

Tom Grady, *Chair*  
Ben Gibson, *Vice Chair*  
*Members*  
Monesia Brown  
Marva Johnson  
Ryan Petty  
Andy Tuck  
Joe York

## **MEMORANDUM**

**TO:** State Board of Education Members

**FROM:** Richard Corcoran

**RE:** Alachua County School District, Student Opt-Out Requirements

**DATE:** October 4, 2021

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Based upon the following memorandum, I find there is probable cause that the Alachua County School Board (ACSB) acted contrary to the law by requiring students to wear a mask or face covering unless certain exceptions apply, such as a medical certification. Specifically, ACSB's policy violated the provisions of Rule 64DER21-12 and continues to violate Rule 64DER21-15, Protocols for Controlling COVID-19 in School Settings.

### **Background Information**

As you recall, on August 17, 2021, the State Board of Education (State Board) found that ACSB's mask policy did not comply with the Department of Health's former rule, Rule 64DER21-12, and implemented its enforcement authority by withholding funds from the district. See Order of State Board of Education Under its Oversight and Enforcement Authority, DOE No. 2021-4023, attached as Exhibit A. ACSB's policy requires students to wear a mask on school property unless certain exceptions apply and does not allow a parent to opt out a child unless the district determines one of its exceptions applies.

Prior to the State Board's action, the Governor issued Executive Order Number 21-175, directing the Florida Department of Health (FDOH) and the Florida Department of Education (FDOE) to immediately execute rules and take any additional action necessary to ensure safety protocols for controlling the spread of COVID-19 in schools. The Governor's order requires that these protocols be consistent with the Parents' Bill of Rights, codified in chapter 1014, and directs that action "protect parents' right to make decisions regarding masking of their children in relation to COVID-19." Moreover, the order directs the Commissioner of Education to pursue all legal means available to ensure school districts adhere to the law, including but not limited to withholding funds from noncompliant school boards.

On September 17, 2021, ACSB applied for a Project SAFE grant from the United States Department of Education. *See* Exhibit B. Eligibility for this new grant program requires that the district implement CDC’s strategies for preventing COVID-19, including masking, if the district:

[h]as incurred or will incur a financial penalty imposed by its SEA or other State entity, such as a reduction in funding, including but not limited to reduction in salaries for school board members or superintendents, due to the implementation of one or more [CDC] strategies . . . . and

. . . . commits to maintain such strategy or strategies to the extent consistent with CDC guidance for the 2021-2022 school year.

*Id.* The grant application includes the following attestation by ACSB’s Superintendent Simon:

By signing this document, the LEA Superintendent/chief executive officer (CEO) attests that the LEA has implemented such prevention strategy(ies) and that it will continue implementing the prevention strategy(ies) to the extent consistent with CDC guidance for the duration of the 2021-2022 school year.

*Id.*

On September 22, 2021, FDOH issued a revised rule, 64DER21-15, which relaxes the requirements for quarantining asymptomatic students who have been exposed to COVID-19, and further clarifies the parental opt-out provision by requiring that a school “must allow for a parent or legal guardian of the student to opt the student out of wearing a face covering or mask at the parent or legal guardian’s **sole discretion.**” *See* Rule 64DER21-15, Florida Administrative Register, Vol. 47 / No. 185, September 23, 2021 (emphasis supplied), attached as Exhibit C.

On September 23, 2021, I notified ACSB of Rule 64DER21-15 and requested written confirmation of the school district’s compliance with the revised FDOH rule. *See* Exhibit D.

Also on September 23, 2021, the United States Department of Education announced that it had awarded ACSB \$147,719 in Project SAFE grant funds. *See* Exhibit E, Exhibit F.

On September 24, 2021, ACSB submitted a written response, requesting an extension until October 6, in order to allow the school board time to review the rule and its policies in light of the revised rule, at a public meeting scheduled for October 5, 2021. *See* Exhibit G. The letter did not rescind the requirement for medical documentation in order to opt-out of the mask mandate.

In sum, the ACSB’s face covering policy requires all students, staff and visitors to wear face coverings on ACSB grounds and in ACSB vehicles. Although the policy appears to provide a number of exceptions, the policy precludes voluntary parental opt-out at the parent’s or legal guardian’s sole discretion. *See* Exhibit H.

#### The State Board’s Enforcement Authority

The State Board of Education’s enforcement authority is found in section 1008.32, Florida

Statutes. The statute provides that “[t]he State Board of Education shall oversee the performance of district school boards [...] in enforcement of all laws and rules.” § 1008.32, Fla. Stat.

In enforcing the law, the statutory process prescribed therein requires that I, as Commissioner of Education, first report my determination of probable cause to the State Board of Education. If the State Board then determines that a district school board is unwilling or unable to comply with either law or rule, the State Board is authorized to impose sanctions in order to secure compliance, including the withholding of funds and reporting to the Legislature.

Any argument that the State Board’s authority to enforce these safety protocols interferes with any district school board’s authority to operate and control schools should be rejected. Indeed, the law in Florida is clear that the State Board’s supervisory authority acts as a limitation on the operational authority of districts to operate, control and supervise public schools.

Looking to the Florida Constitution, there is a hierarchy under which a school board has local control, but in which the State Board supervises the system as a whole. This broader supervisory authority may at times infringe on a board’s local powers, but such infringement is expressly contemplated and, in fact, encouraged by the very structure set by the Florida Constitution. *See Sch. Bd of Palm Beach Cty. v. Fla. Charter Educ. Found, Inc.*, 213 So. 3d 356, 360 (Fla. 4th DCA 2017) (rejecting school board’s argument that the State Board of Education’s authority to approve a charter school application on appeal violates article IX, section 4(b)); *see also Sch. Bd of Collier Cty v. Fla. Dep’t of Education*, 279 So. 3d 281 (Fla. 1st DCA 2019) (rejecting school board’s argument that a statute requiring school boards to distribute a portion of capital millage revenue to charter schools violates article IX, section 4(b)).

Accordingly, any argument that the State Board of Education lacks the authority to enforce these school safety protocols should also be rejected. It has long been settled that rules have the force and effect of the law. *State v. Jenkins*, 469 So. 2d 733 (Fla. 1985); *Florida Livestock Board v. W.G. Gladden*, 76 So. 2d 291 (Fla. 1954). Rule 64DER21-15 derives authority from a statute in the educational code—specifically, section 1003.22(3), Florida Statutes—so while FDOH may *also* have enforcement authority, enforcement of school safety protocols falls squarely within the State Board of Education’s authority to supervise the state’s education system as a whole.

### Conclusion

Every school board member and every school superintendent has a duty to comply with the law, whether they agree with it or not. While the district school board may not agree with the safety protocols set forth by the Surgeon General in rule, the Surgeon General is the person who, under the law, sets protocols to control and mitigate COVID-19 in schools. The Office of the Attorney General relied upon these principles to reject any argument a school board could depart from FDOH’s emergency rule based upon a disagreement with the protocols found in the rule. *See*, AGO 2021-01, September 1, 2021. Disagreement with the protocols found in 64DER21-15 simply does not provide a school district with a basis to violate the rule, be it through medical requirements, attempts to tie mask requirements to fluctuating positivity rates, or through any other means.

All of this in mind, I hereby recommend that the State Board of Education use its enforcement powers to enforce the health protocols found in Emergency Rule 64DER21-15 and protect the right of parents to make both health and educational decisions on behalf of their children.

Should the State Board adopt my recommendation, I request that it consider the sanction of withholding state funds in an amount equal to 1/12 of all school board members' salaries, as well as withholding state funds in an amount equal to any federal grant funds awarded to the ACSB for its noncompliance with Emergency Rule 64DER21-15.

# **EXHIBIT A**

STATE OF FLORIDA  
STATE BOARD OF EDUCATION

IN RE:

DOE No.: 2021-4023

ALACHUA COUNTY SCHOOL BOARD,  
STUDENT OPT-OUT REQUIREMENTS.

DEPT OF EDUCATION  
TALLAHASSEE FLA

2021 AUG 20 AM 9:35

FILED AGENCY CLERK

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**ORDER OF STATE BOARD OF EDUCATION UNDER ITS OVERSIGHT AND  
ENFORCEMENT AUTHORITY**

After having considered the determination of probable cause made by the Commissioner of Education, Richard Corcoran, along with an independent review of the documentary support for that determination, as well as public comment and discussions provided at the August 17, 2021, State Board of Education meeting, the State Board of Education implements its oversight authority under section 1008.32, Florida Statutes, as follows:

1. The State Board of Education authorized the Commissioner of Education to further investigate this matter and to take any and all action necessary to ensure that the State Board of Education satisfies its enforcement and other obligations under, among other things, chapters 1001 and 1008, Florida Statutes. These laws prevent the State Board of Education from ignoring intentional violations of state law or rules and compel action to enforce such violations.
2. As an initial finding, the State Board of Education finds that the School Board of Alachua County's requirement for medical documentation to opt-out of masking does not comply with Florida Department of Health Emergency Rule 64DER21-12, Protocols for Controlling COVID-19 in School Settings. That rule requires public schools to "allow for a parent or legal guardian of the student to opt-out the student from wearing a face covering or mask."

