek to intervene in this case to defend the Scholarship Programs and their interest in it.

A. Tatiana Cox Lopez

Tatiana Cox Lopez is a mother of two daughters in Oldsmar. *See* Exhibit A, Cox Lopez Decl., ¶¶ 1–3. Both daughters are homeschooled by Tatiana and her husband. *Id.* ¶ 2. A.C. will be entering

seventh grade in the fall, and Am.C. will be entering first grade. *Id.* A.C. has been part of the Unique Abilities Scholarship since 2024, while Am.C. started receiving a Personalized Education Plan scholarship in kindergarten. *Id.* ¶¶ 5, 6, 10, 15.

Tatiana decided to homeschool her daughters to provide them an education that best fits their learning styles. *Id.* ¶¶ 7–11, 16. A.C. has ADHD and dyslexia, and the standard classroom environment did not fit her needs, resulting in her falling behind in her classes and becoming increasingly frustrated with school. *Id.* ¶¶ 7–8. Tatiana and her husband used the unschool method to help revive A.C.’s love for learning, focusing on learning through her interests, hands-on activities, outdoor experiences, reading together, and everyday life skills. *Id.* ¶ 10. This method helped them determine how A.C. learned best without the pressure she previously felt in the classroom. *Id.* For fifth and sixth grade, the Unique Abilities Scholarship has allowed them to provide A.C. with a more structured homeschool, using the curriculum and textbooks that fit her needs as well as tutors to help her learn. *Id.* ¶ 11.

Without the Scholarship Programs, Tatiana’s family would face significant harm. *Id.* ¶ 13. Her family would struggle to provide the resources A.C. needs, creating a major financial burden that might force them to re-enroll A.C. in traditional classrooms despite her previous difficulties in those classes. *Id.*

B. Jessica Tillmann

Jessica Tillmann is a mother of four children in Longwood. *See* Exhibit B, Tillmann Decl., ¶¶ 1–3. Her daughter J.T. will be entering twelfth grade in the fall, her son C.G.T. will be entering fourth grade, her son C.T.T. will be entering second grade, and her daughter G.T. will be entering kindergarten. *Id.* ¶ 2. J.T. attends private school part-time as part of a Personalized Education Plan that includes dual enrollment at the local junior college. *Id.* ¶¶ 2, 5. Her son C.G.T. attends private

school using the Unique Abilities Scholarship, while her son C.T.T. and her daughter G.T. attend private school using the Educational Options Scholarship. *Id.* ¶¶ 2, 5, 11–12.

Although J.T. is currently in private school, she attended local public schools for kindergarten through sixth grade. *Id.* ¶¶ 6–7. Jessica and her husband moved to Seminole County because of its great public schools, and the schools lived up to that reputation for the first few years of J.T.’s schooling. *Id.* Unfortunately, COVID changed that experience, and J.T. was not learning as well with either the COVID-restricted in-person learning or with remote learning. *Id.* ¶ 8. The decline in the public schools prompted Jessica to use Florida’s scholarships to pursue a better option for J.T. and for C.G.T. when he was entering kindergarten in the fall of 2021. *Id.* ¶ 9. She enrolled them both in Smith Preparatory Academy, which she chose because of its Classical Christian curriculum and its affordability with the scholarship. *Id.*

When J.T. was entering high school in the fall of 2023, Jessica considered moving J.T. and C.G.T. back to public school. *Id.* ¶¶ 10, 13–14. They toured both public schools that J.T. and C.G.T. would respectively attend. *Id.* ¶¶ 13–14. Unfortunately, the high school was not as responsive to questions and concerns as the local public schools had been before COVID, and the elementary school was too large to be a good fit for C.G.T. after his experience in smaller classes. *Id.* Because the local public schools do not offer the same quality of education they offered before COVID, Jessica chose instead to enroll J.T., C.G.T., and eventually their younger siblings in another private school, Champion Preparatory Academy, using the Scholarship Programs. *Id.* ¶¶ 10, 16.

Even with the scholarships, tuition at private schools is difficult to afford for all four children. *Id.* ¶ 11. Jessica intends to enroll the three younger children at more affordable private schools in that area starting in the fall. *Id.* ¶ 12.

Without the Scholarship Programs, Jessica's family would face significant harm. *Id.* ¶ 17. She could not afford to keep all four children in private school, and whichever of the children had to return to public school would suffer harm to their academic development. *Id.*

C. Alyssa Hines

Alyssa Hines is a mother of two children in Temple Terrace. *See* Exhibit C, Hines Decl., ¶¶ 1–3. Her daughter A.H. will be entering fifth grade in the fall, and her son E.H. will be entering second grade. *Id.* ¶ 2. Both children use the Educational Options scholarship to attend private school. *Id.* ¶¶ 2, 5.

Alyssa loved public school growing up, and she really wanted her children to attend public school as well. *Id.* ¶¶ 6–8. Unfortunately, the local public schools have issues with gangs and bullying, and Alyssa could not find a public school in their zoned district that would be safe enough for her children to attend. *See id.* She searched online for private school options, but her family could not afford multiple years of tuition for even one of the children. *Id.* ¶ 7. She learned about the scholarships when searching for ways to afford private school for her children, and the scholarship has allowed her family to afford tuition for both children. *Id.* ¶¶ 7, 9. In addition to being safe for the kids, the private school option has also allowed her kids to learn in an environment that avoids electronic technology, focusing on learning from books and pencil and paper in a way that has helped both A.H. and E.H. succeed academically. *Id.* ¶ 9.

Without the Scholarship Programs, Alyssa's family would face significant harm. *Id.* ¶ 10. She could not afford tuition for the children, and because she does not want to send them to an unsafe school, she would either have to find a second job to afford tuition or quit her current job to focus on homeschooling. *Id.* Neither losing their current school or spending less time with their mother would be good options for A.H. and E.H. *Id.*

D. Julie Schulman

Julie Schulman is a mother of two children in Boca Raton. *See* Exhibit D, Schulman Decl., ¶¶ 1–3. Her daughter R.S. will be entering fourth grade in the fall, and her son J.S. will be entering second grade *Id.* ¶ 2. R.S. attends Katz Hillel Day School, a private school in Boca Raton, using the Educational Options Scholarship. *Id.* ¶¶ 2, 5. J.S. attends his local public elementary school, Sandpiper Shores Elementary School. *Id.* ¶ 2.

Julie chose to enroll her children in different schools because of their different needs. *See id.* ¶¶ 6–11. R.S. attends Katz Hillel because it provides the academic challenge she needs, the academic support in math where she needs more help, and the religious education that matches what she learns at home. *Id.* ¶¶ 6–7. J.S. attends Sandpiper Shores because he has unique educational needs, and the public school is better able to meet those needs than any private school Julie has found. *Id.* ¶ 8. J.S. has an Individualized Education Program through this school, and he receives needed therapies both through his school and through additional private sessions. *Id.* ¶ 9. The public school also provides a summer school that allows him to receive needed services under his IEP. *Id.* ¶ 10.

Without the Scholarship Programs, Julie’s family would face significant harm. *Id.* ¶ 12. They would have to choose between J.S.’s additional therapy services or R.S.’s tuition, and they would likely suffer financial harm to their other needs even with those harms to their children’s education. *Id.*

ARGUMENT

This Court should allow Parents to intervene in this case. Parents have children who are participants in the Scholarship Programs, and thus, are the intended beneficiaries of these programs. Parents and guardians of participating children, as the intended beneficiaries of the educational choice programs, are routinely granted leave when their constitutionality is challenged. *See infra* pp.13–14 nn.3–4.

The Florida Rules of Civil Procedure provide that:

Anyone claiming an interest in pending litigation may at any time be permitted to assert his right by intervention, but the intervention shall be in subordination to, and in recognition of, the propriety of the main proceeding, unless otherwise ordered by the court in its discretion.

Fla. R. Civ. P. 1.230.

Florida courts apply a two-part test on a motion to intervene. *Lexington Ins. Co. v. James*, 295 So. 3d 367, 371 (Fla. 1st DCA 2020). “First, the trial court must determine that the interest asserted is appropriate to support intervention.” *Id.* (quoting *Union Cent. Life Ins. Co. v. Carlisle*, 593 So. 2d 505, 507–08 (Fla. 1992)). If the “requisite interest exists, the court should “consider a number of factors,” such as “the size of the interest, the potential for conflicts or new issues, and any other relevant circumstance.” *Id.* (quoting same). “Second, the court must determine the parameters of the intervention.” *Id.* (quoting same). The parameters are ones that “protect the interests of all parties.” *Id.* (quoting same). And while Florida courts presume that the proposed intervenor seeks a status subordinate to the main parties (preventing the intervenor from acting independently to protect their rights), courts may order intervention without subordination. *See* Fla. R. Civ. P. 1.230 (“unless otherwise ordered by the court”). Here, for reasons discussed below, Parents seek intervention *without* subordination.

Intervention should be liberally allowed. *Miracle House Corp. v. Haige*, 96 So. 2d 417 (Fla. 1957). An intervenor must accept the record and pleadings as he or she finds them and cannot raise new issues, although he or she may argue the issues as they apply to him or her as a party. *Riviera Club v. Belle Mead Dev. Corp.*, 141 Fla. 538, 194 So. 783 (Fla. 1940); *Williams v. Nussbaum*, 419 So. 2d 715 (Fla. 1st DCA 1982). Moreover, “[a] proposed intervenor’s interest may be in the entire suit, or some part thereof.” *Nat’l Wildlife Fed’n, Inc. v. Glisson*, 531 So. 2d 996, 998 (Fla. 1st DCA 1988).

A. Parents—direct beneficiaries of the Scholarship Program—have a weighty interest to intervene, have moved timely, and will not prejudice existing parties.

First, Parents have the requisite interest to intervene. An interest for intervention “must be in the matter in litigation, and of such a direct and immediate character that the intervenor will either gain or lose by the direct legal effect and operation of the judgment.” *Lexington Ins. Co.*, 295 So. 3d at 370–71 (quoting *Union Cent. Life Ins. Co.*, 593 So. 2d at 507). As the parents of children who are eligible to participate in the Scholarship Programs, Parents have a current, significant interest in the continued existence of the programs and will lose scholarships by direct operation of any judgment enjoining funding. This immediate financial interest is precisely the type of interest that Rule 1.230 is designed to protect.

Although the Florida Supreme Court has not addressed the precise question of how Rule 1.230 affects program beneficiaries when only state defendants are named in the Complaint, this Court may look to the decisions of the federal courts in applying Federal Rule of Civil Procedure Rule 24 because the Florida rule and the modern federal rule are both based on the old federal equity rule regarding interests supporting intervention. *See* Fla. R. Civ. P. 1.230 1967 author’s cmt. (“In Federal practice, intervention is covered by Rule 24, Federal Rules of Civil Procedure. This rule was derived from old federal equity rule 37, which formed the basis for our Rule 1.230.”).

Federal courts have repeatedly held that the beneficiaries of a government program or law have the requisite interest to intervene as a matter of right when the program or law is challenged. *E.g.*, *Texas v. United States*, 805 F.3d 653, 660 (5th Cir. 2015) (allowing immigrant parents to intervene as the “intended beneficiaries of the challenged federal policy” deferring deportation of parents of U.S. citizens); *Flying J., Inc. v. Van Hollen*, 578 F.3d 569, 572 (7th Cir. 2009) (allowing Wisconsin retailers to intervene in a lawsuit challenging the state’s gasoline price-competition law because “[t]hey [we]re the statute’s direct beneficiaries”); *State of California ex rel. Lockyer v. United States*, 450 F.3d 436, 441 (9th Cir. 2006) (allowing health care providers to intervene to defend conscience protection law because

“[t]hey [we]re the intended beneficiaries of th[e] law”); *Cotter v. Mass. Ass’n of Minority Law Enforcement Officers*, 219 F.3d 31, 37 (1st Cir. 2000) (permitting minority police officers to intervene to defend police department’s promotion of minority officers); *County of Fresno v. Andrus*, 622 F.2d 436, 438 (9th Cir. 1980) (allowing small farmers to intervene to defend rulemaking under reclamation act because farmers were “precisely those Congress intended to protect with the reclamation acts”); *Associated Gen. Contractors of Am. v. Cal. Dep’t of Transp.*, No. 09-01622, 2009 WL 5206722, at *2 (E.D. Cal. Dec. 22, 2009) (“Intervenors have a protectable interest in the lawsuit, as they represent the intended beneficiaries of the government program at issue.”); *United States v. Dixwell Hous. Dev. Corp.*, 71 F.R.D. 558, 560 (D. Conn. 1976) (allowing housing project tenants to intervene to defend portions of the National Housing Act because “their interest as beneficiaries of two aspects of the . . . Act” was “sufficient to support intervention”).