3. The State Board of Education finds that the School Board of Alachua County's noncompliance and knowing failure to follow the law unlawfully denies Alachua County parents and legal guardians of their right to make fundamental healthcare and educational decisions for their children by choosing whether their children should be masked in public schools.
4. Based on these findings, it is hereby ordered that the School Board of Alachua County must document compliance with Florida Department of Health Emergency Rule 64DER21-12 by allowing a parent or legal guardian of a student to opt-out the student from wearing a face covering or mask, without requiring a medical reason, approval from a medical professional or any additional requirement to support the request.
5. The School Board of Alachua County has 48 hours from receipt of this order to document compliance as set forth in this order. If the School Board of Alachua County demonstrates compliance by this deadline, then no further action is needed.
6. If the School Board of Alachua County fails to timely document compliance within 48 hours from receipt of this order, the School Board of Alachua County must provide to the Commissioner of Education, no later than 48 hours after receipt of this order, information confirming the current annual compensation provided to all school board members.
7. Upon receipt of the annual compensation information for the School Board of Alachua County members mentioned above, and continuing until the School Board of Alachua County demonstrates compliance with the law, the Florida Department of Education is directed to begin withholding from state funds, on a monthly basis, an amount equal to 1/12 of the total annual compensation of the school board, as an initial step. Monthly withholding must continue until the School Board of Alachua County demonstrates

compliance, the State Board of Education withdraws this order, or when the rule expires or is withdrawn. If the School Board of Alachua County fails to provide the requested compensation information within the 48 hour period, the Florida Department of Education shall withhold state funds based on the most recent appropriations estimate until the School Board of Alachua County provides the current estimate. The Alachua County School Board members who voted to impose the unlawful mask mandate are:

Dr. Leanetta McNealy

Tina Certain

Dr. Gunnar F. Paulson

Robert P. Hyatt

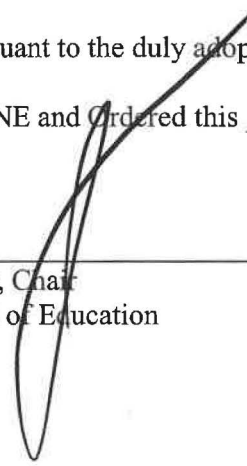
8. In complying with this order, the School District of Alachua County may not reduce any expenditures other than those related to compensation for school board members. Further, the School District of Alachua County may not permit the reduction of funds based upon this order to impact student services or teacher pay.
9. Upon the School Board of Alachua County's failure to timely document compliance within 48 hours of receipt of this order, the Alachua County School Superintendent shall certify, upon request of the Commissioner of Education, an updated report documenting any instance of the School District of Alachua County's enforcement of the unlawful face covering mandate policy against a student, including, but not limited to, instances of a student being sent home, reassigned, disciplined, suspended, isolated, stigmatized, warned or harassed because of the student's failure to comply with the School Board of Alachua County's unlawful face covering mandate policy. Such report shall include the student's name and grade, parent's name(s) and home address. If the School District of Alachua




County does not have any instances of enforcement to report, the Alachua County School Superintendent shall submit a certified report asserting such fact. This request from the Commissioner of Education shall be continuous in nature until the Alachua County School Superintendent can certify and establish full compliance.

10. Upon the School Board of Alachua County's failure to timely document compliance within 48 hours of receipt of this order, the Commissioner of Education shall monitor and report at each subsequent meeting of the State Board of Education as to the School Board of Alachua County's compliance with Florida Department of Health Emergency Rule 64DER21-12 and this order, and provide recommendations to the State Board of Education as necessary to mandate further reporting related to noncompliance or further withholding of state funds due to continued noncompliance, pursuant to the State Board of Education's oversight and enforcement authority within section 1008.32, Florida Statutes.
11. The State Board of Education may continue to review findings of the Commissioner of Education as he continues his investigation, and retains the right and duty to impose additional sanctions, and take additional enforcement action, as necessary, to bring the School Board of Alachua County into compliance and better serve Florida's families pursuant to the duly adopted resolutions of that date.

DONE and Ordered this 20<sup>th</sup> day of August, 2021.

  
\_\_\_\_\_  
Tom Grady, Chair  
State Board of Education

  
\_\_\_\_\_  
Ben Gibson, Vice Chair  
State Board of Education

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 20, 2021, the foregoing was filed with the Agency Clerk of the Florida Department of Education, and that a true and correct copy of the foregoing has been furnished via email and U.S. Mail to:

Ms. Carlee Simon, Alachua County School Superintendent  
[simonce@gm.sbac.edu](mailto:simonce@gm.sbac.edu)  
620 East University Avenue  
Gainesville, FL 32601-5448

Ms. Leanetta McNealy, Chair, School Board of Alachua County  
[mcnealy@gm.sbac.edu](mailto:mcnealy@gm.sbac.edu)  
620 East University Avenue  
Gainesville, FL 32601-5448

  
AGENCY CLERK



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## **MEMORANDUM**

**TO:** State Board of Education Members

**FROM:** Commissioner Richard Corcoran

**RE:** Alachua County School District, Student Opt-Out Requirements

**DATE:** August 17, 2021

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Based upon the attached memorandum, I find there is probable cause that the School Board of Alachua County and the district's superintendent, Carlee Simon, acted contrary to the law, specifically, the provisions of 64DER21-12, Protocols for Controlling COVID-19 in School Settings and the Parents' Bill of Rights, found in ss. 1014.02-1014.06, Fla. Stat., by requiring parents to provide documentation from a medical doctor, osteopathic physician, or a licensed nurse practitioner in order to opt-out of the district's mask mandate.

### **Background Information**

On July 30, 2021, the Governor issued Executive Order Number 21-175, directing the Florida Department of Health and the Florida Department of Education to immediately execute rules and to take any additional action necessary to ensure safety protocols for controlling the spread of COVID-19 in schools. The executive order requires that these protocols be consistent with the Parents' Bill of Rights and directs that agency action "protect parents' right to make decisions regarding masking of their children in relation to COVID-19." Moreover, the order directs the Commissioner of Education to pursue all legal means available to ensure school districts adhere to Florida law, including but not limited to withholding state funds from noncompliant school boards...."

On August 6, 2021, in response to the executive order, and after consultation with the Florida Department of Education, the Florida Department of Health adopted an emergency rule establishing protocols for controlling the spread of COVID-19 in schools. The rule was adopted by the state's Surgeon General, Scott Rivkees, as head of the Florida Department of Health. Given the statutory duty of the Florida Department of Health to implement protocols to prevent or limit the impact or spread of disease, the state's Surgeon General must be a licensed physician with advanced training or extensive experience in public health administration. (See Section 20.43(2), Fla. Stat.) The emergency rule provides for general protocols for public schools,

protocols specific to symptomatic or COVID-19 positive students, protocols specific to students with exposure to COVID-19, and protocols for students with a prior COVID-19 infection. The general procedures for public schools are as follows:

- (a) Schools should encourage routine cleaning of classrooms and high-traffic areas.
- (b) Students should be encouraged to practice routine handwashing throughout the day.
- (c) Students should stay home if they are sick.
- (d) Students may wear masks or facial coverings as a mitigation measure; however, the school must allow for a parent or legal guardian of the student to opt-out the student from wearing a face covering or mask.**

See, 64DER21-12, Protocols for Controlling COVID-19 in School Settings, Florida Administrative Register, Vol. 47, No. 153 (August 9, 2021).

Citing to the Parents' Bill of Rights, the notice for the Department of Health's emergency rule provides that "it is necessary to immediately promulgate a rule regarding COVID-19 safety protocols that protects parents' rights and to allow for in-person education for their children."

#### Alachua County School District

On August 4, 2021, prior to issuance of the Department of Health's emergency rule, Superintendent Simon issued a message stating in part that,

[i]n keeping with our Face Coverings Policy, families may request that their child opt-out of wearing a mask by submitting a form signed by a doctor.

The district's face covering policy allows for certain exceptions for students, as well as breaks when masks can be removed. (See Alachua County Public Schools, Policy 8450.01 – Protective Facial Coverings During Pandemic/Epidemic Events.)

On August 6, 2021, despite the emergency rule setting protocols for schools that allow a parent to opt-out their child from masking requirements, Alachua County Public Schools issued a notice that a mask requirement would remain in place for students for the first two weeks of school. The notice provides that in order to opt-out a student from the mask requirement, the parent must use the Student Mask Opt-Out Medical Exemption form. This form requires that (1) a medical doctor, a licensed osteopathic physician or a licensed nurse practitioner disclose the medical condition or diagnosis of the student, (2) the student must be under the medical professional's care, and (3) the medical professional must indicate that the student cannot wear a mask or face shield in order to exempt the student from masking.

On August 9, 2021, I, as the Commissioner of Education, wrote Alachua's superintendent and school board chair to notify the district in writing of my concern with the district's non-

compliance with the Department of Health's emergency rule. This letter was sent only after communications with the district, seeking to obtain compliance, were unsuccessful. My letter advised that the "emergency rule does not require parents to submit medical documentation from a physician or a nurse practitioner in order to opt-out [of a mask mandate] and any such requirement is inconsistent with the emergency rule." In order to avoid implementing the State Board of Education's enforcement authority, I directed that the district demonstrate compliance by 5:00 p.m. on August 10, 2021.

On August 10, 2021, the superintendent and school board chair responded in writing, expressing disagreement with the Department of Health's emergency rule. The letter did not rescind the requirement for medical documentation in order for a student to opt-out of a mask mandate.

#### The State Board of Education's Enforcement Authority

The State Board of Education's enforcement authority is found in Section 1008.32, Fla. Stat. The statute provides that "[t]he State Board of Education shall oversee the performance of district school boards...in enforcement of all laws and rules."

The statutory process requires that I, as the Commissioner of Education, report my determination of probable cause to the State Board of Education. If the State Board of Education determines that a district is unwilling or able to comply with the law or state board rule, it is authorized to impose sanctions in order to secure compliance, including the withholding of funds and reporting to the legislature.

Any argument that the State Board of Education's authority to enforce these safety protocols interferes with the school board's authority to operate and control schools, should be rejected. The State Board of Education's supervisory authority acts as a limitation on the operational authority of districts to operate, control and supervise public schools.