Parents’ interest in this litigation is also inextricably intertwined with their fundamental liberty interest in “direct[ing] the upbringing and education of” their children. *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 534–35 (1925); *see also Meyer v. Nebraska*, 262 U.S. 390, 401 (1923) (recognizing the right of parents “to control the education of their own”). The very purpose of the Scholarship Programs, after all, is to empower parents and guardians to exercise this liberty interest. The U.S. Supreme Court has repeatedly held that this liberty interest includes a parent’s right to choose the most appropriate schooling for her child.¹ Plaintiffs also are directly targeting this interest because their primary

¹ *Wisconsin v. Yoder*, 406 U.S. 205, 213–14 (1972) (recognizing “the right of parents to provide an equivalent education in a privately operated system” and that “the values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society”); *Pierce*, 268 U.S. at 534–35 (recognizing the “liberty of parents and guardians to direct the upbringing and education of children under their control”); *id.* at 535 (“The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only.”); *Meyer*, 262 U.S. at 399, 400 (holding that the Due Process Clause protects the liberty “to acquire useful knowledge . . . and bring up children,” including “the right of parents to engage [a private teacher] to instruct their children”); *see also Espinoza v. Mont. Dep’t of Revenue*, 591 U.S.464, 486 (2020) (“[W]e have

argument against the Scholarship Programs is that participants like Parents are enrolling their children in schools that the Plaintiffs do not like. *See, e.g.*, Compl. ¶¶ 73, 88. Arguing that the State Defendants should prevent Parents from using scholarship funds for current schools directly implicates Parents’ interests in the upbringing of their children.

Parents should be granted intervention because Plaintiffs’ lawsuit may impair or impede Parents’ ability to protect their interest. If Plaintiffs prevail, Parents will lose their scholarships under the Scholarship Programs and will have no opportunity to defend their interests in those scholarships in any separate lawsuit. “[A] lost opportunity to seek a government benefit”—including, specifically, participation in an educational choice program—is an “injury in fact” that satisfies even the stringent Article III standing requirements of the U.S. Constitution. *Carson ex rel. O.C. v. Makin*, 979 F.3d 21, 31 (1st Cir. 2020), *reversed on other grounds*, 596 U.S. 767 (2022). As one recent court decision granting parents’ intervention in a similar case stated, “no one can dispute that parents have a particularly strong interest in the education of their children, and, particularly, parents who are participating in the account program and benefitting from it and stand to lose that benefit if the Court were to find the program unconstitutional.” Doc. 43, *Faulkenberry v. Ark. Dep’t of Educ.*, No. 4:25cv592 (E.D. Ark. Feb. 17, 2026), at 103.

And on a fundamental level, “[a]n applicant’s interest is plainly impaired if disposition of the action in which intervention is sought will prevent any future attempts by the applicant to pursue its interest.” James Wm. Moore et al., 6 *Moore’s Federal Practice* § 24.03 (3d ed. supp. 2007); *see Nixon*, 34

long recognized the rights of parents to direct ‘the religious upbringing’ of their children. Many parents exercise that right by sending their children to religious schools, a choice protected by the Constitution.” (citation omitted)); *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) (“In a long line of cases, we have held that . . . the ‘liberty’ specially protected by the Due Process Clause includes the right[] . . . to direct the education and upbringing of one’s children”); *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (plurality) (“The liberty interest at issue in this case—the interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court.”).

S.W.3d at 131. That is the case here. Parents and their children not only stand to lose their aid—they “have no alternative forum where they can mount a robust defense.” *Lockyer*, 450 F.3d at 442. Should the Scholarship Programs be ruled unconstitutional, “the beneficiaries under the [Program]”—Parents and their children—“would have no chance in future proceedings to have its constitutionality upheld.” *Saunders, v. Superior Ct.*, 510 P.2d 740, 741–42 (Ariz. 1973). “This practical disadvantage to the protection of their interest . . . warrants their intervention as of right.” *Id.* at 742.

With that requisite interest acknowledged, the Court can also grant Parents intervention to defend against Counts 1, 2, and 4 without prejudicing the existing parties. This motion is timely, as it is filed within days of the complaint and well before the close of pleadings, let alone commencement of discovery or other proceedings. *See Nat’l Wildlife Fed’n Inc. v. Glisson*, 531 So. 2d 996, 997–98 (Fla. 1st DCA 1988). Parents are also amenable to proceeding on any schedule agreed to by Plaintiffs and the State Defendants in order to prevent any delay or disruption to the case.

B. Parents should be granted intervention on Counts 1, 2, and 4 *without* subordination because only they, not named defendants, stand to suffer direct harm from an injunction and can advance fundamental parental rights at stake.

Second, Parents also respectfully request that intervention be limited to Counts 1, 2, and 4 but also be granted without subordination to parties. The most direct impact of those counts is on Parents, not the State Defendants. Parents should have full rights of argument and appeal because of the disproportionate impact that those counts have on them relative to the other parties.

For one example, the State Defendants are not in the best position to protect the equitable interests of parents. The equitable nature of injunctive relief means that the court must “balance[e] the relative conveniences of the parties.” *See Ortega Co. v. Justiss*, 175 So. 2d 554, 559–60 (Fla. 1st DCA 1965); *accord Lee County v. Fort Myers Airways, Inc.*, 688 So. 2d 389, 390 (Fla. 2d DCA 1997); *Liz̃a Danielle, Inc. v. Jamko, Inc.*, 408 So. 2d 735, 740 (Fla. 3d DCA 1982). The purpose of this rule is to prevent an injunction where the harm of the injunction “is wholly disproportionate to the benefit to the other

party.” *Lee County*, 688 So. 2d at 390. An injunction against spending money on the program simply would not harm the State Defendants in the way it would utterly disrupt the education and lives of Parents’ children and thereby impose an extremely disproportionate remedy. The State also lacks relevant knowledge regarding the children, their experiences in the Scholarship Programs, and the injury that any injunction would inflict on Parents.

Parents also seek intervention without subordination to protect their parental rights that the State Defendants cannot invoke. This right should not be subordinated to the state’s interests because the state is not a parent and cannot invoke those rights in defense against the claims. Plaintiffs’ theory threatens federal parental rights because it posits a right for outsiders to interfere in how Parents educate their children. Again, under federal law, Parents have a fundamental right to direct the education and upbringing of their children. *Pierce*, 268 U.S. 510 at 534–35; *Meyer*, 262 U.S. at 390, 401. Under Plaintiffs’ interpretation of Florida law, Parents’ children also have their own constitutional right to a “uniform, efficient, safe, secure, and high quality” education, Art. IX, § 1, Fla. Const., which implies these Plaintiffs can invoke the children’s rights to challenge the Scholarship Programs, regardless of Parents’ views (and decisions) as to the best education options for the children. Such reassignment of the children’s rights from their Parents to the Plaintiffs would violate federal law, and permitting Parents to intervene without subordination is necessary to fully defend those federal rights in this court and in any appeal.

Past experience in education choice litigation reaffirms that Parents risk real harm if their interests are subordinated to the government’s interests. For example, in *Arizona Christian School Tuition Organization v. Winn*, 563 U.S. 125 (2011), parent intervenors successfully argued that the plaintiffs challenging the educational choice program lacked standing, an issue that the state conceded. The state similarly conceded standing in *Duncan v. State*, 102 A.3d 913 (N.H. 2014), while the parent intervenors successfully argued that the statute conferring standing was unconstitutional. In *Kotterman v. Killian*,

972 P.2d 606 (Ariz. 1999), parent intervenors—not the state—urged and convinced the court to confront the bigoted origins of the provision of the Arizona Constitution that the plaintiffs were using to attack the state’s educational choice program. And parent-intervenors’ argument about interpreting Tennessee’s Home Rule Amendment, a position the state only later embraced, proved decisive to upholding the state’s program. *See Metro. Gov’t of Nashville & Davidson Cnty. v. Tenn. Dep’t of Educ.*, 645 S.W.3d 141, 151–52 (Tenn. 2022) (noting that “[i]ntervenors, and now the State as well,” had advanced the argument).

Furthermore, participation of Parents’ counsel will also assist this Court in its resolution of the questions before it. Attorneys from EdChoice Legal Advocates are currently representing intervenors as lead counsel in the defense of educational choice programs in multiple states, including defending Arkansas’s education savings account program, Montana’s education savings account program for students with special needs, Missouri’s tax credit scholarship program, and Wyoming’s education savings account program. *See, e.g., Lara v. Faulkenberry*, 725 S.W.3d 26 (Ark. 2025); *Faulkenberry v. Ark. Dep’t of Educ.*, No. 4:25cv592 (E.D. Ark.); *Mo. Nat’l Educ. Ass’n v. Missouri*, No. 25AC-CC05358 (Cole Cnty. Cir. Ct.); *Mont. Quality Educ. Coal. v. Montana*, No. ADV-25-2024-0000044-IJ (Lewis & Clark Cnty. Dist. Ct.); *Wyo. Educ. Ass’n v. Degenfelder*, No. 2025-CV-020336 (Laramie Cnty. Dist. Ct.). In addition, EdChoice Legal Advocates has partnered with Institute for Justice as co-counsel in education choice defense cases in Tennessee, Ohio, and Utah. *See, e.g., Bichell, et al. v. Lee, et al. and Natu Bah, et al.*, No. 20-0242-II (Davidson Cnty. Chancery Ct.); *Columbus City Sch. Dist. v. Ohio*, No. 22-CV-67 (Franklin Cnty. Dist. Ct.); *Labresh v. Cox*, No. 240904193 (Salt Lake City Cnty. Dist. Ct.). Because of that experience and that partnership, EdChoice Legal Advocates offers this court unique expertise developed over decades of litigating educational choice programs.² Further, counsel

² These programs include Arizona’s individual tax credit scholarship program, *Ariz. Christian Sch. Tuition Org. v. Winn*, 563 U.S. 125 (2011); *Kotterman v. Killian*, 972 P.2d 606 (Ariz. 1999); Ohio’s Pilot

from Shutts & Bowen LLP offers this court unique expertise having been involved in both implementing and defending school choice policies in Florida for more than a decade.³

In short, intervention is warranted for Parents to protect their interests in the Scholarship Programs that the suit threatens in Counts 1, 2, and 4. No parameters are needed beyond limiting intervention to those counts because the motion is timely, and intervention should also be granted without subordination to avoid prejudice to Parents' equitable interests and federal parental rights that are threatened by the Complaint. For these reasons, intervention as of right is warranted.

CONCLUSION

In nearly every legal challenge to an educational choice program over the last three decades, parents who have sought to intervene to defend the program have been permitted to do so. If the funding for the Scholarship Programs is declared unconstitutional, Parents and many other Florida parents will forever lose the opportunity to protect their interest in the greater educational opportunity

Project Scholarship Program, *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002); *Simmons-Harris v. Goff*, 711 N.E.2d 203 (Ohio 1999); Douglas County, Colorado's voucher program, *Doyle v. Taxpayers for Pub. Educ.*, 582 U.S. 950 (2017) (mem.); West Virginia's educational savings account program, *State v. Beaver*, 887 S.E.2d 610 (W. Va. 2022); Tennessee's education savings account program, *Metro. Gov't of Nashville & Davidson Cnty. v. Tennessee Dep't of Educ.*, 645 S.W.3d 141 (Tenn. 2022); Georgia's tax credit scholarship program, *Gaddy v. Ga. Dep't of Revenue*, 802 S.E.2d 225 (Ga. 2017); North Carolina's voucher program, *Hart v. State*, 774 S.E.2d 281 (N.C. 2015); Alabama's tax credit scholarship program, *Magee v. Boyd*, 175 So. 3d 79 (Ala. 2015); New Hampshire's tax credit scholarship program, *Duncan v. State*, 102 A.3d 913 (N.H. 2014); Indiana's voucher program, *Meredith v. Pence*, 984 N.E.2d 1213 (Ind. 2013); Arizona's educational savings account program, *Niehaus v. Huppenthal*, 310 P.3d 983 (Ariz. Ct. App. 2013); Arizona's corporate tax credit scholarship program, *Green v. Garriott*, 212 P.3d 96 (Ariz. Ct. App. 2009); Illinois' tax credit program, *Toney v. Bower*, 744 N.E.2d 351 (Ill. App. Ct. 2001); *Griffith v. Bower*, 747 N.E.2d 423 (Ill. App. Ct. 2001); and Milwaukee's voucher program, *Jackson v. Benson*, 578 N.W.2d 602 (Wis. 1998); *Davis v. Grover*, 480 N.W.2d 460 (Wis. 1992).

³ Counsel Benjamin J. Gibson is a former Chair of the State Board of Education, serving on the Board from 2017-2025 and implementing the school choice policies being challenged and is a former Deputy General Counsel for the Governor overseeing education litigation from 2012-2017; counsel Daniel E. Nordby is a former Assistant General Counsel for the Department of Education and oversaw education litigation as a former General Counsel for the Governor from 2017-2018.

that the Scholarship Programs provides. To protect the educational futures of their children, Parents should be allowed to intervene as defendants. Parents, therefore, respectfully request that this Court grant them leave to intervene without subordination as defendants in this case.

DATED: June 18, 2026

Respectfully submitted,

/s/ Benjamin J. Gibson

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*Applications to appear *pro hac vice* forthcoming.

CERTIFICATE OF GOOD FAITH CONFERENCE

I certify that prior to filing this motion, I discussed the relief requested in this motion by telephone with Martin F. Powell, counsel for the named Plaintiffs, and in subsequent emails on June 16, 2026, and Plaintiffs do not object to intervention, but do not consent to intervention with full party status without subordination. I certify that prior to filing this motion, I discussed the relief requested in this motion by telephone with David Dewhirst counsel for the named Defendants, on June 18, 2026, and Defendants do not object to the relief requested in the motion.

/s/ Benjamin J. Gibson

Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed and served via the Court's electronic filing system on all counsel of record this 18th day of June, 2026. I further certify that a true and correct copy of the foregoing motion was served via email to David Dewhirst and Jason Gonzalez, counsel for the named Defendants.

/s/ Benjamin J. Gibson

Attorney

EXHIBIT A

State of Florida)
) ss.
)

I, Tatiana Cox Lopez, declare as follows:

1. I am a resident of Oldsmar, Florida. I am an adult over the age of 18 years, have personal knowledge as to all matters contained herein, and am fully competent to make this declaration.

2. My husband and I are the parents of two children. Our daughter A.C. is thirteen years old and in sixth grade for the 2025-2026 school year. She will be in seventh grade in the fall. Our daughter Am.C. is five years old and in kindergarten for the 2025-2026 school year. She will be in first grade in the fall. We homeschool both of our daughters.

3. My husband and I have sole legal and physical custody of A.C. and Am.C.

4. I was formerly employed as a paralegal. During the COVID pandemic, my husband and I started a nonprofit to promote kayak fishing and environmental conservation. We currently operate our business in addition to homeschooling our daughters.

5. Our daughter A.C. has received a Family Empowerment Scholarship through Step Up for Students since 2024.

6. I first heard about the various scholarships from a friend whose daughter was slightly older than my daughter and attended the same Catholic school I wanted my daughter to attend. We used the Florida Tax Credit Scholarship to afford enrolling A.C. in Catholic school.

7. When A.C. was in early elementary grades, we enrolled her in two different private Catholic schools. Even though she switched schools starting in second grade, she was struggling in some of her classes. She had such difficulty with math that she was falling behind in her grade level and becoming increasingly frustrated with the subject.

8. The traditional “one-size-fits-all” classroom was inappropriate for A.C.’s needs. She was eventually diagnosed with ADHD and dyslexia, and we thought she needed an environment that focused more on her learning needs than the standard classroom environment could provide.

9. In the middle of the spring semester of fourth grade, we switched A.C. to homeschool. I also contacted Step Up for Students about A.C. leaving Catholic school, and they introduced me to the Unique Abilities and Personalized Education Plan options for homeschool scholarships. I switched A.C. to the Unique Abilities scholarship in 2024.

10. To help A.C. catch up, for the last few months of fourth grade we used what homeschoolers commonly refer to as the “unschool” method—instead of following a strict curriculum right away, A.C. learned through her interests, hands-on activities, outdoor experiences, reading together, and everyday life skills. We leaned toward an unschool approach because A.C. was very overwhelmed and frustrated with traditional learning after struggling in school. Unschooling gave her time to rebuild her confidence and allowed me to understand better how she learned best without the pressure she had previously felt in the classroom. In those first few months of homeschool, A.C. repeated fourth grade math to help her prepare for fifth grade, but otherwise focused on the child-directed learning that is typical of the unschool method.

11. As A.C. moved into fifth and sixth grades, we gradually added more structure and routines into our homeschool days. Once we better understood her learning disability and learning style, we were able to choose curriculum and teaching methods that worked better for her needs. She now has a healthier balance between structured academics and hands-on learning opportunities, and I’ve seen a big improvement not only academically, but also in her confidence, independence, and overall attitude toward learning.

12. Because of the flexibility that the scholarship gave our family, we were able to tailor A.C.'s education to her needs. Using scholarship funds, we were able to pay for curriculum and textbooks for homeschool and to pay for individual online tutors for classes like math. She now loves math and is succeeding with it on grade level.

13. Without the scholarship for A.C., we would struggle to provide the education she needs because of the costs to our family. If the court were to stop the scholarship program, it would have a tremendous impact on our family both financially and emotionally. The scholarship has allowed us to provide my older daughter with educational support, curriculum, learning opportunities, and specialized support related to her learning disability that truly fit her unique needs. Before homeschooling, we watched her struggle academically and emotionally in a traditional classroom environment, and it was heartbreaking to see her confidence decline. Losing the scholarship would create a major financial burden, and we would likely have to make very difficult decisions about her education and potentially place her back into an environment where she was not thriving.

14. Beyond academics, homeschooling has positively impacted our entire family. It has reduced stress, improved my daughter's self-esteem, strengthened our relationship, and allowed her to rediscover a love for learning. The flexibility and support system that has helped my daughter succeed and grow into a more confident and capable child.

15. Because of A.C.'s success with the scholarship, we also enrolled Am.C. in the scholarship program. A.C. receives the Unique Abilities scholarship, while Am.C. receives the Personalized Education Program scholarship.

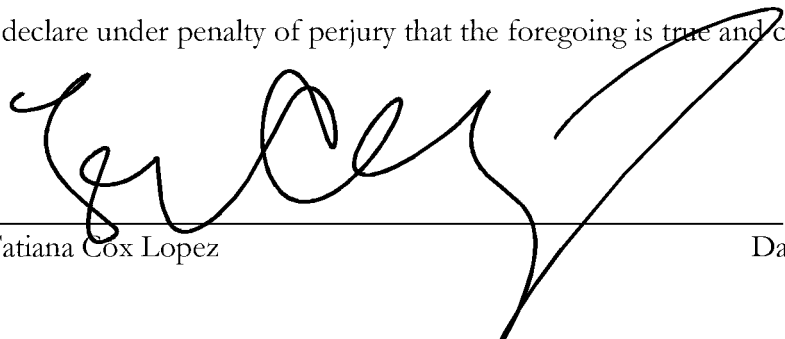
16. Am.C. has a very similar learning style to her older sister, and because of the experience we went through with our oldest daughter, we were able to recognize early the type of support and learning environment Am.C. would need to succeed. Through homeschooling, we have been able to tailor her

education to her own pace, allowing her to fully understand concepts before moving forward instead of feeling pressured to keep up in a traditional classroom setting.

17. Thanks to the scholarship program, we are able to provide Am.C. with educational resources, curriculum, and learning opportunities that fit her individual needs and learning style. It has given us the ability to create a more personalized and supportive education experience for her, giving Am.C. a better chance to learn confidently, comfortably, and at a pace that truly works for her.

18. Without the scholarship for Am.C., we would also have to make very difficult decisions about her education. Based on her similarities to her older sister, I believe placing her back into a traditional classroom setting would harm her educational progress.

I declare under penalty of perjury that the foregoing is true and correct.



Tatiana Cox Lopez

Date

5/11/2026

Oldsmar, Florida
City and State

EXHIBIT B

1. I am a resident of Longwood, Florida. I am an adult over the age of 18 years, have personal knowledge as to all matters contained herein, and am fully competent to make this declaration.

3. My husband and I have sole legal and physical custody of J.T., C.G.T., C.T.T., and G.T.

5. J.T. has received a scholarship through Step Up for Students since 2021. She was originally enrolled in the Family Empowerment Scholarship for Educational Options, but she switched to the Virtual Education Program for her junior year because she attends Champion Prep part time while enrolled at our local junior college. C.G.T., C.T.T., and G.T. have all received scholarships starting in kindergarten. C.T.T. and G.T. receive the same Family Empowerment Scholarship as J.T. received, while C.G.T. receives the Unique Abilities scholarship.

6. When J.T. was young, my husband and I moved to Seminole County because of its great public schools. We understood they were an A-rated district based on the state's school grade scale. They have also been listed as the number one district in the state by Niche.

7. J.T. attended our local public schools for kindergarten through sixth grade, from 2014 through 2021, and she had a great experience for the first several years. Whenever we had any issues with the local public school, the principals were great at helping and resolving any concerns.

8. Unfortunately, our experience with the public school declined during COVID. During J.T.'s sixth-grade year, 2020–2021, the local district had options for in-person learning with COVID restrictions or for remote learning. We used a hybrid option for J.T., and we did not think that either option was helping her learn.

9. For the 2021–2022 school year, we chose to enroll J.T. and C.G.T. in Smith Preparatory Academy using their scholarships. We chose SPA because of the Classical Christian curriculum and the affordability when using the scholarship.

10. For the 2023–2024 school year, J.T. was asking for a change for high school. We toured several schools in the area, and we chose Champion Prep as the best option because it had good academics, electives such as robotics, keyboarding (piano), guitar, and many art classes to choose from, and it had classes through twelfth grade. We enrolled both J.T. and C.G.T. there for the fall of 2023, using scholarships to be able to afford the tuition. Although the scholarship only covered part of the tuition there, we eventually enrolled all four children in that school.

11. While we intend to use the scholarship again next year, we will be changing schools for C.G.T., C.T.T., and G.T. due to costs. Even with their scholarships, affording tuition for all four of our children is becoming too costly for us to afford.

12. We have found local private schools that offer more affordable tuition rates while still offering good academics for our children. We will enroll C.G.T. in King of Kings Christian School in Maitland and enroll C.T.T. and G.T. in Ecclesial School at Northland in Longwood.

13. We did consider our local public school for J.T.'s ninth grade year because she wanted to consider Lake Mary High School. We attempted to tour the school, but I was not pleased with the response we received from the school. They only had students provide the tour. They could not answer all of my questions. The students did provide me with the person who would be in charge of her scheduling to answer my questions. But that person would not answer any specific questions unless we enrolled J.T. in the school.

14. We also toured the elementary school that C.G.T. would be attending in the public school system for the 2023–2024 school year. It was the same school J.T. attended. But we felt it was too large for C.G.T. and felt it would be too much for him after being in a small school, small class environment that he was used to in the private school he attended.

15. Since COVID, I became very active within the community, including helping to lead the removal of COVID protocols in the public schools. After hearing from many parents, teachers and staff for multiple ongoing years, it was clear the school system has declined in academics, safety, enrollment and good teacher retention. Enrollment has dropped from 67,000 students to 56,000 students. The district is facing a million-dollar budget deficit, and they continue to blame scholarships and decline in birthrates even though many of their problems are not financial.

16. I do not believe the public schools would be a good fit because of their decline post-COVID. I understand from families in the public schools that the school district no longer gives good principals and good teachers the autonomy it did before COVID and that the academic and personal development for students has suffered as a result. While I thought our local public schools gave J.T. a

good education before COVID, I believe they no longer offer that same quality of education for my younger children.

17. Without the scholarships, we could not afford the current education options for our children. Affording tuition for all our children is already difficult even with the scholarships helping with some of the costs. If a court were to stop the scholarship programs, we would likely have to return some or most of our children to the local public schools, which we believe will harm our children's academic development.

I declare under penalty of perjury that the foregoing is true and correct.

Signed by:

4384BFBC031745A...

Jessica Tillmann

6/15/2026

Date

Longwood, Florida
City and State

EXHIBIT C

State of Florida)
) ss.
)

I, Alyssa Hines, declare as follows:

1. I am a resident of Temple Terrace, Florida. I am an adult over the age of 18 years, have personal knowledge as to all matters contained herein, and am fully competent to make this declaration.

2. My husband and I are the parents of two children. Our daughter A.H. is nine years old and in fourth grade for the 2025-2026 school year. She will be in fifth grade in the fall. Our son E.H. is seven years old and in first grade for the 2025-2026 school year. He will be in second grade in the fall. Both A.H. and E.H. attend a private school.

3. My husband and I have sole legal and physical custody of A.H. and E.H.

4. My husband works as a contractor, while I work with my family's manufacturing facility.

5. A.H. has received a Family Empowerment Scholarship through Step Up for Students since 2022, while E.H. has received one since 2025.

6. We enrolled our children in private school because we were concerned about safety issues at the local public schools. We understand that they have issues with gangs and with bullying, and we think that safety is very important for our kids in their educational environment.

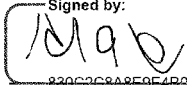
7. I first learned about the scholarships when searching online for ways to afford private schools for our children. The tuition was too costly for us to afford on our own for multiple years for even one of our children.

8. I grew up attending public school in a different area, and I loved public school. I tried so hard to find a reason that would make sense to send my kids to public school. I cannot find a public school in our zoned district that would be safe for my children to attend, though.

9. One of the leading attributes our children's school possesses is that it has helped their academic progress with the option to avoid electronic technology at home and in the classroom. The kids use books, pencils, and paper rather than tablets or computers. Since making that choice, with support of the school, both children are flourishing. The school also encourages parents' involvement in curriculum and open conversations about age-appropriate material. Small class sizes give them more time individually with the teacher. School safety while on campus is key for our family. The school is strict on parents, staff, and students taking personal responsibility and being held accountable for their behavior. I feel confident that inappropriate behavior and bullying will be handled effectively and immediately with the sole purpose to correct and develop everyone involved.