The Florida Constitution therefore creates a hierarchy under which a school board has local control, but the State Board supervises the system as a whole. This broader supervisory authority may at times infringe on a school board's local powers, but such infringement is expressly contemplated – and in fact encouraged by the very nature of supervision by the Florida Constitution.

*Sch. Bd of Palm Beach Cty. v. Fla. Charter Educ. Found, Inc.*, 213 So. 3d 356, 360 (Fla. 4th DCA 2017) (rejecting local school board's argument that the State Board of Education's authority to approve a charter school application on appeal violates article IX, section 4(b)); see, also, *Sch. Bd of Collier Cty v. Fla. Dep't of Education*, 279 So. 3d 281 (Fla. 1st DCA 2019) (rejecting local school board's argument that statute requiring school boards to distribute a portion of capital millage revenue to charter schools violates article IV, section 4(b) since state constitution contemplates state educational authorities could infringe on school board's local powers).

Any argument that the State Board of Education lacks the authority to enforce these school safety protocols should also be rejected. It has long been settled that rules have the force and effect of the law. *State v. Jenkins*, 469 So. 2d 733 (Fla. 1985); *Florida Livestock Board v. W.G. Gladden*, 76 So. 2d 291 (Fla. 1954). The emergency rule derives its authority from a statute found in the educational code, specifically Section 1003.22(3), Fla. Stat. While the Department of Health may also have enforcement authority, enforcement of school safety protocols falls squarely within the Florida Department of Education's authority to supervise the system as a whole.

### Conclusion

Every school board member and every school superintendent have a duty to comply with the law, whether they agree with it or not. While the district may not agree with the safety protocols set forth by the Surgeon General in the emergency rule, the Surgeon General is the person who, under the law, sets protocols to control COVID-19 in schools.

As a result, I recommend that the State Board of Education use its enforcement powers to enforce the health protocols found the Emergency Rule 64DER21-12 and protect the right of parents to make health and educational decisions for their children.

# **EXHIBIT B**

**U.S. Department of Education  
Fiscal Year 2021 and 2022**

**Application for the  
Project to Support America’s Families and Educators  
(Project SAFE) Grant Program**

**CFDA Number: 84.184N**



**OMB Number: 1810-0763  
Expiration Date: 03/31/2022**

**Paperwork Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1810-0763. Public reporting burden for this collection of information is estimated to average 2 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain benefit under Section 4631(a)(1)(B) of the ESEA. If you have any comments concerning the accuracy of the time estimate, suggestions for improving this individual collection, or if you have comments or concerns regarding the status of your individual form, application or survey, please contact Amy Banks, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3E257, Washington, D.C., 20202 or email [ProjectSAFE@ed.gov](mailto:ProjectSAFE@ed.gov) directly.



## **PROGRAM INFORMATION**

### **Purpose**

The Project to Support America's Families and Educators (Project SAFE) grant program is intended to improve students' safety and well-being by providing funding to local educational agencies (LEAs) that adopt and implement strategies to prevent the spread of the Novel Coronavirus Disease 2019 (COVID-19) consistent with guidance from the Centers for Disease Control and Prevention (CDC), and that are financially penalized for doing so by their State educational agency (SEA) or other State entity. Project SAFE is funded under the School Safety National Activities authority in Section 4631(a)(1)(B) of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 7281).

### **Eligibility**

Eligible applicants: LEAs

An LEA is eligible for Project SAFE if it:

(a) Has adopted a policy to implement and is implementing one or more of the strategies recommended in the CDC's [Guidance for COVID-19 Prevention in K-12 Schools](#), as may be updated. The most recent guidance incorporates the following strategies:

- (i) Promoting vaccination;
- (ii) Consistent and correct mask use;
- (iii) Physical distancing;
- (iv) Screening testing to promptly identify cases, clusters, and outbreaks;
- (v) Ventilation;
- (vi) Handwashing and respiratory etiquette;
- (vii) Staying home when sick and getting tested;
- (viii) Contact tracing, in combination with isolation and quarantine; and
- (ix) Cleaning and disinfection;

(b) Has incurred or will incur a financial penalty imposed by its SEA or other State entity, such as a reduction in funding, including but not limited to reduction in salaries for school board members or superintendents, due to implementation of one or more strategies described in paragraph (a); and

(c) To protect the safety and well-being of students, has continued at the time of application to implement such strategy or strategies for which the penalty was imposed and commits to maintain such strategy or strategies to the extent consistent with CDC guidance for the 2021-2022 school year.

### **Absolute Priority**

The Department will consider only applications that meet the Project SAFE absolute priority:

Supporting LEAs' and local education leaders' efforts to improve student safety and well-being in LEAs that have been financially penalized by their SEA or other State entity for adopting and implementing strategies consistent with CDC guidance to prevent the spread of COVID-19.

Under this absolute priority, the Department awards funds to support activities to improve student safety and well-being by advancing strategies consistent with CDC guidance to reduce transmission of COVID-19 in schools by addressing the harmful impact of disruptive State penalties imposed on the LEA for implementing CDC guidance. These activities could include, for example, activities to facilitate the continued implementation of strategies aligned with CDC guidance, despite the State-imposed penalty, and/or to maintain LEA and school stability, such as by enabling the LEA to maintain activities and/or staffing levels or compensation that would otherwise be negatively impacted or reduced due to financial penalties levied on the LEA for implementing strategies aligned with CDC guidance, including but not limited to a reduction in salaries for the superintendent or school board members.

Project SAFE applicants will demonstrate that they meet the absolute priority by proposing a project budget that meets the priority.

### **Project Period**

Up to 12 months. The Department may structure an LEA's award based on the timing of any anticipated future financial penalty.

### **Budget Request**

The total amount of Project SAFE funds an LEA requests must not exceed the amount of the financial penalty for adopting and implementing CDC guidance that the LEA incurred or will incur during the project period (up to 12 months). The Department may fund awards in whole, or in part, at its sole discretion, and may establish a maximum grant award level through a notice in the Federal Register in order to serve as many eligible applicants as possible. The Department may also structure an LEA's award based on the timing of any anticipated future financial penalty.

### **Timeline**

Applications will be reviewed by program staff and approved on a rolling, expedited basis contingent on the availability of funding.

### **Program Contact**

For additional information, please contact Amy Banks at [ProjectSAFE@ed.gov](mailto:ProjectSAFE@ed.gov).

## APPLICATION INSTRUCTIONS

To compete for a Project SAFE award, an LEA must submit to the Department the following information:

- A completed cover sheet that includes the signature of the Superintendent or chief executive officer (CEO) of the LEA or their authorized representative. *(Part A of the Application)*
- Required Documentation and Related Assurances that includes the Signature of the Superintendent or CEO of the LEA or their authorized representative. *(Part B of the Application)*
  - Including attached copies of:
    - The enacted LEA policy that demonstrates that the LEA has adopted one or more strategies as recommended in the CDC's Guidance for COVID-19 Prevention in K-12 Schools available at <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html>, as listed in the eligibility requirements;
    - The SEA or other State entity notification of a financial penalty levied due to the LEA's adoption of such strategy or strategies, which includes the amount and duration of such penalty (to the extent available); and
    - Any other documentation necessary to describe the amount of the financial penalty specified in the notification from the SEA or other State entity that has already been levied at the time of the application and the anticipated amount of any future financial penalty that will be levied during the 12-month period beginning on the date of application.
- Budget. *(Part C of the Application)*
- Other assurances and certifications. *(Part D of the Application)*

### Application Submission Information

Application submissions to the Department will be considered on an ongoing basis.

Please submit your Application, including required attachments, to the Department as follows:

Email an electronic version of your Application in a .PDF (PortableDocument Format) to Amy Banks at [ProjectSAFE@ed.gov](mailto:ProjectSAFE@ed.gov).

**PROJECT SAFE**

**LOCAL EDUCATIONAL AGENCY**

**PART A: APPLICATION COVER SHEET**

LEA: Alachua

CFDA Number: 84.184N

Legal Name: School Board of Alachua County

DUNS Number: 156470163

LEA Superintendent or chief executive officer (CEO): Carlee Simon, PhD.

Mailing Address: 620 E University Avenue  
Gainesville FL 32601

LEA Contact for Project SAFE: Carlee Simon, PhD.

Position and Office: Superintendent

Mailing Address: 620 E University Avenue,  
Gainesville, FL 32601

Telephone: 352-955-7546

Email address: simonce@gm.sbac.edu

To the best of my knowledge and belief, all the information and data in this application are true and correct. I acknowledge and agree that the failure to comply with all Assurances and commitments in this application, and any other applicable law or regulation may result in liability under the False Claims Act, 31 U.S.C. § 3729, *et seq.*; OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and 18 USC § 1001, as appropriate.

LEA Superintendent/chief executive officer (CEO) or Authorized Representative (Typed Name):

**Carlee Simon, PhD., Superintendent**

Telephone: **352-955-7546**

Signature of LEA Superintendent/chief executive officer (CEO) or Authorized Representative:

Date: **9/17/21**



**PART B: REQUIRED DOCUMENTATION AND RELATED ASSURANCES**

The [LEA Superintendent/chief executive officer (CEO) or their authorized representative] assures that it is submitting with this Application an electronic copy of the following documents and certifies that they are accurate and complete:

- The enacted LEA policy that demonstrates that the LEA has adopted one or more strategies as recommended in the CDC’s Guidance for COVID-19 Prevention in K-12 Schools, as listed in the eligibility requirements;
- The SEA or other State entity notification of a financial penalty levied due to the LEA’s adoption of such strategy or strategies, which includes the amount and duration of such penalty (to the extent available); and
- Any other documentation necessary to describe the amount of the financial penalty specified in the notification from the SEA or other State entity that has already been levied at the time of the application and the anticipated amount of any future financial penalty that will be levied during the 12-month period beginning on the date of application.