10. Without the scholarships, we could not afford tuition for our children. Because I cannot send my children to an unsafe school, the local public schools are not an option. I would either have to find a second job to afford the tuition, or I might quit my current job to focus on homeschooling our children instead. Neither option would be the best option for our children.

I declare under penalty of perjury that the foregoing is true and correct.

Signed by:


800C2C8A3E0E4B0...
 Alyssa Hines

6/18/2026

Date

Temple Terrace, Florida
 City and State

EXHIBIT D

State of Florida)
) ss.
)

I, Julie Schulman, declare as follows:

1. I am a resident of Boca Raton, Florida. I am an adult over the age of 18 years, have personal knowledge as to all matters contained herein, and am fully competent to make this declaration.
2. My husband and I are the parents of two children. Our daughter R.S. is nine years old and in third grade for the 2025-2026 school year. She will be in fourth grade in the fall. R.S. currently attends Katz Hillel Day School (Katz Hillel) in Boca Raton, Florida. Our son J.S. is seven years old and in first grade for the 2025-2026 school year. He will be in second grade in the fall. J.S. currently attends Sandpiper Shores Elementary School in Boca Raton, Florida.
3. My husband and I have sole legal and physical custody of R.S. and J.S.
4. My husband is a chef, and I am a teacher.
5. R.S. has received a Family Empowerment Scholarship for Educational Options since 2023 when she was in the first grade. We use the scholarship to pay for her tuition at Katz Hillel.
6. Katz Hillel is a small, state-of-the art institution that focuses on academics, Judaism, integrity and community service. R.S. is receiving an excellent education at Katz Hillel. She is challenged academically but is also receiving religious education that includes the same values we teach our kids at home. R.S. excels in reading and participates in a small group where she is given more challenging work. She also struggles in math and is receiving one-on-one support at Katz Hillel.
7. R.S. has emotional needs that are supported by the school psychologist who is available to provide additional resources for her. Katz Hillel also offers after school programming where R.S. participates in drama, gymnastics, and chess.

8. J.S. attends our local public elementary school, where he has an Individualized Education Program (IEP) that supports his educational needs. Although I would like for J.S. to enroll in a Jewish private school as well, I believe Sandpiper Shores Elementary has been excellent at accommodating his needs, and we have not encountered a private school that can do the same. J.S. receives both speech therapy and occupational therapy at school.

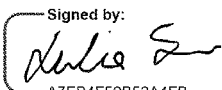
9. In addition to the services that J.S. is provided with at school, we also pay out-of-pocket for speech therapy once a week, vision therapy once a week, and occupational therapy twice a week.

10. J.S. will be attending summer school this year as we were notified by the school that his IEP qualifies him for participation. This will allow him to continue to receive the services provided to him under his IEP.

11. I feel that it is vital to our children's growth and development to have them in educational institutions that best serve their individual needs. While J.S. is thriving in the public school system, R.S. is likewise thriving at a private school.

12. The scholarship helps our family afford tuition for R.S. to enroll at Katz Hillel. Without the scholarship, we would have to cut back on the private therapy services that J.S. utilizes and consider other ways to make cuts in our already tight household budget.

I declare under penalty of perjury that the foregoing is true and correct.

Signed by:

A7EB4F62B62A4FB...
Julie Schulman

6/17/2026

Date

Boca Raton, Florida
City and State

EXHIBIT E

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

Andrew Spar on behalf of himself and his minor child; **Laura Bell** on behalf of herself and her minor child; **Tamara Haleem** on behalf of herself and her minor child; **Stephanie Vanos** on behalf of herself and her minor children; **Earlishia Oates** on behalf of herself and her minor child; **Suzanne Sapp** on behalf of herself and her minor child; **Aaryn Frick**, on behalf of herself and her minor children; **Robert Lyons**; and **Florida Education Association**,

Plaintiffs,

v.

Case No.: 2026 CA 000929

Anastasios “Stasi” Kamoutsas, in his official capacity as the Commissioner of Education for the State of Florida; the **Florida Department of Education**; **Ryan Petty**, in his official capacity as Chair of the Florida State Board of Education; **MaryLynn Mager**, in her capacity as Vice Chair of the Florida State Board of Education; **Grazie P. Christie**, in her official capacity as member of the Florida State Board of Education; **Layla Collins**, in her official capacity as member of the Florida State Board of Education; **Daniel P. Foganholi, Sr.**, in his official capacity as member of the Florida State Board of Education; **Erika Fritz-Ochs**, in her official capacity as member of the Florida State Board of Education; **Luis Fuste**, in his official capacity as member of the Florida State Board of Education; and the **Florida State Board of Education**,

INTERVENOR-DEFENDANTS’ PROPOSED ANSWER

Intervenor-Defendants Tatiana Cox Lopez, Jessica Tillmann, Alyssa Hines, and Julie Schulman state the following as their Answer and Affirmative Defenses to the Verified Petition for Declaratory Judgment and Injunctive Relief. Intervenor-Defendants deny any allegation not specifically admitted below. Intervenor-Defendants further deny any factual allegations in the preliminary statement. For further response, Intervenor-Defendants states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this lawsuit pursuant to Article V, § 20(c)(3), of the Florida Constitution, Fla. Stat. § 26.012(2)(c), (3), Fla. Stat. §86.011 and Fla. Stat. §86.091.

ANSWER: Intervenor-Defendants admit that this Court has subject matter jurisdiction over this lawsuit.

2. Plaintiffs have complied with the notice requirements of Fla. Stat. §86.091 and Rule 1.071, Florida Rules of Civil Procedure.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 2 and therefore deny them.

3. Venue lies in this Court because defendants maintain their principal places of business in Leon County. Fla. Stat. §47.021

ANSWER: The allegations in paragraph 3 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

4. Plaintiff(s) have standing to bring this action as taxpayers of the State of Florida. Article IX, section 6 of the Florida Constitution provides that income derived from the State School Fund “shall ... be appropriated, but only to the support and maintenance of free public schools.” Article IX, section 1(a) of the Florida Constitution provides that “adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools.” These provisions constitute specific limitations on the Legislature’s spending power. *See Department of Administration v. Horne*, 269 So. 2d 659 (Fla. 1972); *Bush v. Holmes*, 919 So. 2d 392, 406 (Fla. 2006) (holding that article IX, section 1(a) is a restriction on the Legislature’s spending power by “provid[ing] both a mandate to provide for children’s education and a restriction on the execution of that mandate”); *McCall v. Scott*, 199 So. 3d 359 (Fla. 2016).

ANSWER: The allegations in paragraph 4 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

PARTIES

5. Plaintiff Andrew Spar is a Florida citizen and taxpayer who resides in Volusia County. Spar is the parent of a minor, A.S, who is enrolled in the Volusia County public schools in grade 11, during the 2025-2026 school year. Spar brings this suit on his own behalf and on behalf of his aforementioned minor child.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 5 and therefore deny them.

6. Plaintiff Laura Bell is a Florida citizen and taxpayer who resides in Hillsborough County. Bell is the parent of a minor, S.B, who is enrolled in the Hillsborough County public schools in grade 8, during the 2025-2026 school year, and she also serves as a member of her local PTA. Bell brings this suit on her own behalf and on behalf of her aforementioned minor child.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 6 and therefore deny them.

7. Plaintiff Tamara Haleem is a Florida citizen and taxpayer who resides in St. Johns County. Haleem is the parent of a minor, H.H., who is enrolled in the St. Johns County public schools in grade 10, during the 2025-2026 school year. Haleem brings this suit on her own behalf and on behalf of her aforementioned minor child.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 and therefore deny them.

8. Plaintiff Earlishia Oates is a Florida citizen, a small business owner, and taxpayer who resides in Hillsborough County. Oates is the parent of a minor, R.S., who is enrolled in the

Hillsborough County public schools in grade 11 during the 2025-2026 school year. Oates brings this suit on her own behalf and on behalf of her aforementioned minor child.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 and therefore deny them.

9. Plaintiff Stephanie Vanos is a Florida citizen and taxpayer who resides in Orange County. Vanos is the parent of minor children, E.V., A.V. and L.V., who are enrolled in the Orange County public schools in grade 12, 10, and 8 respectively, during the 2025-2026 school year. Vanos brings this suit on her own behalf and on behalf of her aforementioned minor child.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 9 and therefore deny them.

10. Plaintiff Suzanne Sapp is a Florida citizen and taxpayer who resides in Nassau County. Sapp is the parent of a minor, N.S., who was enrolled in the Nassau County public schools in prior years, and moved to homeschool under a unique abilities scholarship during the 2025-2026 school year. Sapp brings this suit on her own behalf and on behalf of her aforementioned minor child.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 and therefore deny them.

11. Plaintiff Aaryn Frick is a Florida citizen and taxpayer who resides in Clay County. Frick is the parent of N.F. and L.F. minor children, who are enrolled in the Clay County public schools in grades 4 and 6 respectively, during the 2025-2026 school year. Frick brings this suit on her own behalf and on behalf of her aforementioned minor children.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 and therefore deny them.

12. Plaintiff Robert Lyons, Jr., is a school teacher who has been employed by Manatee County Schools since 1995. He resides in Manatee County and is a Florida citizen and taxpayer.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 and therefore deny them.

13. Plaintiffs Florida Education Association (“FEA”) on behalf of itself and as a representative of its individual members in the State of Florida is a membership organizations that seeks, *inter alia*, to preserve and improve Florida’s system of public education. Most of the members of FEA are Florida citizens and taxpayers.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 and therefore deny them.

14. Defendant Anastasios “Stasi” Kamoutsas is Commissioner of Education of Florida. In that capacity, Kamoutsas oversees the operation of the Florida Department of Education, which is responsible for directing and supervising the Florida Education Finance Program allocations. Kamoutsas is sued in his official capacity.

ANSWER: Intervenor-Defendants admit that Defendant Kamoutsas is the Commissioner of Education of Florida and sued in his official capacity. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 14 and therefore deny.

15. Defendant Florida Department of Education (“Department” or “DOE”) is the administrative agency that is responsible for implementing Florida’s education policies and programs. The DOE directs and supervises the Florida Education Finance Program allocations. The Department’s Office of Funding and Financial Reporting (OFFR) calculates and distributes funds provided through the (FEFP) and state categorical aid programs.

ANSWER: Intervenor-Defendants admit that Defendant Florida Department of Education is the administrative agency that calculates and distributes funds provided through the FEFP to other

entities. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 15 and therefore deny them.

16. Defendant Florida State Board of Education is the chief implementing and coordinating body of public education in Florida except for the State University System. Fla. Stat. § 1001.02. Its duties include, among other things, authorizing the allocation of resources in accordance with law and rule, recommending that a district school board take action consistent with the state board's decision relating to an appeal of a charter school application, and enforcing systemwide education policies.

ANSWER: Intervenor-Defendants admit that the Florida State Board of Education is the chief implementing and coordinating body of public education in Florida except for the State University System. Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 16 and therefore deny them

17. Defendant Ryan Petty, is Chair of the Florida State Board of Education.

ANSWER: Intervenor-Defendants admit the allegations in paragraph 17.

18. Defendant MaryLynn Mager is the Vice Chair of the Florida State Board of Education.

ANSWER: Intervenor-Defendants admit the allegations in paragraph 18.

19. Defendant Grazie P. Christie is a member of the Florida State Board of Education.

ANSWER: Intervenor-Defendants admit the allegations in paragraph 19.

20. Defendant Layla Collins is a member of the Florida State Board of Education.

ANSWER: Intervenor-Defendants admit the allegations in paragraph 20.

21. Defendant Daniel P. Foganholi, Sr. is a member of the Florida State Board of Education.

ANSWER: Intervenor-Defendants admit the allegations in paragraph 21.

22. Defendant Erika Fritz-Ochs is a member of the Florida State Board of Education.

ANSWER: Intervenor-Defendants admit the allegations in paragraph 22.

23. Defendant Luis Fuste is a member of the Florida State Board of Education.

ANSWER: Intervenor-Defendants admit the allegations in paragraph 23.

FACTS

Introduction

24. This is a lawsuit for declaratory and injunctive relief, in which plaintiffs challenge the constitutionality of the current distribution of taxpayer funds via the Family Empowerment Scholarship Program (FESP or Scholarship Program), Fla. Stat. § 1002.394 and Fla. Stat. § 1002.33 (Charter Schools Statute), which provides public funding for charter schools.

ANSWER: The allegations in paragraph 24 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

25. The Scholarship Program and Charter Schools Statute, as currently administered, violate Article IX, § 1(a) of the Florida Constitution, which requires the State to provide “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,” *emphasis added*. Additionally, the Scholarship Program violates Article IX, § 6 of the Florida Constitution, which provides that the “income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools.” Art. IX, §§ 1(a) and 6, Fla. Const.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 25.

26. The Scholarship Program diverts public dollars into a separate private system parallel to and in competition with the free public schools that are the sole means set out in the Constitution for the state to provide for the education of Florida’s children. This diversion not only reduces money available to the free public schools, but funds a system of private schools or homeschools that are not “safe” or “uniform” when compared with each other or the free public system.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 26.