By signing this document, the LEA Superintendent/chief executive officer (CEO) attests that the LEA has implemented such prevention strategy(ies) and that it will continue implementing the prevention strategy(ies) to the extent consistent with CDC guidance for the duration of the 2021-2022 school year.

By signing this document, the LEA superintendent/CEO assures that the LEA will not draw down any Project SAFE grant funds until such time as the LEA incurs the above referenced financial penalty imposed by the State.

By signing this document, the LEA superintendent/CEO assures that the LEA will not provide reimbursement for any individual salary in an amount greater than the reduction to that individual salary.

LEA Superintendent/chief executive officer (CEO) or Authorized Representative (Printed Name):

Signature: 	Date: 9/17/2021
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# Commissioner Richard Corcoran Announces the Withholding of Funds in Alachua and Broward Counties for their Continued Violation of State Law

August 30, 2021

FDOE Press Office

850-245-0413

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## Commissioner Richard Corcoran Announces the Withholding of Funds in Alachua and Broward Counties for their Continued Violation of State Law

*~ State will continue to fight for parent rights ~*

**Tallahassee, Fla., August 30, 2021** – Today, Commissioner of Education Richard Corcoran announced that the Florida Department of Education has withheld the monthly school board member salaries in Alachua and Broward County, as directed by the State Board of Education. Each district has implemented a mandatory face mask policy that violates parental rights by not allowing a parent or legal guardian to opt-out their child, as required by Florida Department of Health Emergency Rule 64DER21-12. The withholding of funds will continue monthly until each school board complies with state law and rule.

“We’re going to fight to protect parent’s rights to make health care decisions for their children. They know what is best for their children. What’s unacceptable is the politicians who have raised their right hands and pledged, under oath, to uphold the Constitution but are not doing so. Simply said, elected officials cannot pick and choose what laws they want to follow,” **said Commissioner of Education Corcoran.**

On August 20, 2021, the State Board of Education issued the Alachua and Broward County school districts with an Order demanding that they comply with state statute and rule; however, both districts refuse to comply. Each county is also prohibited from reducing any expenditures other than those related to compensation for school board members, and clearly states each district may not permit the reduction of funds to impact student services or teacher pay.

The Commissioner of Education and State Board of Education retain the right and duty to impose additional sanctions and take additional enforcement action to bring each school district into compliance with state law and rule.

**Read More News...**

STATE OF FLORIDA  
STATE BOARD OF EDUCATION

IN RE:

DOE No.: 2021-4023

ALACHUA COUNTY SCHOOL BOARD,  
STUDENT OPT-OUT REQUIREMENTS.

DEPT OF EDUCATION  
TALLAHASSEE FLA

2021 AUG 20 AM 9:35

FILED AGENCY CLERK

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**ORDER OF STATE BOARD OF EDUCATION UNDER ITS OVERSIGHT AND  
ENFORCEMENT AUTHORITY**

After having considered the determination of probable cause made by the Commissioner of Education, Richard Corcoran, along with an independent review of the documentary support for that determination, as well as public comment and discussions provided at the August 17, 2021, State Board of Education meeting, the State Board of Education implements its oversight authority under section 1008.32, Florida Statutes, as follows:

1. The State Board of Education authorized the Commissioner of Education to further investigate this matter and to take any and all action necessary to ensure that the State Board of Education satisfies its enforcement and other obligations under, among other things, chapters 1001 and 1008, Florida Statutes. These laws prevent the State Board of Education from ignoring intentional violations of state law or rules and compel action to enforce such violations.
2. As an initial finding, the State Board of Education finds that the School Board of Alachua County's requirement for medical documentation to opt-out of masking does not comply with Florida Department of Health Emergency Rule 64DER21-12, Protocols for Controlling COVID-19 in School Settings. That rule requires public schools to "allow for a parent or legal guardian of the student to opt-out the student from wearing a face covering or mask."

3. The State Board of Education finds that the School Board of Alachua County's noncompliance and knowing failure to follow the law unlawfully denies Alachua County parents and legal guardians of their right to make fundamental healthcare and educational decisions for their children by choosing whether their children should be masked in public schools.
4. Based on these findings, it is hereby ordered that the School Board of Alachua County must document compliance with Florida Department of Health Emergency Rule 64DER21-12 by allowing a parent or legal guardian of a student to opt-out the student from wearing a face covering or mask, without requiring a medical reason, approval from a medical professional or any additional requirement to support the request.
5. The School Board of Alachua County has 48 hours from receipt of this order to document compliance as set forth in this order. If the School Board of Alachua County demonstrates compliance by this deadline, then no further action is needed.
6. If the School Board of Alachua County fails to timely document compliance within 48 hours from receipt of this order, the School Board of Alachua County must provide to the Commissioner of Education, no later than 48 hours after receipt of this order, information confirming the current annual compensation provided to all school board members.
7. Upon receipt of the annual compensation information for the School Board of Alachua County members mentioned above, and continuing until the School Board of Alachua County demonstrates compliance with the law, the Florida Department of Education is directed to begin withholding from state funds, on a monthly basis, an amount equal to 1/12 of the total annual compensation of the school board, as an initial step. Monthly withholding must continue until the School Board of Alachua County demonstrates



compliance, the State Board of Education withdraws this order, or when the rule expires or is withdrawn. If the School Board of Alachua County fails to provide the requested compensation information within the 48 hour period, the Florida Department of Education shall withhold state funds based on the most recent appropriations estimate until the School Board of Alachua County provides the current estimate. The Alachua County School Board members who voted to impose the unlawful mask mandate are:

Dr. Leanetta McNealy

Tina Certain

Dr. Gunnar F. Paulson

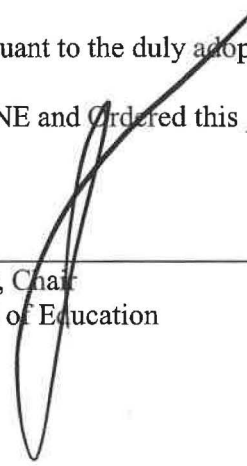
Robert P. Hyatt


8. In complying with this order, the School District of Alachua County may not reduce any expenditures other than those related to compensation for school board members. Further, the School District of Alachua County may not permit the reduction of funds based upon this order to impact student services or teacher pay.
9. Upon the School Board of Alachua County's failure to timely document compliance within 48 hours of receipt of this order, the Alachua County School Superintendent shall certify, upon request of the Commissioner of Education, an updated report documenting any instance of the School District of Alachua County's enforcement of the unlawful face covering mandate policy against a student, including, but not limited to, instances of a student being sent home, reassigned, disciplined, suspended, isolated, stigmatized, warned or harassed because of the student's failure to comply with the School Board of Alachua County's unlawful face covering mandate policy. Such report shall include the student's name and grade, parent's name(s) and home address. If the School District of Alachua

County does not have any instances of enforcement to report, the Alachua County School Superintendent shall submit a certified report asserting such fact. This request from the Commissioner of Education shall be continuous in nature until the Alachua County School Superintendent can certify and establish full compliance.

10. Upon the School Board of Alachua County's failure to timely document compliance within 48 hours of receipt of this order, the Commissioner of Education shall monitor and report at each subsequent meeting of the State Board of Education as to the School Board of Alachua County's compliance with Florida Department of Health Emergency Rule 64DER21-12 and this order, and provide recommendations to the State Board of Education as necessary to mandate further reporting related to noncompliance or further withholding of state funds due to continued noncompliance, pursuant to the State Board of Education's oversight and enforcement authority within section 1008.32, Florida Statutes.
11. The State Board of Education may continue to review findings of the Commissioner of Education as he continues his investigation, and retains the right and duty to impose additional sanctions, and take additional enforcement action, as necessary, to bring the School Board of Alachua County into compliance and better serve Florida's families pursuant to the duly adopted resolutions of that date.

DONE and Ordered this 20<sup>th</sup> day of August, 2021.

  
\_\_\_\_\_  
Tom Grady, Chair  
State Board of Education

  
\_\_\_\_\_  
Ben Gibson, Vice Chair  
State Board of Education

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 20, 2021, the foregoing was filed with the Agency Clerk of the Florida Department of Education, and that a true and correct copy of the foregoing has been furnished via email and U.S. Mail to:

Ms. Carlee Simon, Alachua County School Superintendent  
[simonce@gm.sbac.edu](mailto:simonce@gm.sbac.edu)  
620 East University Avenue  
Gainesville, FL 32601-5448

Ms. Leanetta McNealy, Chair, School Board of Alachua County  
[mcnealy@gm.sbac.edu](mailto:mcnealy@gm.sbac.edu)  
620 East University Avenue  
Gainesville, FL 32601-5448

  
AGENCY CLERK



Book	Policy Manual
Section	8000 Operations
Title	<b>PROTECTIVE FACIAL COVERINGS DURING PANDEMIC/EPIDEMIC EVENTS</b>
Code	po8450.01
Status	Active
Adopted	October 20, 2020

#### 8450.01 - **PROTECTIVE FACIAL COVERINGS DURING PANDEMIC/EPIDEMIC EVENTS**

During times of elevated communicable disease community spread (pandemic or epidemic), the Superintendent will issue periodic guidance through School Board plans/resolution(s) in alignment with public health officials and/or in accordance with government edicts and including any Pandemic Plan developed by the District's Pandemic Response Team. (See also Policy 8420.01 - *Epidemics and Pandemics*.)

School settings can be a source of community spread. Wearing face masks/coverings is especially important during these times and can help mitigate the risk of exposure from person to person.

As such, during times of elevated communicable disease community spread, the Superintendent may activate this policy by notifying the school community, requiring all school staff, volunteers and visitors (including vendors) to wear appropriate face masks/coverings on school grounds unless it is unsafe to do so or where doing so would significantly interfere with the Districts educational or operational processes.