27. The Charter School Statute likewise diverts public dollars to an alternative statutory system of charter schools that are not “uniform” when compared with each other or traditional public schools.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 27.

28. The Scholarship Program consists of a scholarship for students attending private schools, referred to as the Family Empowerment Scholarship for Educational Options (FES-EO), and a scholarship for students with a documented disability, referred to as the Family Empowerment Scholarship for Unique Abilities (FES-UA). Fla. Stat. § 1002.394.

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 28 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them. Intervenor-Defendants specifically deny the allegations in paragraph 28 that FES-EO is for use only at private schools.

29. School districts sponsor charter schools pursuant to the provisions outlined in Fla. Stat. § 1002.33(5)(a)1. Charter schools are considered part of the state’s program of public education, although they may be organized as, or be operated by, a private nonprofit organization, municipality, or other public entity. Fla. Stat. § 1002.33(12)(i). Charter schools are funded by the state. Fla. Stat. § 1002.33(1), (2)(d) and (17).

ANSWER: Intervenor-Defendants deny the allegations in paragraph 29.

Funding

30. Funds for state-supported education are provided primarily by legislative appropriations. The major portion of state support is distributed through the Florida Education Finance Program (FEFP). The FEFP is funded from the General Revenue Fund, the Educational Enhancement Trust Fund, and the State School Fund.

ANSWER: Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30 and therefore deny them.

31. The Scholarship Program (FES-EO) is funded through the FEFP, directly from Florida's state budget. Fla. Stat. § 1011.62. This scholarship award amount, for a student to attend an eligible private school, is calculated as 100 percent of the funds per unweighted full-time equivalent (FTE) in the FEFP, plus a per-full-time equivalent share of categorical funds, as funded in the General Appropriations Act. Fla. Stat. § 1002.394(12)(a)1.

ANSWER: Fla. Stat. §§ 1002.394 and 1011.62 speak for themselves. The allegations in paragraph 31 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

32. The Scholarship Program (FES-UA) is also funded through the FEFP, directly from Florida's state budget. Fla. Stat. § 1002.394. Scholarship amounts for students receiving FES-UA scholarships are based on 100 percent of the funds per unweighted full time equivalent (FTE) in the FEFP for a student in a basic ESE program, plus a per FTE share for the categorical programs established in Fla. Stat. §§ 1011.62(5), (7)(a) and (16), including the ESE Guaranteed Allocation (except that the ESE Guaranteed Allocation is allocated on each school district's average allocation funds per basic ESE student) or, on 100 percent of the funds per unweighted FTE in the FEFP, plus a per unweighted FTE share of the categorical programs established in Fla. Stat. §§ 1011.62(5), (7)(a) and (16). Fla. Stat. § 1002.394(12).

ANSWER: Fla. Stat. §§ 1002.394 and 1011.62 speak for themselves. The allegations in paragraph 32 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

33. Charter schools are also funded through the FEFP from Florida's state budget, in the same way as all other public schools in the school district. Fla. Stat. § 1002.33(17). Charter schools receive operating funds from the FEFP based on the number of full-time (FTE) students enrolled. *Id.* Sponsoring school districts are required to make timely and efficient payments and reimbursements to charter schools under Fla. Stat. § 1002.33(17)(e). Charter schools sponsored by a school district are also eligible for capital outlay funds pursuant to §§ 1011.71(2) and 1013.62. Fla. Stat. § 1002.33(19).

ANSWER: Intervenor-Defendants deny the allegations in paragraph 33.

Eligibility and Expenditures

34. Following the elimination of all income eligibility requirements in Chapter 2023-16, Laws of Florida, the Scholarship Program (FES-EO) is available to any student who is a resident of Florida and is eligible to enroll in kindergarten through grade 12 in a public school. Fla. Stat. § 1002.394(3)(a)1. There is no cap on the number of FES-EO participants; all K-12 students in Florida are eligible.

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 34 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

35. Under the Scholarship Program (FES-UA), a parent of a student with a disability may request and receive public funds from the state if the student: (1) is a resident of Florida; (2) is 3 or 4 years of age before during the year in which the student applies for program participation, or is eligible to enroll in kindergarten through grade 12 in a public school in the state; (3) has a disability as defined by § 1002.394(2), Fla. Stat.; and (4) has an individualized educational plan (IEP) written with rules of the State Board of Education or with the applicable rules of another state or has received a diagnosis of a disability from a physician or psychologist. Fla. Stat. § 1002.394(3)(b).

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 35 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

36. The Scholarship Program is administered by scholarship-funding organizations (SFO) approved by the Florida Department of Education (DOE). Fla. Stat. § 1002.394(11). Parents must apply for a scholarship to an eligible non-profit SFO that is administering the scholarship program. Fla. Stat. § 1002.394(10).

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 36 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

37. With respect to Scholarship Program (FES-EO), SFOs are responsible for collecting and evaluating documentation in support of the applications. SFOs submit eligible students to the DOE for funding, establish and maintain separate accounts for each eligible student, and distribute the funds received from the public treasury to private schools on behalf of the families. Fla. Stat. § 1002.394(4)(a), (11) and (12).

ANSWER: The allegations in paragraph 37 are a mix of factual allegations and legal conclusions. The legal conclusions require no response, and Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations and therefore deny them.

38. With respect to Scholarship Program (FES-UA), SFOs are responsible for collecting and evaluating documentation in support of the applications. SFOs submit eligible students to the DOE for funding and establish and maintain separate accounts for each eligible student. Under this program, public funds are deposited into government-authorized savings accounts with restricted, but multiple uses. These public funds can be used for private school tuition and fees, online learning programs, private tutoring, community college costs, higher education expenses, homeschooling and other approved customized learning services and materials. Fla. Stat. § 1002.394(4)(b).

ANSWER: The allegations in paragraph 38 are a mix of factual allegations and legal conclusions. The legal conclusions require no response, and Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations and therefore deny them.

39. Florida charter schools operate under a performance contract, or a “charter,” which “frees them from many regulations created for traditional public schools.” <https://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.shtml>. The charter contract between the charter school governing board and the sponsor details the school’s mission, program, goals, students served, methods of assessment and ways to measure success. *Id.*

Aside from a few specifically applicable statutes, charter schools are generally exempt from the Florida K-20 Education Code, Ch. 1000-1013, Fla. Stat. Fla. Stat. § 1002.33(16).

ANSWER: Intervenor-Defendants deny the allegations in paragraph 39.

40. Florida Charter schools are tuition free public schools available to Florida students in kindergarten through grade 12. Enrollment in a specific charter school is determined through an application process and, if applications exceed available seats, a random lottery, each subject to the enrollment preferences aligned with the school's specific charter.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 40.

41. A School of Hope is a charter school operated by a "hope operator" which serves students from one or more persistently low-performing schools; is located in the attendance zone of a persistently low-performing school or within a 5-mile radius of such school, whichever is greater; and is a Title I eligible school. Fla. Stat. § 1002.333(1)(d).

ANSWER: Intervenor-Defendants deny the allegations in paragraph 41.

42. Charter schools are publicly funded in accordance with Fla. Stat. § 1002.33(17). *See also* Fla Stat. § 1002.333(9)(a).

ANSWER: Intervenor-Defendants deny the allegations in paragraph 42.

43. District school board allocations under the FEFP are subject to proration when total appropriations are insufficient to cover the full calculated amount. Fla. Stat. § 1011.62(1)(a). In contrast, Scholar Program scholarship amounts are calculated and transferred without equivalent proration. The State thus provides greater per-pupil funding certainty to students in unaccountable private schools than to students in the constitutionally mandated public system.

ANSWER: The allegations in paragraph 43 are a mix of factual allegations and legal conclusions. The legal conclusions require no response, and Intervenor-Defendants deny the factual allegations.

The Constitutional Violations

44. Florida's Constitution mandates that,

Adequate 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.

Fla. Const. art. IX, § 1(a). Additionally, that,

The income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools.

Fla. Const. art. IX, § 6.

ANSWER: Fla. Const. art. IX, §§ 1(a), 6 speak for themselves. The allegations in paragraph 44 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

45. The Scholarship Program violates the Article IX, section 6 constitutional requirement of only supporting a system of free public schools by supporting private schools that are neither “free” nor “public.”

ANSWER: Intervenor-Defendants deny the allegations in paragraph 45.

46. Further, the Scholarship Program undermines the constitutional requirement of a “uniform” and “safe” system of public education by funding a system that is not bound by the same statutory framework which governs public schools. Florida law does not require uniform curriculum requirements, staffing certification requirements, access to student services, IEP or accommodations, standardized testing, school safety requirements, and other educational resources to accept the funds.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 46.

47. Finally, although charter schools are labeled public schools, they undermine the constitutional requirement of “uniformity” by creating a system of publicly funded education which is broadly exempt from significant portions of the statutory and regulatory framework which govern traditional public schools.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 47.

48. These parallel, non-uniform systems of education result in divergent conditions and experiences for students within the same publicly funded system.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 48.

The Family Empowerment Scholarship Program

49. The Legislature has stated that the purpose of the Scholarship Program is “to provide children of families in this state which have limited financial resources with educational options to achieve success in their education.” Fla. Stat. § 1002.394(1). Nonetheless, as noted above, the Scholarship Program allows any student in the state of Florida, notwithstanding financial resources, to use funds provided by the state to attend an eligible private school. See Fla. Stat. § 1002.394(2)(h) and (3)(a), Fla. Stat. § 1002.395(2), and Fla. Stat. § 1002.01(3).

ANSWER: Fla. Stat. §§ 1002.394, 1002.395, and 1002.01 speak for themselves. The allegations in paragraph 49 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them

50. Sections 1002.394(2)(h) and (9), Florida Statutes, which set forth the eligibility requirements for private schools accepting Scholarship Program students and scholarship funds, provide that these schools may be “sectarian or nonsectarian” and must comply with the requirements set forth in Fla. Stat. § 1002.394(9).

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 50 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

51. The scholarship amount for a student participating in the Scholarship Program, FES-EO, is set forth in Fla. Stat. § 1002.394(12)(a)1.

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 51 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

52. The Department releases state funds on behalf of a Scholarship Program, FES-EO, scholarship recipient to an eligible scholarship-funding organization upon verification that it “will comply with s. 1002.395(6)(l) based upon the organization’s submitted verified list of eligible scholarship students pursuant to s. 1002.395.” Fla. Stat. § 1002.394(12)(a)2c.

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 52 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them

53. The scholarship amount for a student participating in the Scholarship Program, FES-UA, is calculated pursuant to Fla. Stat. § 1002.394(12)(b)2-5.

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 53 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

54. The Department releases state funds on behalf of a Scholarship Program, FES-UA, scholarship recipient to an eligible scholarship-funding organization pursuant to Fla. Stat. § 1002.394(12)(b)7a-b.

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 54 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

55. The scholarship-funding organization is responsible for establishing and maintaining separate scholarship accounts for each eligible student, and permitting the use of these scholarship funds for any purpose specified in the Scholarship Program. Fla. Stat. §§ 1002.394(11)(a)5, 11(a)6, (11)(b)4, and 11(b)5.

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 55 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

56. Under the Scholarship Program (FES-EO and FES-UA), state funds may be used for tuition and fees at an eligible private school. Under the Scholarship Program (FES-UA), state funds may also be used for homeschooling. Fla. Stat. §§ 1002.394(4)(a)1 and (4)(b)4.

ANSWER: Fla. Stat. § 1002.394 speaks for itself. The allegations in paragraph 56 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them

57. The payment of the Scholarship Program scholarships results in a reduction in the amount of funds available to the affected school districts.

ANSWER: Intervenor-Defendants deny paragraph 57.

58. Article IX, section 1(a) of the Constitution of the State of Florida:

commands that the Legislature shall provide for a uniform system of public free schools and for the liberal maintenance of such system of free schools. This means that a system of public free schools ... shall be established upon principles that are of uniform operation throughout the State and that such system shall be liberally maintained.

Bush v. Holmes, 919 So. 2d 392, 405 (2006).

ANSWER: Fla. Const. Art. IX, § 1(a) speaks for itself, and the court's decision in *Bush v. Holmes* speaks for itself. The allegations in paragraph 58 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

59. Article IX, section 6 of the Constitution of the State of Florida provides:
The income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools.

ANSWER: Fla. Const. Art. IX, § 6 speaks for itself. The allegations in paragraph 59 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

60. The Scholarship Program directs public education funds to private schools and home-schools that operate outside the uniform system of free public schools required by Article IX, Section 1(a). By funding a parallel system of private education with public dollars, the Scholarship Program diverts resources from the constitutionally required system and funds schools that are not subject to the same uniformity, accountability, transparency, and safety requirements.

ANSWER: Intervenor-Defendants deny the allegations in Paragraph 60.

61. The Scholarship Program also violates Article IX, Section 6 to the extent it uses income derived from the State School Fund for purposes other than the support and maintenance of free public schools. Private schools receiving Scholarship Program funds are neither “free” nor “public” within the meaning of Article IX.

ANSWER: The allegations in paragraph 61 are a mix of factual allegations and legal conclusions. The legal conclusions require no response, and the remaining allegations of paragraph 61 are vague and ambiguous. To the extent they are clear, Intervenor-Defendants are without knowledge or information sufficient to form a belief as to the truth of the factual allegations and therefore deny them.

62. Fla. Stat. § 1002.42(2)(h) states that “[i]t is the intent of the Legislature not to regulate, control, approve, or accredit private educational institutions.” However, Article IX, Section 1(a) requires that the state’s education system be “uniform.” The Scholarship Program violates the criterion of uniformity in the following, among other, ways:

- a. Pursuant to Fla. Stat. § 1006.12, each district school board or superintendent must establish or assign one or more safe-school officer at each school facility within the district. Private schools are not required to do so.
- b. Pursuant to Fla. Stat. § 1006.07(7), each district school board must establish a threat management team at each school, whose duties include the coordination of resources and assessment and intervention with students whose behavior may pose a threat to the safety of the school, school staff, or students. Private schools are not required to do so.
- c. Pursuant to Fla. Stat. § 1006.07(4)(c), district schools must implement a mobile panic alert system capable of connecting diverse emergency services technologies to ensure real-time coordination between multiple first responder agencies. Such system, known as “Alyssa’s Alert,” must integrate with local public safety

answering point infrastructure to transmit 911 calls and mobile activations. Private schools are not required to do so.

- d. Pursuant to Fla. Stat. § 1006.07(6)(d) and Fla. Admin. Code R. 6A-1.0018, each district school board must adopt an active assailant response plan which must include, at a minimum, plans and expectations for responding to an active assailant situation using the following three (3) strategies: evading or evacuating, taking cover or hiding, and responding to or fighting back. All public-school personnel must be trained annually on the procedures in the district's active assailant response plan. These requirements do not apply to private schools.
- e. Pursuant to Fla. Stat. § 1006.07(4)(a), law enforcement officers must be physically present on a public school campus and directly involved in the execution of active assailant emergency drills. This requirement does not apply to private schools.
- f. Pursuant to Fla. Stat. § 1012.584 and Fla. Admin. Code R. 6A-1.094120, at least 80% of public-school personnel in a school district must complete approved youth mental health awareness training. This requirement does not apply to private schools.
- g. Pursuant to Fla. Stat. § 1006.07(6)(f)1, all gates or other access points that restrict ingress to or egress from the exclusive zone of a public school campus must remain closed and locked when students are on campus. This requirement does not apply to private schools.
- h. Public school teachers must be certified by the state. Fla. Stat. § 1012.55(1). To obtain certification, public school teachers must meet certain requirements that include having "attained at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study" and having demonstrated a mastery of general

knowledge, subject area knowledge, and professional preparation and education competence. Fla. Stat. §§ 1012.56(2)(c), (g)-(i). These requirements do not apply to private school teachers or homeschools.

- i. All Florida public school teachers must hold at least a bachelor's degree from an accredited college or university. Fla. Stat. § 1012.55(1)(d). A private school may hire a teacher without a bachelor's degree if the individual has 3 years teaching experience at public or private schools, or special skills, knowledge, or expertise that qualifies the individual to provide instruction in specific subjects. Fla. Stat. § 1002.421(1)(h). Homeschool teachers are not required to satisfy either of these criteria.
- j. Public schools are required to have class size maximums: the maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for prekindergarten through grade 3 may not exceed 18 students; the maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for grades 4 through 8 may not exceed 22 students; and the maximum number of students assigned to a core-curricula high school course in which a student in grades 4 through 8 is enrolled and the maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for grades 9 through 12, may not exceed 25 students. Fla. Const. art. IX, section 1(b); Fla. Stat. § 1003.03. These requirements do not apply to private schools.
- k. Regarding curriculum, public education instruction is based on state academic standards that must meet the requirements delineated in Fla. Stat. §1003.41 and comply with rules of the State Board of Education. In addition, public schools are

required to teach basic subjects as well as a number of other diverse subjects, including the history and content of the Declaration of Independence, the history, meaning, significance, and effect of the provisions of the Constitution of the United States and amendments thereto, the elements of civil government, including the primary functions of and interrelationships between the Federal Government, the state, and its counties, municipalities, school districts, and special districts, the history of the United States, the history of the Holocaust (1933-1945), the history of African Americans and the history of the state. Fla. Stat. § 1003.42. Private schools and homeschools are not required to follow state academic standards or teach these subjects.

- l. Public schools must participate in statewide assessments. Fla. Stat. § 1008.22. While private schools and homeschools with students participating in the Scholarship Program are required to administer and report scores for one of the Department-approved norm-referenced tests, the statewide assessments are only one possible option and are not required.
- m. Public school ESE designation requires a multi-tiered Response to Intervention (RTI) process with documented evidence of educational need, Fla. Stat. § 1003.57(1)(c) and Fla. Admin Code R. 6A-6.0331, while the FES-UA scholarship requires only a physician's or psychologist's diagnosis. Fla. Stat. § 1002.394(3)(b). Further, while each district school board is required to provide for an appropriate program of special instruction, facilities, and services for exceptional students as prescribed by the State Board of Education which, *inter alia*, must include the necessary professional services for diagnosis and evaluation of exceptional students; provides the special instruction, classes, and services, either within

the district school system, in cooperation with other district school systems, or through contractual arrangements with approved private schools or community facilities that meet standards established by the commissioner, and provides instruction to homebound or hospitalized students in accordance with the law and rules adopted by the state board, Fla. Stat. § 1003.57, a student in a private school or who is homeschooled does not have the right to receive the same special education services they would get in public school, and there is no requirement that a participating private school or homeschool report that any such specialized services are being provided.

- n. Florida mandates that school districts provide transportation for students living two or more miles from their assigned school. Fla. Stat. § 1006.21(3); Fla. Admin. Code R. 6A-3.001. Private schools in Florida are not required to provide transportation to their students.
- o. Under Fla. Stat. §1011.62(15)(a), when the FEFP allocation is recalculated, if the gross state FEFP funds are not sufficient to pay the state requirement in full, the department must prorate the available state funds to each school district. In contrast, there is no similar requirement to prorate funds under the Scholarship Program, *see* Fla. Stat. § 1002.394(12), which has resulted in a per student funding disparity between private and public schools.
- p. Pursuant to Fla. Stat. § 1003.621(2)(g), an academically high-performing school district may provide up to 2 days of virtual instruction as part of the required 180 actual teaching days or the equivalent on an hourly basis each school year, as specified by rules of the State Board of Education. Private schools and homeschools are not similarly restricted.

- q. The Classroom Teacher and Other Instructional Personnel Salary Increase Allocation and the Educational Enrichment Allocation are included within the base student funding provided to both district schools and Scholarship Program (FESP) scholarship students. However, for school districts, these categorical amounts are restricted and must be spent as directed in the General Appropriations Act on the specific purposes for which they are designated. For Scholarship Program (FESP) scholarship students, the same categorical amounts are unrestricted; private schools are not obligated to provide the services for which these categorical funds are designated. Accordingly, while the State provides identical categorical funding to both systems, it restricts and requires accountability for its use in only one.
- r. The Scholarship Program (FES-UA) Purchasing Guide published by Step Up for Students, the primary scholarship-funding organization, lists allowable expenses for Scholarship Program (FES-UA) funded scholarship accounts that include recreational equipment, recreational activities, furniture, and theme park tickets. Scholarship Program (FES-EO) funds remaining after tuition may also be used for similar non-instructional purposes. Scholarship Program dollars can fund expenses that public school districts cannot lawfully fund.

ANSWER: Intervenor-Defendants deny the allegations in Paragraph 62.

63. As citizens and taxpayers of Florida, plaintiffs have been and will continue to be injured by the unconstitutional expenditure of public funds under the Scholarship Program, without the same regulation and enforcement to ensure uniformity of all school types.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 63.

Charter Schools

64. All charter schools in Florida are public schools and are part of the state's program of public education. A charter school may be formed by creating a new school or converting an existing public school to charter status. Fla. Stat. § 1002.33. A district school board may sponsor a charter school in the county over which the district school board has jurisdiction. Fla. Stat. § 1002.33(5)(a)1.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 64.

65. Charter schools are also funded through the FEFP, from Florida's state budget, in the same way as all other public schools in the school district. Fla. Stat. § 1002.33(17). Charter schools receive operating funds from the FEFP based on the number of full-time (FTE) students enrolled. *Id.* Sponsoring school districts are required to make timely and efficient payments and reimbursements to charter schools under Fla. Stat. § 1002.33(17)(e). Charter schools sponsored by a school district are also eligible for capital outlay funds pursuant to §§ 1011.71(2) and 1013.62. Fla. Stat. § 1002.33(19).

ANSWER: Intervenor-Defendants deny the allegations in paragraph 65.

66. Charter schools operate in accordance with their charter and are exempt from all statutes in chapters 1000-1013, except for those statutes specifically applying to charter schools, those statutes pertaining to the student assessment program and school grading system, those statutes pertaining to the provision of services to students with disabilities, those statutes pertaining to civil rights, and those statutes pertaining to student health, safety, and welfare. Fla. Stat. § 1002.33(16)(a). Charter schools must also comply with those statutes enumerated in Fla. Stat. § 1002.33(16)(b). However, school districts may not apply their policies to a charter school unless mutually agreed to by both the district and the charter school. Fla. Stat. § 1002.33(5)(b)1.d.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 66.

67. This blanket exemption from the body of law that defines the uniform public school system is itself a legislative enactment creating non-uniformity.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 67.

68. This vast exemption results in the Charter School Statute violating the constitutional criterion of uniformity in Article IX, section 1(a) by devoting the state's resources to a parallel system of education that does not provide uniformity in the following, among other, ways:

- a. Pursuant to Fla. Stat. §§ 1013.37, each school district is required to comply with the State Requirements for Educational Facilities (SREF), which govern the design, construction, materials, and standards to ensure the state's system of free education provides safe ingress and egress, adequate recreation space, and separation from hazards. Charter schools are not required to do so.
 - i. Pursuant to Fla. Stat. §1013.31, district schools are required to conduct a formal educational plant survey every 5 years to justify new construction, renovations, and capacity and to ensure that a school is needed for the surrounding population and to receive capital outlay funding. Charter schools are not required to do so and receive capital outlay funding on a per-student basis, allowing flexibility in building and expansion.
 - ii. Pursuant to Fla. Stat. §1013.37, district schools must secure large, state-compliant sites to meet the minimum site size and acreage standards. Charter schools are not required to do so and can operate in smaller and/or repurposed buildings with less or no outdoor space.
 - iii. Pursuant to Fla. Stat. §1013.37, district schools are required to meet the SREF standards for ventilation, lighting, and acoustics, impacting air quality, noise levels, and adequate lighting in education settings. Charter schools are not required to do so and may comply only with the general building code.
 - iv. Pursuant to Fla. Stat. §1013.37, district schools are required to have dedicated spaces for science labs, media centers, and art/music education. Charter

schools are exempt from the SREF and are not required do so and may operate in buildings without such dedicated spaces.

- b. Pursuant to Fla. Stat. §1003.41, district schools are required to meet the rigorous and relevant state academic standards in English Language Arts, Science, Mathematics, Social Studies, Visual and performing arts, physical education, health, and foreign language that provide for the logical, sequential progression of core curricular content. Charter schools are placed under a separate statutory framework that does not impose the same instructional requirements in the same manner.
- c. Pursuant to Fla. Stat. §1003.42, the district school board is required to provide instruction to ensure students meet the adopted standards in reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education and the arts. Charter schools are placed under a separate statutory framework that does not impose the same instructional requirements in the same manner.
- d. Pursuant to Fla. Stat. §1003.42, each instructional staff of the public schools is required to teach efficiently and faithfully, the Declaration of Independence, the Constitution of the United States and amendments thereto, the arguments in support of our republican form of government, flag education, the elements of civil government, the history of the United States, the history of the Holocaust, the history of African Americans, the history of Asian Americans and Pacific Islanders, the elementary principles of agriculture, effects of alcohol and narcotics, kindness to animals, the history of the state, the conservation of natural resources, age appropriate health education, study of Hispanic contributions, study of women's contributions, the importance of free enterprise to the United States economy, civic and

character education, the sacrifices of Medal of Honor recipients, and the history of communism. in civics, history, and character education. Charter schools are placed under a separate statutory framework that does not impose the same instructional requirements in the same manner.

- e. Pursuant to Fla. Stat. §1003.53, each district school board is required to identify at risk students and provide a structured, research-based intervention and alternative education program designed to prevent dropout and improve academic performance. Charter schools are not required to do so.
- f. Pursuant to Fla. Stat. §1006.28, each district school board is required to provide students with access to structured library media programs, adopt policies for the election of instructional and library materials, ensure personnel involved in the selection of school district library materials have completed a training program, among other requirements. Charter schools are not required to do so.
- g. Pursuant to Fla. Stat. §1006.40, each district school board must provide current instructional materials, to provide each student in K through 12 with a major tool of instruction in the core subject areas. Charter schools are not required to do so.
- h. Pursuant to Fla. Stat. §1006.40, each district school board must ensure that the content of all materials use in the classroom or made available to students, including the obligation to ensure that any instructional materials are (1) free of pornography and material prohibited under Fla. Stat. § 847.012, (2) suited to student needs and their ability to comprehend the material, and (3) appropriate for the grade level and age group for which the material are used or made available. Charter schools are not required to do so.