Face masks/coverings will be provided by the District to employees and students, as necessary. Individuals may elect to wear their own face coverings if they meet the requirements of this policy as well as any requirements issued by State or local health departments.

In addition, **the Board may require students to wear a face mask** unless they are unable to do so for a health, sensory, or developmental reason. Efforts will be made to reduce any social stigma for a student who, for medical or developmental reasons, cannot and should not wear a mask. Children in kindergarten and below will be educated, encouraged and expected to wear face coverings, but failure to wear a face covering will not prohibit their attendance if they are unable to wear a face covering at all times.

If face masks/coverings are required, and no exception is applicable, students who refuse to wear a face mask/covering, in accordance with policies of the Board, may be reassigned by the Superintendent to an online/virtual learning environment if the Superintendent determines that reassignment is necessary to protect the health and safety of the student or others.

All students and staff are required to wear masks while being transported on District school buses or other modes of school transportation.

School nurses or staff who care for individuals with symptoms consistent with those of a communicable disease must use appropriate personal protective equipment (PPE), provided by the school, in accordance with OSHA standards.

When facial masks/coverings are required by the Board, and no exception has been applied, staff members who violate this policy shall be subject to disciplinary action in accordance with policies of the Board or applicable collective bargaining agreement.

#### **Use of Mask/Face Covering**

Face coverings/mask should:

- A. fully cover the mouth, nose, and chin;

D. for individuals who have difficulty wearing a face mask/covering for documented health, sensory, or developmental reasons.

If employees receive approval from the District administration after discussing their request not to wear a face mask/covering/shield due to a physical, mental or developmental health condition, and/or if wearing a mask/covering/shield would lead to a medical emergency or would introduce significant safety concerns, the District administration may also discuss other possible accommodations for the staff member. Such discussion shall follow Board policies and guidelines under the ADA.

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Legal	F.S. 120.54(4)
	F.S. 120.81
	F.S. 286.011
	F.S. 286.0114
	F.S. 1001.32
	F.S. 1001.33
	F.S. 1001.41
	F.S. 1001.42
	F.S. 1001.43

Last Modified by Tammy R Shroyer on December 9, 2020





	<p>Mrs. Certain-What is being recommended in the plan for students? Cowles responded</p> <p>Mrs. Certain asked Mr. Hyatt-Masking at the start of the school for some period of time.</p> <p>Mr. Hyatt- No need to get political and we have to respect that the Governor has executive authority but we can start out by responding the facts to the people who are living this everyday. At the end of two weeks we can see what the numbers are as Dr. McNealy stated.</p> <p>Mr. Hyatt, Moved that we accept the plan as written with the addition of mandating masks for students for the first two weeks of school revisit it during the august 17th meeting. Mrs. Certain seconded.</p> <p>Certain-yes Paulson-yes Hyatt-yes McNealy-yes</p> <p>Motion passed 4-0</p> <p>Dr. McNealy with an evaluation for moving forward.</p>
<p>CITIZEN INPUT</p>	<p>Kristen Thompson-wants a mask mandate Anna Prizzia- Thank you for adding the mask mandate and we support you Crystal Tessman-in favor of mask mandate read a statement being sent to Desantis on behalf of ACEA. Brittany bregaman-alacua county medical society Dr.-favor of the mask mandate and ask that we mask for a month David Kaplan-in favor of mask mandate Carmen Ward ACEA President-want to thank the educators for surviving the pandemic last year. Megan- more time than two weeks and in favor of the mask mandate Tahari-not in favor of masks Dr. Rasmussen-in favor of mask mandate more than two weeks though Tracy Amberbride- in favor of mask mandate Molly-not in favor of masks Mary Benedict-safe return without a mask mandate Tina Days- in favor of masks Sarah Rockwell-in favor mask mandate Austin- in favor of masks Daughter of Curry-in favor of masks Isaac Steinberg-in favor of masks Mother of four sons-not in favor of masks Megan Mansell- not in favor of masks Nicole Carlisle-not in favor of masks Laura Beck-in favor of the mask mandate</p>



	<p>Meredith-in favor of the mask mandate and more than two weeks Taylor Novak-in favor of masks</p>
<p>BOARD DISCUSSION</p>	<p>Mrs. Certain-Thank you for all the medical experts for coming out. Wants to have a safe work and learning environment. We need to continue our current methods and feels strongly we should extend this out to Sept. 17. Asked Dr. Simon if a teacher goes out does the whole class have to be quarantined? Simon responded.</p> <p>Dr. Paulson-Does not want to waste the two weeks we have. Whether we like it or not we are dealing with a political governor. In favor of the bargaining unit. We need to have a plan and get to work. Can eSchool be more like digital academy? Requested a committee be established to work on finding solutions/options for the mask situation. In addition we need to look at what since last spring has happened with our eSchool and how we can work with the state to solve the masking problem.</p> <p>Mr. Hyatt-This is big for everybody I'd love to extend time but we have real things happening in Tallahassee. Use this time to find further mitigation.</p> <p>Dr. McNealy-Thank you to the scientist and the medical doctors and that you stayed the whole time if you have an hour a week to come into the schools to help us. Kudos to Prescott for getting this plan together.</p> <p>Mr. Delaney- explore additional options and see what is going on within the district and what is happening in the community.</p> <p>Mr. Cowles-Clarified the motion that was on the floor</p> <p>Dr. Mark Atkinson-in favor of mask mandate</p>
<p>BOARD MEMBER/SUPERINTENDENT REQUESTS</p>	<p>Dr. Simon-Canvas courses are up to date for quarantine period. students spots will be held in the magnet program if you chose eschool until there is a vaccine for under 12. Invited the medical providers back to the August 17th meeting. Thank you to the staff for making it through the year and summer and working hard. Thank you to the students who will be masking for the next two weeks.</p>
<p>ADJOURNMENT</p>	<p>Meeting adjourned at 9:40 p.m.</p>

THE SCHOOL BOARD OF ALACHUA COUNTY, FLORIDA  
 APPROVED MINUTES OF  
 REGULAR SCHOOL BOARD MEETING

August 17, 2021

The School Board of Alachua County, Florida, met in regular session, duly called at 6:00 p.m. at the Alachua County Administration Building, 12 SE 1st Street, Gainesville, Florida Present were: Leanetta McNealy, Chairman; Tina Certain, Vice-Chairman; Rob Hyatt, and Gunnar Paulson, members; Carlee Simon, Superintendent and Board Attorney David Delaney.

The meeting was called to order by Chairman McNealy along with the Pledge of Allegiance.

<p>ADOPTION OF AGENDA</p>	<p><u>Motion by Mr. Hyatt</u> <u>Seconded by Mrs. Certain</u></p> <p><u>Moved to</u> approve the agenda for the August 17 2021, Board meeting.</p> <p>The question was called. <u>Upon Vote:</u> Motion passed 4-0</p>
<p>APPROVAL OF MINUTES</p>	<p><u>Motion by Mrs. Certain</u> <u>Seconded by Mr. Hyatt</u></p> <p><u>Moved to</u> approve minutes for the August 3, 2021, Special School Board meeting and public hearing for tentative budget and millage.</p> <p>The question was called. <u>Upon Vote:</u> Motion passed 4-0</p> <p><u>Motion by Mrs. Certain</u> <u>Seconded by Dr. Paulson</u></p> <p>Dr. Paulson requested a statement be included from the August 3 2021 meeting.</p> <p><u>Moved to</u> approve minutes for the August 3, 2021, Regular School Board Meeting.</p> <p>The question was called. <u>Upon Vote:</u> Motion passed 4-0</p> <p><u>Motion by Dr. Paulson</u> <u>Seconded by Mr. Hyatt</u></p> <p><u>Moved to</u> approve minutes for the August 4, 2021, Regular school board workshop.</p> <p>The question was called. <u>Upon Vote:</u> Motion passed 4-0</p>
<p>BOARD MEMBER/SUPERINTENDENT ANNOUNCEMENTS</p>	<p>Dr. Simon- Congratulated Eastside’s Pam Bedford who was named the 2021 educator of the year by the American Culinary Foundation.</p> <p>Mrs. Certain-Thanked Facilities in reference to getting Metcalfe open for the first day of school.</p>



	<p>Dr. Paulson- What was the state of emergency. Commissioner Cornell responded.</p> <p>Mrs. Certain-asked was it 42 days total or 42 days at any given time and Commissioner Cornell responded 42 days in total.</p> <p>Dr. McNealy-After the 42 days if we are still in an emergency state would you be able to extend the emergency order. Commissioner Cornell stated no not under the current legislation.</p> <p>Prescott Cowles went over current school COVID data.</p> <p>Paulson- It would be interesting if you could give us information where the spikes are and where the vaccines are? What's the quarantine timeline? If you get a test done it's either 5 or 7 days for quarantine? Cowles responded.</p> <p>Dr. Simon we are concerned with parent choices as we have had parents test positive and send their kids to school. We appreciated that the masks were there to reduce the contagion and the quarantines. Addressed families who were watching and or listening and asked that if you are positive please don't send your children to school or if they are exhibiting symptoms please don't send them to school either.</p> <p><b>Mr. Hyatt moved that we extend the current mask mandate for Alachua County Public Schools for students K-12 for an additional 8 weeks.</b></p> <p><b>Seconded by Mrs. Certain</b></p>
CITIZEN INPUT	Citizens shared input in person and over the phone regarding whether or not they were in favor of the mask mandate, parents having the right to choose for their children and transportation pay.
BOARD DISCUSSION	<p>Mr. Hyatt-We received two weeks ago compelling testimonies about the conditions we face in Alachua County. We should be laser focused on what is happening here and what we can do to mitigate the spread of the virus right here.</p> <p>Dr. Paulson-What I said August 3 is we should have got together and got a plan and see what we can do. There are different ways to look at freedom. We're elected to run our schools, so why did the Governor make things so hard that we couldn't do it example taking Digital Academy option away</p> <p>Mrs. Certain-Thanked all the citizens who called and emailed and those who came out to the meeting and the medical community with their support. I feel that this decision is a public health issue. Shared some stories regarding COVID positive cases. This issue is life or death and I will lose my salary over that.</p>



## PART C: BUDGET

1. Amount of financial penalty incurred as of 9/17/2021:

Salaries: **\$13,429**

This amount does not include benefits. Benefits are not affected by the penalty. It is for 4 Board Member salaries @ \$3,357.25 each per month x 11 months. The first month was not affected by the penalty.