- i. Pursuant to Fla. Stat. §1001.42, district school boards are subject to comprehensive systems and controls requiring a universal right for students to attend a public school, including those with disciplinary history, disability, and/or mobility issues. Charter schools are not required to do so.
- j. Pursuant to Fla. Stat. §1001.42, district school boards are required to reinforce the fundamental right of parents to make decisions regarding the upbringing and control of their children by requiring district personnel to encourage students to discuss issues related to their well-being with their parents. Charter schools are not required to do so.
- k. Pursuant to Fla. Stat. §1010.01, district school boards are required to maintain financial records and accounts according to the rules of law and State Board of Education, including maintaining internal controls designed to prevent and detect fraud, waste and abuse; promote and encourage compliance with applicable laws and best practices; support economical and efficient operations; ensure reliability of financial records and reports; and safeguard assets. Charter schools are not required to do so.
- l. Pursuant to Fla. Stat. §1010.04, district school boards are required to follow all rules of the State Board of Education regarding purchasing practices, including using a competitive bidding process and evaluating and using available purchasing agreements and state term contracts already available. Charter schools are not required to do so.
- m. Pursuant to Fla. Stat. § 1002.333(6)(d), a teacher employed by a School of Hope need not meet the certification requirements of Fla. Stat. § 1012.56.

- n. Pursuant to Fla. Stat. § 1012.34(1)(a), “the district school superintendent shall establish procedures for evaluating the performance of duties and responsibilities of all instructional, administrative, and supervisory personnel employed by the school district.” This is for the “purpose of increasing student academic performance by improving the quality of instructional, administrative, and supervisory services in the public schools of the state,” that Charter schools are not subject to the same evaluation framework, and may evaluate teachers under the terms independently determined by their charter contract. Under Fla. Stat. § 1008.345(4), public schools are subject to intensive intervention and support strategies after earning two consecutive grades of “D” or a grade of “F.” A charter school must implement corrective action in the school year following receipt of a third consecutive grade below a “C.” Fla. Stat. § 1002.33(9)(n).
- o. A charter school may voluntarily close after a vote of its governing body in a public meeting with only 24 hours’ written notice to parents. § 1002.33(7)(e). District schools cannot do so, and are responsible for educating all students, including displaced students, under the compulsory attendance requirements of Fla. Stat. § 1003.21, regardless of capacity, staffing, or budget.
- p. Charter schools are not subject to inclusion on the Persistently Low-Performing schools list, under Fla. Stat. § 1002.333. District schools are, creating a two-tiered accountability designation for schools serving the same student populations with the same public dollars.

ANSWER: Intervenor-Defendants are not asserting an interest in charter schools.

69. As citizens and taxpayers of Florida, plaintiffs have been and will continue to be injured by the unconstitutional expenditure of public funds on a nonuniform system of charter schools pursuant to the Charter School Statute.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 69.

70. The following chart highlights major areas of disparity among the parallel systems.

ANSWER: Intervenor-Defendants deny the allegations in Paragraph 70. Intervenor-Defendants specifically deny that scholarships are systematizing anything and deny that the chart is relevant, material, or accurate.

COMPARISON OF REQUIREMENTS ACROSS FLORIDA'S PUBLICLY FUNDED K-12 EDUCATION SYSTEMS

All four systems are funded through the Florida Education Finance Program (FEFP)

REQUIREMENT	TRADITIONAL PUBLIC SCHOOL	CHARTER SCHOOL	SCHOLARSHIP PROGRAM (FES-EO)	SCHOLARSHIP PROGRAM (FES-UA)	CITATION
SAFETY AND SECURITY (Art. IX § 1(a) — "safe and secure")					
Armed safe-school officers	✓ REQUIRED at every campus	✓ REQUIRED (included in mandate)	X NOT REQUIRED. May voluntarily request guardian training (Ch. 2025-58) but no mandate	X NOT REQUIRED	§ 1006.12, 6A-1.0018
Threat assessment teams	✓ REQUIRED. Multi-disciplinary team at each school with sworn law enforcement.	✓ REQUIRED (included in mandate)	X NOT REQUIRED	X NOT REQUIRED	§ 1006.07(7); Rule 6A-1.0019
Alyssa's Alert (mobile panic system)	✓ REQUIRED. Must integrate with local 911.	✓ REQUIRED (included)	X NOT REQUIRED	X NOT REQUIRED	§ 1006.07(4)(c), 6A-1.0018
Active assailant drills with law enforcement	✓ REQUIRED. Annual plans, training, LE physically present.	✓ REQUIRED	X NOT REQUIRED	X NOT REQUIRED	§ 1006.07(6)(d); Rule 6A-1.0018
Youth mental health training	✓ REQUIRED. 80% of staff annually certified.	✓ REQUIRED	X NOT REQUIRED	X NOT REQUIRED	§ 1012.584; Rule 6A-1.094120
Perimeter / access control	✓ REQUIRED. Locked gates, controlled access when students present.	✓ REQUIRED	X NOT REQUIRED	—	§ 1006.07(6)(f), 6A-1.0018
SESIR incident reporting	✓ REQUIRED. Comprehensive incident reporting system.	✓ REQUIRED	X NOT REQUIRED. Limited reporting under § 1002.421 only.	X NOT REQUIRED	§ 1006.07(9), 6A-1.0017
TEACHER QUALIFICATIONS AND PERSONNEL					
State teacher certification	✓ REQUIRED. Must hold FL educator certificate.	○ PARTIAL. Must hire certified teachers but may also hire those "eligible for" or "working toward" certification.	X NOT REQUIRED. Bachelor's, 3 yrs experience, OR "special skills" with zero state scrutiny.	X NOT REQUIRED. No credential required for instructional provider.	§ 1012.55 (public); § 1002.33(12)(f) (charter); § 1002.421(1)(h) (voucher)
Schools of Hope certification	—	X NOT REQUIRED. Hope operators may hire uncertified teachers and administrators.	—	—	§ 1002.33(6)(d)

REQUIREMENT	TRADITIONAL PUBLIC SCHOOL	CHARTER SCHOOL	SCHOLARSHIP PROGRAM (FES-EO)	SCHOLARSHIP PROGRAM (FES-UA)	CITATION
Personnel evaluation framework	✓ REQUIRED. § 1012.34 requires evaluation using student data, practice assessments, timelines.	X NOT REQUIRED. Exempt from § 1012.34 via K-20 exemption. May evaluate under charter contract.	X NOT REQUIRED	X NOT REQUIRED	§ 1012.34
Just cause / contract protections	✓ REQUIRED. Written contracts, just cause dismissal, due process, appellate review.	X NOT REQUIRED. Exempt from § 1012.33 via K-20 exemption.	X NOT REQUIRED	—	§ 1012.33
EPC disciplinary jurisdiction	✓ REQUIRED. All certified personnel subject to EPC.	~ PARTIAL. Certified staff: yes. Non-certified staff: no equivalent mechanism.	X NOT REQUIRED	X NOT REQUIRED	§§ 1012.795–796
CLASS SIZE, CURRICULUM, AND ACCOUNTABILITY					
Constitutional class size limits	✓ REQUIRED. 18/22/25. Compliance infrastructure required.	~ PARTIAL. Same limits but measured as SCHOOL-LEVEL AVERAGE	X NOT REQUIRED. No class size limits. Owner "solely responsible."	—	Art. IX § 1(b); § 1003.03; § 1002.33(16)(b); § 1002.42(2)
State curriculum standards	✓ REQUIRED. Must follow §§ 1003.41–1003.42.	~ PARTIAL. Exempt from K-20 Code but subject to state assessments.	X NOT REQUIRED. No state curriculum requirements.	X NOT REQUIRED. No curriculum requirements.	§§ 1003.41–1003.42
Required instruction (civics, history, Holocaust, etc.)	✓ REQUIRED. Specified content areas including American history, minority contributions, civic government.	X NOT REQUIRED. Exempt from § 1003.42 via K-20 exemption.	X NOT REQUIRED	X NOT REQUIRED	§ 1003.42
State assessment program	✓ REQUIRED. Full participation required.	✓ REQUIRED. Subject to state assessments and school grading.	~ PARTIAL. NRT in grades 3–10 only. Results to parents only. Not comparable per FLDOE.	~ PARTIAL. NRT or portfolio review. Annual evaluation only.	§ 1008.22; § 1002.394(9)(c)
School grades / public accountability	✓ REQUIRED. Annual grades published. Consequences for low performance.	✓ REQUIRED. Same grading system.	X NOT REQUIRED. No school grades. No consequences. <10% in published data.	X NOT REQUIRED	§ 1008.34; § 1008.33
Turnaround timeline for low performance	2–3 years from trigger to forced structural change (turnaround, closure, charter conversion).	~5 years. Corrective action after 3rd consecutive grade below	X NOT REQUIRED. No consequences for any performance level.	X NOT REQUIRED	§ 1008.33(4) (public); § 1002.33(9)(n) (charter)

REQUIREMENT	TRADITIONAL PUBLIC SCHOOL	CHARTER SCHOOL	SCHOLARSHIP PROGRAM (FES-EO)	SCHOLARSHIP PROGRAM (FES-UA)	CITATION
		C, then 2 additional years.			
Persistently Low-Performing list	✓ REQUIRED. District schools subject to designation.	✗ NOT REQUIRED. Excluded from designation.	✗ NOT REQUIRED	—	§ 1002.333
EXCEPTIONAL STUDENT EDUCATION					
ESE qualification process	✓ REQUIRED. Multi-tiered MTSS/RTI process, multi-disciplinary evaluation, IEP team determination.	✓ REQUIRED. Same process.	✗ NOT REQUIRED. Physician's diagnosis only. No RTI. No documented educational need.	✗ NOT REQUIRED. Same diagnosis-only pathway.	§ 1003.57(1), Rule 6A-6.0331 (public), § 1002.394(3)(b) (voucher)
ESE service delivery requirements	✓ REQUIRED. IEP with measurable goals, progress monitoring, annual review, FAPE in LRE.	✓ REQUIRED. Same IDEA obligations.	✗ NOT REQUIRED. No requirement for or evidence of services provided despite \$10K--\$34K funding.	✗ NOT REQUIRED. IEP no longer active. District FAPE obligation ends. No verification of services.	§ 1003.57, Rule 6A-6.03028, § 1002.41
FINANCIAL ACCOUNTABILITY AND TRANSPARENCY					
Annual independent audit	✓ REQUIRED. CAFR, program cost accounting, AG oversight.	◦ PARTIAL. Monthly/quarterly statements to sponsor. Less rigorous than district.	✗ NOT REQUIRED. CPA agreed-upon procedures only if >\$250K/yr. Not full audit. Not public.	✗ NOT REQUIRED	§ 1011.60, § 1010.06 (public), § 1002.33(9)(g) (charter), § 1002.421(1)(q) (voucher), §§ 218.39, 1010.33, 1010.215
Sunshine Law (public records / open meetings)	✓ REQUIRED. Full compliance.	◦ PARTIAL. Subject to Ch. 119/286 but governing board is private nonprofit. 2 meetings/yr.	✗ NOT REQUIRED	✗ NOT REQUIRED	Ch. 119, 286, Fla. Stat.
Uniform financial records system	✓ REQUIRED. Must maintain records per § 1010.01.	✗ NOT REQUIRED. Exempt via K-20 exemption.	✗ NOT REQUIRED	✗ NOT REQUIRED	§ 1010.01, 1010.215
Competitive bidding / procurement	✓ REQUIRED. Public entity procurement requirements.	✗ NOT REQUIRED. Private nonprofit board. No competitive bidding.	✗ NOT REQUIRED	—	§ 1010.04
FEFP proration exposure	YES. Allocations prorated when appropriations fall short. FY 24-25: \$250,149,259.	Funded through district pass-through. Subject to	NO. Scholarship amounts set by GAA. Not subject to proration.	NO. Same as voucher.	§ 1011.62(15)(a) (public), § 1002.394(12)(a) (voucher)

REQUIREMENT	TRADITIONAL PUBLIC SCHOOL	CHARTER SCHOOL	SCHOLARSHIP PROGRAM (FES-EO)	SCHOLARSHIP PROGRAM (FES-UA)	CITATION
		district proration.			
Categorical fund restrictions	RESTRICTED. Must spend as directed in GAA.	RESTRICTED Same as district.	UNRESTRICTED. Same categorical amounts, calculated but no obligation to use for designated purpose.	UNRESTRICTED.	GAA, § 1011.62(5), (7)(a), (16)
Allowable expenses	Educational purposes only as defined by statute and GAA.	Educational purposes.	Tuition, fees, AND recreational equipment, activities; furniture, theme park tickets per SFO purchasing guide.	Curriculum, tutoring, therapies, AND recreational equipment, furniture, theme park tickets.	§ 1002.394(4)(a)-(b); SFO Purchasing Guides, § 1010.04
GOVERNANCE, FACILITIES, AND ACCESS					
Governance structure	Elected school board (Art. IX § 4). Monthly meetings. Fiscal transparency. Parental rights notifications.	Unelected private nonprofit board. 2 meetings/yr. Parent liaison only. No board member residency req't. Networks: 1 board for 40+ schools across 18 districts.	Private school owner/operator. No public governance requirements.	Parent. No governance structure.	Art. IX § 4; § 1001.372; § 1011.035; § 1014.05 (public); § 1002.33(9)(p) (charter); §§ 1002.41, 1002.421
School board policy authority	Board policies govern all operations.	X NOT REQUIRED. Board "may not apply its policies" unless mutually agreed.	X NOT REQUIRED. Regulatory firewall; § 1002.421(4) prohibits additional regulation.	—	§ 1002.33(5)(b)1.d. (charter); § 1002.421(4) (voucher); § 1001.43
Override of elected board	—, Board has final authority.	YES. Charter School Review Commission can approve over board objection.	—	—	§ 1002.3301
Facility standards (SREF)	✓ REQUIRED. Full SREF compliance. Educational plant survey every 5 years. Dedicated instructional spaces.	X NOT REQUIRED. Exempt from SREF. Building code and fire code only. May operate in strip malls.	X NOT REQUIRED. No facility requirements.	X NOT REQUIRED. Home setting.	§§ 1013.01–.80; § 1002.33(18)
Capital outlay process	Must prove need (FISH). Voter-approved millage, PECO, bonds.	Per-student entitlement. No need	—	—	§ 1013.31; § 1013.62; § 1013.35

REQUIREMENT	TRADITIONAL PUBLIC SCHOOL	CHARTER SCHOOL	SCHOLARSHIP PROGRAM (FES-EO)	SCHOLARSHIP PROGRAM (FES-UA)	CITATION
		demonstrated. Plus direct PECO and federal expansion grants.			
Must accept all students	✓ REQUIRED. Must accommodate all students regardless of background.	◦ PARTIAL. Application/lottery. Cannot discriminate on most grounds but enrollment patterns show sorting.	X NOT REQUIRED. Unfettered discretion on admissions. May reject any student for any reason.	— Parent-directed.	§ 1001.42 (public); § 1002.33(10) (charter)
Transportation	✓ REQUIRED. Must provide for students 2+ miles. Regulated fleet, CDL drivers, inspections.	◦ PARTIAL. Must ensure "not a barrier" but not required to provide.	X NOT REQUIRED. Parent responsibility.	X NOT REQUIRED	§§ 1006.21–27; § 1002.33(20)(c)
Attendance requirements	Full-time in-person. Max 2 virtual days/yr (high-performing districts only).	Same compulsory attendance (§ 1003.21). Hybrid programs available.	◦ PARTIAL. 2 days/week in person (PEP). "Regular and direct contact" otherwise — undefined.	X NOT REQUIRED. No minimum hours. Annual evaluation only.	§ 1003.21; § 1003.621(2)(g); § 1002.421(1)(i); § 1002.41; § 1003.23
Library / instructional materials review	✓ REQUIRED. Public posting of catalogue. Review before adoption. Community input.	X NOT REQUIRED. Exempt via K-20 exemption.	X NOT REQUIRED	X NOT REQUIRED	§§ 1006.28, 1006.263
Voluntary closure / continuity	— District obligation is continuous.	May close with 24-hour notice. District must absorb all students immediately.	May cease participation at any time.	May withdraw at any time.	§ 1002.33(7)(e); § 1003.21
For-profit operation	X NOT REQUIRED. Public schools cannot operate for profit.	◦ PARTIAL. Management contracted to for-profit EMCs. High-performing systems include for-profit corporations.	YES. Private schools may be for-profit.	—	§ 1002.33(12)(a); § 1002.332
STATUTORY FRAMEWORK					
K-20 Education Code (Ch. 1000–1013)	FULLY SUBJECT to all 14 chapters.	BLANKET EXEMPTION. Exempt from entire K-20 Code except 5 carve-outs.	NOT APPLICABLE. Private schools outside K-20 Code. Regulatory firewall prohibits expansion.	NOT APPLICABLE.	§ 1002.33(16)(a); § 1002.421(4); § 1002.42(2)(i)

Legend: ✓ REQUIRED (green) = Full statutory mandate. ◦ PARTIAL (amber) = Modified or limited requirement. X NOT REQUIRED (red) = No statutory mandate or explicitly exempt.

FIRST CAUSE OF ACTION THE SCHOLARSHIP PROGRAM
(Violation of Article IX, § 1(a), of the Florida Constitution)

71. The allegations in Paragraphs 1-70 are realleged and incorporated herein by reference.

ANSWER: Intervenor-Defendants reallege and incorporate their answers to Paragraphs 1-70 herein by reference.

72. Article IX, § 1, of the Florida Constitution obligates the state to provide a “uniform, efficient, safe, secure, and high quality system of free public schools.”

ANSWER: The allegations in paragraph 72 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

73. The Scholarship Program unconstitutionally directs the state to fulfill in part the education obligation imposed upon it by Article IX, § 1(a), in a manner other than that prescribed therein, by paying tuition and fees for children to attend private schools or homeschools rather than the free public schools called for by Article IX, § 1(a), without equally applying the same laws, restrictions and oversight of funds required by and provided to public and charter schools.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 73.

74. The Scholarship Program violates Article IX, Section 1(a) because, among other things, it: (a) creates a publicly funded private system parallel to and in competition with the constitutional system of free public schools; (b) funds schools that are exempt from the safety requirements the Legislature has determined are necessary for student safety, including safe-school officers (§ 1006.12), threat assessment teams (§ 1006.07(7)), Alyssa’s Alert (§ 1006.07(4)(c)), active assailant response plans (§ 1006.07(6)(d)), youth mental health training (§ 1012.584), and perimeter security (§ 1006.07(6)(f)); (c) funds schools that are exempt from the accountability, assessment, and school grading systems the Legislature has enacted for public schools; (d) funds schools where teachers need not meet state certification requirements; (e) funds schools that are not subject to annual independent

audits, public financial reporting, or the Sunshine Law; (f) creates financial disparities through proration of district allocations while holding scholarship amounts constant, and through restricted categorical funding for districts but unrestricted categorical funding for scholarships; (g) funds schools that are exempt from additional state regulations by virtue of § 1002.421(4), ensuring that non-uniformity; and (h) funds schools where FEFP dollars may be spent on non-educational expenses including recreational equipment and theme park tickets, expenditures no public school district could lawfully make with the same funds.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 74.

75. Because the private schools or homeschools to which the state is dedicating public funds toward tuition and fees under the Scholarship Program are not subject to the same laws, regulations and requirements to provide a system of education that is “uniform,” the state’s attempt to fulfill its constitutional obligation by paying tuition and fees to such schools violates Article IX, § 1(a).

ANSWER: Intervenor-Defendants deny the allegations in paragraph 75.

SECOND CAUSE OF ACTION THE SCHOLARSHIP PROGRAM
(Violation of Article IX, § 6, of the Florida Constitution)

76. The allegations in Paragraphs 1-70 are realleged and incorporated herein by reference.

ANSWER: Intervenor-Defendants reallege and incorporate their answers to Paragraphs 1-70 herein by reference.

77. Article IX, § 6, of the Florida Constitution provides that “[t]he income derived from the state school fund shall, and the principal of the fund may, be appropriated, but only to the support and maintenance of free public schools.”

ANSWER: The allegations in paragraph 77 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

78. The State School Trust Fund is one of three named funding sources for the FEFP.

ANSWER: The allegations in paragraph 78 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

79. The FEFP funds the Scholarship Program. The Scholarship Program (FES-EO and FES-UA) scholarship amounts are calculated and paid through the FEFP under § 1002.394(12). Because FEFP dollars include State School Trust Fund income, and because Scholarship Program scholarships are disbursed to private schools that are neither free nor public, the Scholarship Program appropriates State School Trust Fund income for purposes other than the support and maintenance of free public schools.

ANSWER: The allegations in paragraph 79 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

80. Accordingly, the Scholarship Program uses the income derived from the state school fund for a purpose other than “the support and maintenance of free public schools,” in violation of Article IX, § 6, of the Florida Constitution.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 80.

THIRD CAUSE OF ACTION CHARTER SCHOOLS
(Violation of Article IX, § 1(a), of the Florida Constitution)

81. The allegations in Paragraphs 1-70 are realleged and incorporated herein by reference.

ANSWER: Intervenor-Defendants reallege and incorporate their answers to Paragraphs 1-70 herein by reference.

82. Article IX, § 1(a), of the Florida Constitution obligates the state to provide a “uniform, efficient, safe, secure, and high quality system of free public schools.”

ANSWER: Intervenor-Defendants deny the allegations in paragraph 82.

83. The Charter School Statute unconstitutionally directs the state to fulfill in part the education obligation imposed upon it by Article IX, § 1(a), in a manner other than that prescribed

therein, by funding charter schools that are not uniform with or subject to the same laws or requirements as traditional public schools.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 83.

84. Because the charter schools to which the state is paying and will pay under Fla. Stat. § 1002.33(17) will not necessarily provide a system of education that is “uniform” the state’s attempt to fulfill its constitutional obligation by paying public funds to such schools violates Article IX, § 1(a).

ANSWER: Intervenor-Defendants deny the allegations in paragraph 84.

FOURTH CAUSE
OF ACTION THE
SCHOLARSHIP
PROGRAM
(Violation of Article IX, § 1(a), of the Florida Constitution)

85. The allegations in Paragraphs 1-70 are realleged and incorporated herein by reference.

ANSWER: Intervenor-Defendants reallege and incorporate their answers to Paragraphs 1-70 herein by reference.

86. Article IX, § 1(a), of the Florida Constitution obligates the state to provide a “uniform, efficient, **safe, secure**, and high quality system of free public schools,” (*emphasis added*).

ANSWER: The allegations in paragraph 86 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

87. The Legislature has, through its own statutory enactments, determined what “safe and secure” means in the public system through Fla. Stat. § 1006.07 which, among other things, requires safe-school officers at each public school (Fl. Stat. § 1006.12, “Safe-school officers at each public school”); threat management teams at each school including a sworn law enforcement officer (Fla. Stat. § 1006.07(7); Fla. Admin. Code R. 6A-1.0019); Alyssa’s Alert mobile panic systems at each public school including charter schools (Fla. Stat. § 1006.07(4)(c)); active assailant response plans and drills with law enforcement physically present (Fla. Admin. Code R. 6A-1.0018); youth mental health

awareness training for at least 80% of school personnel (Fla. Stat. § 1012.584; Fla. Admin. Code R. 6A-1.094120); and locked gates and controlled access points when students are on campus (Fla. Stat. § 1006.07(6)(f)).

ANSWER: The allegations in paragraph 87 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

88. The Legislature requires public and charter schools to comply with these safety requirements, but not private schools, despite being funded by taxpayer dollars through the Scholarship Program.

ANSWER: The allegations in paragraph 88 are legal conclusions and to the extent an answer is required, Intervenor-Defendants deny them.

89. The state’s attempt to fulfill its constitutional obligation by paying tuition and fees to such schools without requiring that they meet the “safe and secure” mandates of the constitution, violates Article IX, § 1(a), Fla. Const.

ANSWER: Intervenor-Defendants deny the allegations in paragraph 89.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that this Court:

(1) Declare the Family Empowerment Scholarship Program, as currently administered, unconstitutional under (a) Article IX, § 1(a), of the Florida Constitution and (b) Article IX, § 6, of the Florida Constitution,

(2) Declare the Charter School Statute, Fla. Stat. 1002.33, as currently administered, unconstitutional under Article IX, § 1, of the Florida Constitution,

(3) Declare that the funding of students in private schools that are exempt from the safety standards enacted by the Legislature for publicly funded schools violates the “safe and secure” mandate of Article IX, Section 1(a);

(4) Enjoin defendants, and all persons and entities acting under their direction or in concert with them, from taking any measures to implement the Scholarship Program or to fund charter schools with public dollars while continued categorical disparities exist;

(5) Award to plaintiffs the attorneys' fees, expenses, and costs that are incurred in prosecuting this lawsuit; and

(6) Order such other and further relief as this Court may deem appropriate.

ANSWER: Plaintiffs' requests for relief do not contain any factual allegations. To the extent any response is required, Intervenor-Defendants deny any allegations in the requests for relief, deny that the Family Empowerment Scholarship programs are unconstitutional, and deny that Plaintiffs are entitled to the requested relief or any other relief.

AFFIRMATIVE DEFENSES

1. The Plaintiffs' claims fail, in whole or in part, because they fail to state a claim upon which relief can be granted.

2. The Plaintiffs lack standing for their asserted claims.

3. The Plaintiffs' claims fail, in whole or in part, because they seek a decision that would violate the Fourteenth Amendment to the U.S. Constitution, including but not limited to Intervenor-Defendants' parental rights.

Respectfully submitted,

/s/

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