2. Anticipated amount of financial penalty for 12 month period after application:

Salaries: **\$134,290**

3. The Alachua County School District has attached documentation as required in Part B the following:

- The notice from the State of Florida the type and amount of penalty to be withheld from Alachua County School Board salaries for upholding a mask mandate for students attending public schools in the County.
- The Board Policy from 2020 for a mask mandate. The mask mandate policy references both employees and students. The mandate for students is approved by the Board, whereas the mandate for employees is approved by the Superintendent.
- Board meeting minutes from two meetings –

8/3/21 where the Board approved the mask mandate for students effective through 8/17; and

8/17/21 where the Board approved to extend the mask mandate for students for 8 weeks whereas they will revisit the mask mandate and whether to extend further.

4. The total amount requested by the LEA: **\$147,719**
5. The proposed project budget enables the LEA to maintain compensation that would otherwise be negatively impacted/reduced due to financial penalties levied on the LEA for Implementing strategies aligned with CDC guidance (reduction in salaries for school board members).

**PART D: OTHER ASSURANCES AND CERTIFICATIONS**

The [LEA Superintendent/chief executive officer (CEO) or their authorized representative] assures or certifies the following:

1. The LEA will comply with all applicable assurances in OMB Standard Forms 424B (Assurances for Non-Construction Programs), including the assurances relating to the legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood hazards; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and the general agreement to comply with all applicable Federal laws, executive orders and regulations.
2. With respect to the certification regarding lobbying in Department Form 80-0013, no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; the LEA will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 C.F.R. Part 82, Appendix B).
3. The LEA will comply with the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) requirements in Subpart D—PostFederal Award Requirements (2 CFR §§200.300-345) and Subpart E—Cost Principles (2 CFR §§200.400-475).
4. The LEA will comply with the provisions of all applicable acts, regulations and assurances; the following provisions of Education Department General Administrative Regulations (EDGAR) 34 CFR parts 75, 77, 81, 82, 84, 97, 98, and 99; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and the Uniform Guidance in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

LEA Superintendent/chief executive officer (CEO) or Authorized Representative (Printed Name):

Signature: 	Date: 9/17/2021
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# **EXHIBIT C**



## Notice of Emergency Rule

### **DEPARTMENT OF HEALTH**

#### **Division of Disease Control**

RULE NO.:      RULE TITLE:

64DER21-15      Protocols for Controlling COVID-19 in School Settings

**SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE:** Because of an increase in COVID-19 infections, largely due to the spread of the COVID-19 delta variant, prior to the beginning of the 2021-2022 school year, it is imperative that state health and education authorities continue to provide emergency guidance to school districts concerning the governance of COVID-19 protocols in schools. In August 2021, all public schools in Florida began the 2021-2022 school year with in-person learning available for all students. The Department of Health adopted Emergency Rule 64DER21-12 on August 6, 2021. Since that time the Department has conducted a review of data for cases of COVID-19 positive school-aged children and data for school-aged children who have been in direct contact with a COVID-19 positive person. The Department observed a large number of students have been required to quarantine for long periods of time, resulting in the loss of hundreds of thousands of days of in-person learning. In addition, the Department observed no meaningful difference in the number of COVID-19 cases in school-aged children in counties where school districts have imposed mask mandates. It is necessary to minimize the amount of time students are removed from in-person learning based solely on direct contact with an individual that is positive for COVID-19, to ensure parents and legal guardians are allowed the flexibility to control the education and health care decisions of their own children, and to protect the fundamental rights of parents guaranteed under Florida law.

In order to permit students to continue in-person learning, to minimize the detriment to students and school personnel from the added burden of recurrent removal of students, and to benefit the overall welfare of students in Florida, it is necessary to provide updated emergency guidance to school districts concerning the governance of COVID-19 protocols in schools. This emergency rule conforms to Executive Order Number 21-175, which ordered the Florida Department of Health and the Florida Department of Education to ensure safety protocols for controlling the spread of COVID-19 in schools that (1) do not violate Floridians' constitutional freedoms; (2) do not violate parents' rights under Florida law to make health care decisions for their minor children; and (3) protect children with disabilities or health conditions who would be harmed by certain protocols, such as face masking requirements. The order directs that any COVID-19 mitigation actions taken by school districts comply with the Parents' Bill of Rights, and "protect parents' right to make decisions regarding masking of their children in relation to COVID-19."

Because of the importance of in-person learning to educational, social, emotional and mental health, and welfare, removing healthy students from the classroom for lengthy quarantines should be limited. Under Florida law, parents and legal guardians have a fundamental right to direct the upbringing, education, health care, and mental health of their minor children and have the right to make health care decisions for their minor children. HB 241, Ch. 2021-199, Laws of Fla. Parents and legal guardians are uniquely situated to understand the health care, emotional, and educational needs of their minor children. In furtherance of the Florida Department of Health's authority to adopt rules governing the control of preventable communicable diseases—and because students benefit from in-person learning—it is necessary to immediately promulgate a rule regarding COVID-19 safety protocols that protects parents' rights and to maximize the allowance of in-person education for their children. Unnecessarily removing students from in-person learning poses a threat to the welfare of children, including their social, emotional and educational developmental, and is not necessary absent illness.

**REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES:** This emergency rule is necessary in light of the unnecessary exclusion of healthy students from in-person learning and the urgent need to provide updated COVID-19 guidance to school districts. Given the evolving nature of this novel disease and the potential for adverse impacts on school children resulting from the unnecessary exclusion of healthy children from in-person learning, there is a need to issue an immediately effective rule while the department promulgates a permanent rule through the non-emergency process.

SUMMARY: Emergency rule 64DER21-15 sets forth the procedures for controlling COVID-19 in school settings. Emergency rule 64DER21-15 repeals and replaces Emergency rule 64DER21-12 that was adopted on August 6, 2021.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Carina Blackmore, Florida Department of Health, 4052 Bald Cypress Way, Tallahassee, Florida 32399-1703, (850)245-4732.

THE FULL TEXT OF THE EMERGENCY RULE IS:

64DER21-15 Protocols for Controlling COVID-19 in School Settings

(1) GENERAL PROTOCOLS AND DEFINITION. The following procedures shall be instituted to govern the control of COVID-19 in public schools:

(a) Schools will encourage routine cleaning of classrooms and high-traffic areas.

(b) Students will be encouraged to practice routine handwashing throughout the day.

(c) Students will stay home if they are sick.

(d) Schools may adopt requirements for students to wear masks or facial coverings as a mitigation measure; however, the school must allow for a parent or legal guardian of the student to opt the student out of wearing a face covering or mask at the parent or legal guardian's sole discretion.

(e) For purposes of this rule, "direct contact" means cumulative exposure for at least 15 minutes, within six feet.

(2) PROTOCOLS FOR SYMPTOMATIC OR COVID-19 POSITIVE STUDENTS. Schools will ensure students experiencing any symptoms consistent with COVID-19 or who have received a positive diagnostic test for COVID-19 shall not attend school, school-sponsored activities, or be on school property until:

(a) The student receives a negative diagnostic COVID-19 test and is asymptomatic; or

(b) Ten days have passed since the onset of symptoms or positive test result, the student has had no fever for 24 hours and the student's other symptoms are improving; or

(c) The student receives written permission to return to school from a medical doctor licensed under chapter 458, an osteopathic physician licensed under chapter 459, or an advanced registered nurse practitioner licensed under chapter 464.

(3) PROTOCOLS FOR STUDENTS WITH EXPOSURE TO COVID-19. Schools shall allow parents or legal guardians the authority to choose how their child receives education after having direct contact with an individual that is positive for COVID-19:

(a) Parents or legal guardians of students who are known to have been in direct contact with an individual who received a positive diagnostic test for COVID-19 may choose one of the following options:

1. Allow the student to attend school, school-sponsored activities, or be on school property, without restrictions or disparate treatment, so long as the student remains asymptomatic; or

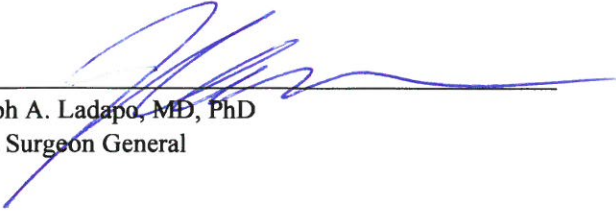
2. Quarantine the student for a period of time not to exceed seven days from the date of last direct contact with an individual that is positive for COVID-19.

(b) If a student becomes symptomatic following direct contact with an individual that has tested positive for COVID-19, or tests positive for COVID-19, the procedures set forth in subsection (2), above shall apply.

Rulemaking Authority 1003.22(3) FS. Law Implemented 1003.22(3) FS. History—New.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE:

  
Joseph A. Ladapo, MD, PhD  
State Surgeon General

9/22/21  
Date

# **EXHIBIT D**



Tom Grady, *Chair*  
Ben Gibson, *Vice Chair*  
*Members*  
Monesia Brown  
Marva Johnson  
Ryan Petty  
Andy Tuck  
Joe York

September 23, 2021

Dr. Carlee Simon  
Superintendent  
Alachua County Schools  
620 East University Avenue  
Gainesville, Florida 32601

Dr. Leanetta McNealy  
School Board Chair  
Alachua County Schools  
620 East University Avenue  
Gainesville, Florida 32601

Dear Superintendent Simon and Chair McNealy:

This letter is to advise you of the Department of Health’s new emergency rule revising the “Protocols for Controlling COVID-19 in School Settings” and to provide you one more opportunity to come into compliance with the requirements established by the Department of Health.

A copy of the Department of Health’s new rule, 64DER21-15, is attached. It revises the requirements for quarantining asymptomatic students who have been exposed to COVID-19 and further clarifies the parental opt-out provision to foreclose the erroneous interpretation that the parental opt-out permits a medical-only opt-out. That provision now provides that “. . . the school must allow for a parent or legal guardian of the student to opt the student out of wearing a face covering or mask at the parent or legal guardian’s **sole discretion.**” See, [Rule 64DER21-15\(1\)\(d\), Florida Administrative Register, Vol. 43 / No. 185](#), September 23, 2021 (emphasis supplied). The purpose of these changes is explained by the Department of Health in its notice for the new rule.

The Department [of Health] observed a large number of students have been required to quarantine for long periods of time, resulting in the loss of hundreds of thousands of days of in-person learning. In addition, the Department [of Health] observed no meaningful difference in the number of COVID-19 cases in school-aged children in counties where school districts have imposed mask mandates. It is necessary to minimize the amount of time students are removed from in-person learning based solely on direct contact with an individual that is positive for COVID-19, to ensure parents and legal guardians are allowed the flexibility to control the education and health care decisions of their own children, and to protect the fundamental rights of parents guaranteed under Florida law.

Dr. Simon, Dr. McNealy  
September 23, 2021  
Page Two

I am continuing the investigation of your district's mask mandate that I notified you by letter of August 9, 2021. Based upon the authority provided to me under s. 1008.32(2)(a), Florida Statutes, I request that you provide a written response by 5:00 p.m. on September 24, 2021, documenting how your district is complying with that portion of the Department of Health's Emergency Rule 64DER21-15, that continues to give parents or legal guardians the sole discretion to opt a student out from a mask or face covering mandate.

As I have done before, if you fail to document full compliance, I intend to recommend to the State Board of Education that the Department of Education withhold funds in an amount equal to the salaries for all members of the School Board, as well as other sanctions authorized by law, for the period during which the district has been out of compliance.

Thank you for your prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Corcoran", with a long horizontal flourish extending to the right.

Richard Corcoran  
Commissioner

# **EXHIBIT E**

# U.S. Department of Education Awards Project SAFE Funds to Florida School District Following State-Imposed Penalty for Implementing COVID-19 Safety Measures

SEPTEMBER 23, 2021

**Contact:** Press Office, (202) 401-1576, [press@ed.gov](mailto:press@ed.gov) (<mailto:press@ed.gov>)

Today, the U.S. Department of Education awarded the School Board of Alachua County \$147,719 in funding under the new Project to Support America's Families and Educators (Project SAFE) grant program. This is the first award under Project SAFE, and funding will support the Florida school district's efforts to protect students as they return to safe, in-person learning despite the state's actions to prohibit implementation of strategies to limit the spread of COVID-19, consistent with science-based guidance from the Centers for Disease Control and Prevention (CDC). The Project SAFE program was [announced \(https://www.ed.gov/news/press-releases/us-department-education-announces-new-grant-program-provide-funding-school-districts-being-penalized-implementing-covid-safety-measures\)](https://www.ed.gov/news/press-releases/us-department-education-announces-new-grant-program-provide-funding-school-districts-being-penalized-implementing-covid-safety-measures) as part of President Biden's [COVID-19 Action Plan \(https://www.whitehouse.gov/covidplan/\)](https://www.whitehouse.gov/covidplan/) to combat COVID-19 and safely reopen schools for in-person learning. As part of the program, school districts have been able to apply to the Department of Education to restore funding withheld by state leaders—such as salaries for school board members or superintendents who have had their pay cut—when a school district implemented strategies to help prevent the spread of COVID-19 in schools.

"We should be thanking districts for using proven strategies that will keep schools open and safe, not punishing them. We stand with the dedicated educators in Alachua and across the country doing the right thing to protect their school communities, and with today's first-ever award under Project SAFE, we are further enabling educators to continue that critical work," said U.S. Secretary of Education Miguel Cardona. "With these grants, we're making sure schools and communities across the country that are committed to safely returning to in-person learning know that we have their backs. I commend Alachua for protecting its students and educators, and I look forward to working with them to provide students their best year yet. Every student across the country deserves the opportunity to return to school in-person safely this fall, and every family should be confident that their school is implementing policies that keep their children safe."

The Project SAFE program promotes student safety and well-being by providing funding to school districts that were financially penalized by an entity in their state for implementing the CDC's science-based strategies to prevent the spread of COVID-19. The funding will help districts keep these measures in place and maintain district and school stability despite the financial penalty. Prior to the creation of the Project SAFE program, President Biden announced that if a state cuts the funding to a local school district for implementing CDC-

recommended prevention strategies like universal masking, the school district may use funds from the American Rescue Plan (ARP) to fill those gaps. School districts can begin spending their ARP funds right away, including to reimburse for any allowable cost dating back to when the national emergency for COVID-19 was declared.

Beyond the resources in the American Rescue Plan, the Project SAFE program makes additional funding available to help local school districts fill gaps when funding has been withheld by their state for implementing COVID safety measures. ProjectSAFE is funded under the School Safety National Activities authority in Section 4631(a)(1)(B) of the Elementary and Secondary Education Act (ESEA). Today's announcement marks the first Project SAFE grant award since the program was launched.

CDC recommends universal indoor masking for all teachers, staff, students, and visitors to K-12 schools, regardless of vaccination status, and that children should return to full-time, in-person learning with layered prevention strategies in place to reduce potential for transmission at school. Alachua County Public Schools (ACPS) first adopted a policy that required students and district employees to wear masks on school grounds in October 2020. Consistent with CDC guidance, on Aug. 3, 2021, the ACPS School Board voted to require students and staff to wear masks during the first two weeks of school, then voted to extend this policy on Aug. 17, 2021. Shortly after the extension, the Florida State Board of Education informed ACPS that it would be subject to financial penalties due to these policies. With the Project SAFE grant funds, Alachua County Public Schools will be able to stabilize district staffing and compensation levels necessary to keep CDC recommended strategies in place and to promote student safety for its nearly 30,000 students.

"Students deserve the opportunity to return to school in-person safely this fall, and our nation's superintendents must have not only the authority to make the decisions about what that reopening looks like, but also freedom from unnecessarily political and punitive retaliation from their state leaders," said Dan Domenech, executive director of AASA, the School Superintendents Association. "Superintendents bear the ultimate responsibility and accountability for those decisions, and AASA will always support the leadership decisions of superintendents on behalf of their districts, students, and staff. We applaud Project SAFE in its work to support school districts where leaders are making the best decisions for their students, staff, and community despite objectionable state obstacles."

Educators, leaders, and parents are working hand-in-hand in communities across the nation to keep students and school communities safe—and the Biden Administration will do everything it can to support them doing right by children. The Biden Administration remains committed to supporting educators as they work to return to in-person learning safely, and the President's plan makes clear we will take on those working to block or undermine these efforts. Other school districts that have had a financial penalty imposed by their state for implementing CDC-recommended strategies to prevent the spread of COVID-19 can learn more about Project SAFE and apply for funds from the program at <https://oese.ed.gov/offices/office-of-formula-grants/safe-supportive-schools/the-project-to-support-americas-families-and-educators-project-safe/> (<https://oese.ed.gov/offices/office-of-formula-grants/safe-supportive-schools/the-project-to-support-americas-families-and-educators-project-safe/>).

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# **EXHIBIT F**



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## The Project to Support America's Families and Educators (Project SAFE)

CFDA NUMBER      84.184N  
PROGRAM TYPE      Discretionary/Competitive Grant

The Project to Support America's Families and Educators (Project SAFE) grant program is intended to improve students' safety and well-being by providing funding to local educational agencies (LEAs) that adopt and implement strategies to prevent the spread of the Novel Coronavirus Disease 2019 (COVID-19) consistent with guidance from the Centers for Disease Control and Prevention (CDC), and that are financially penalized for doing so by their State educational agency (SEA) or other State entity.

### Approved Applications

Local Educational Agency	Grant Application	Total Award Amount
School Board of Alachua County	<a href="#">PDF</a>	\$147,719

### Contact Information

Amy Banks  
U.S. Department of Education  
400 Maryland Avenue, SW, room  
3E257  
Washington, DC 20202-6450

202-453-6704

E-mail

### The Project to Support America's Families and Educators (Project SAFE)

[Applicant Information](#)

[Eligibility](#)

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Last Modified: 09/24/2021

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# **EXHIBIT G**

**BOARD MEMBERS**

Tina Certain  
Robert P. Hyatt  
Leannetta McNealy, Ph.D.  
Gunnar F. Paulson, Ed.D.  
Mildred Russell

**SUPERINTENDENT OF SCHOOLS**

Carlee Simon, Ph.D.



**An 'A-rated' District**

*Mission Statement: We are committed to the success of every student!*

District Office  
620 East University Avenue  
Gainesville, Florida  
32601-5498

www.sbac.edu  
(352) 955-7300

September 24, 2021

Commissioner Corcoran,

This letter is in response to your September 23, 2021 request that we provide a written response by 5:00 p.m. on September 24, 2021, documenting how our District is complying with the portion of the Department of Health's Emergency Rule 64DER21-15 addressing mask mandates.

As a District, we continue to be concerned with the risk that the spread of COVID-19, particularly the highly contagious Delta variant, poses to the students and staff in Alachua County Public Schools. While we are encouraged by the recent trends in our community, we are not yet in a position to safely lift the mask mandate that we currently have in place. The District's current mask requirement expires on October 19, 2021. This requirement for students to wear masks was put in place by the Alachua County School Board. To comply with the Sunshine Law, any modifications will need to be addressed in a meeting that is open to the public and allows for public input. The earliest opportunity for a meeting in that setting is October 5, 2021. Therefore, we would request an extension for this response until October 6, 2021 so that we can provide you the requested information once the Board has had the opportunity to discuss the matter.

We have questions and concerns regarding the implementation of 64DER21-15. The local rates of transmission have very recently decreased in our community, and we are working with our local experts in pediatrics, immunology, virology, epidemiology, emergency medicine, and public health to navigate through this changing landscape. Before making changes to our policies and procedures, we believe that the input of these experts is essential to ensuring the safety and well-being of our students, staff, and the community as a whole. We will be requesting that these experts attend our October 5, 2021 Board meeting to ensure that our Board has the most up-to-date guidance regarding strategies to curb continued spread of the virus and the logistics on safely meeting our obligations to the standards of the State Board in addition to our federal requirements under the Individuals with Disabilities Education Act, the Americans with Disabilities Act, and Section 504 of the Rehabilitation Act. The CDC recommends universal indoor masking by all students (age 2 and older), staff, teachers, and visitors to K-12 schools, regardless of vaccination status.

In addition, we have continued concerns regarding the potential loss of staff and students due to the reduction in COVID-19 mitigation strategies. When you and I spoke earlier this week at the FADSS meeting about the potential loss of workforce as a result of the lifting of the mask mandate, you stated that the Department of Education would offer support to our District. We would like to know specifically what supports you are able to offer us as we will be unable to sustain our basic operations if we have staff resign over this issue. Furthermore, we are concerned about families that want a mask mandate and will remove their students from school prior to FTE week in October 2021. We want all families to feel safe in our schools, and the funding concerns from the withdrawal of students would exacerbate the challenges we have in meeting the needs of our families. Losing staff and/or students due to resignation

or withdrawal would have an enormous impact on our District and would impede our focus on providing high-quality education in a face-to-face setting.

We have utilized the Hope Scholarship as a parent opt-out, in part based on the Board of Education's own statements when adopting their Emergency Rules in August 2021.

Matthew Mears, General Counsel for the Florida Department of Education:

As transcribed, "The rule that we're voting on here is very simple and what it does - there's already a Hope Scholarship program in place. That program, since 2018, has allowed parents whose students are harassed to opt-out; it gives them an option. They qualify for a Hope Scholarship."

And later, "That's 100% in keeping with the right of a parent to direct the education and health of their children. So that's what we're voting on. All this does is just define 'COVID-19 Harassment.' Harassment's already in the rule, that's already defined. But because this is a new issue, we wanted to provide clarity and show that it has to - there has to be a connective, has to impact the education of the child."

Board of Education Vice Chair Ben Gibson:

As transcribed, "And I applaud staff for all the time that they have spent working on this. It's - we worked with, with Health, they passed a rule - or they have a rule, that was released this morning - dealing with health, dealing with the masking requirement. And now, we're passing a rule here relating to education and the Hope Scholarship. But the two rules, they do work together, I think."

And later, "But I think from the standpoint this rule, and although I appreciate that we are dealing with the educational component, this rule has to be read in conjunction with the Department of Health rule that was released this morning."

And finally, "And I think, that distinction between our rule that we're passing here today, and the Department of Health rule, and seeing how those two rules work together in line with the Governor's executive order and his leadership on this issue, I think it's important, Chair, for the public to understand that as we move forward."

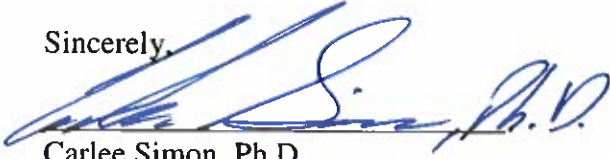
Given that we have encouraged families to apply for and access the Hope Scholarship pursuant to Rule 6AER21-02, we believe that we are still in compliance with the rules when looked at together with the Department of Health emergency rules, which was the stated intent by the Board of Education. As the emergency rules were created simultaneously and meant to be read and used in conjunction, we have taken the necessary steps to comply.

Again, we appreciate the Department of Education's clarification that the Hope Scholarship voucher can be used as a means of preserving parents' rights and providing them an avenue to exercise their sole discretion to 'opt-out' of our district's mask policy. We also remain grateful for the opportunity it provides to students who would like to attend schools that provide universal mask mandates. However, we must say that we object to the use of a legal term such as "Harassment" to describe a mask requirement.

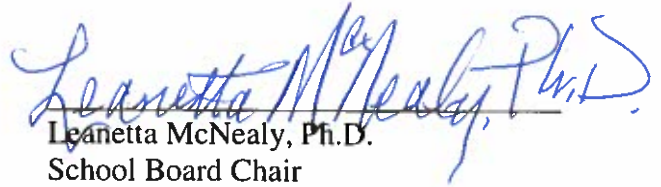
As you are aware, the various bans on mask mandates have sparked considerable litigation and other legal questions across the country. Much of this litigation is still ongoing. For instance, our District is currently defending a federal lawsuit brought by parents claiming that our COVID-19 mitigation strategies do not go far enough to provide a free, appropriate public education to special needs students.

At this time, we are respectfully requesting a brief extension to this response so that we can have the opportunity to consult with our local medical experts and bring all relevant information, including the updated Department of Health rule, to our Board at a meeting that is open to the public and allows for public input. The meeting is scheduled on October 5, 2021 at 6:00 p.m. We should be able to provide a response on October 6, 2021 to your specific requests following Board input/action on October 5, 2021.

Sincerely,



Carlee Simon, Ph.D.  
Superintendent  
Alachua County Public Schools



Leannetta McNealy, Ph.D.  
School Board Chair  
Alachua County Public Schools



# **EXHIBIT H**



Book	Policy Manual
Section	8000 Operations
Title	PROTECTIVE FACIAL COVERINGS DURING PANDEMIC/EPIDEMIC EVENTS
Code	po8450.01
Status	Active
Adopted	October 20, 2020

#### **8450.01 - PROTECTIVE FACIAL COVERINGS DURING PANDEMIC/EPIDEMIC EVENTS**

During times of elevated communicable disease community spread (pandemic or epidemic), the Superintendent will issue periodic guidance through School Board plans/resolution(s) in alignment with public health officials and/or in accordance with government edicts and including any Pandemic Plan developed by the District's Pandemic Response Team. (See also Policy 8420.01 - *Epidemics and Pandemics*.)

School settings can be a source of community spread. Wearing face masks/coverings is especially important during these times and can help mitigate the risk of exposure from person to person.

As such, during times of elevated communicable disease community spread, the Superintendent may activate this policy by notifying the school community, requiring all school staff, volunteers and visitors (including vendors) to wear appropriate face masks/coverings on school grounds unless it is unsafe to do so or where doing so would significantly interfere with the Districts educational or operational processes.

Face masks/coverings will be provided by the District to employees and students, as necessary. Individuals may elect to wear their own face coverings if they meet the requirements of this policy as well as any requirements issued by State or local health departments.

In addition, the Board may require students to wear a face mask unless they are unable to do so for a health, sensory, or developmental reason. Efforts will be made to reduce any social stigma for a student who, for medical or developmental reasons, cannot and should not wear a mask. Children in kindergarten and below will be educated, encouraged and expected to wear face coverings, but failure to wear a face covering will not prohibit their attendance if they are unable to wear a face covering at all times.

If face masks/coverings are required, and no exception is applicable, students who refuse to wear a face mask/covering, in accordance with policies of the Board, may be reassigned by the Superintendent to an online/virtual learning environment if the Superintendent determines that reassignment is necessary to protect the health and safety of the student or others.

All students and staff are required to wear masks while being transported on District school buses or other modes of school transportation.

School nurses or staff who care for individuals with symptoms consistent with those of a communicable disease must use appropriate personal protective equipment (PPE), provided by the school, in accordance with OSHA standards.

When facial masks/coverings are required by the Board, and no exception has been applied, staff members who violate this policy shall be subject to disciplinary action in accordance with policies of the Board or applicable collective bargaining agreement.

### Use of Mask/Face Covering

Face coverings/mask should:

- A. fully cover the mouth, nose, and chin;
- B. fit snugly against the side of the face so there are no gaps;
- C. not create difficulty breathing while worn; and
- D. be held securely through either a tie, elastic, etc., to prevent slipping.

Facial masks/coverings generally should not include surgical masks or respirators unless medically indicated (as those should be reserved for healthcare workers) or masks designed to be worn for costume purposes. Additionally, facial masks/coverings with respiration valves or vents are prohibited.

All employee facial masks/coverings shall meet the requirements of the appropriate dress/staff grooming policies (Policy 1216/Policy 3216/Policy 4216). All student facial masks/coverings shall meet the requirements of the appropriate Student Code of Conduct and Policy 5511 - *Code of Student Conduct - Dress and Grooming*.

Any person may be required to temporarily remove a face mask or covering when instructed to do so for identification or security purposes. Failure to comply with such a request violates this policy and may lead to disciplinary or other action.

### Exceptions

Exceptions to the use of masks/face coverings include:

- A. To promote the social and emotional health of students who may struggle wearing a face covering for several hours, schools will provide students with opportunities for breaks where they can remove their face covering while maintaining appropriate distancing and while under supervision.
- B. Wearing a face covering is not required while eating or drinking.
- C. Persons who have difficulty breathing or suffer sensory issues due to a documented medical or psychological issue will not be required to wear a face covering. If appropriate, they will be asked to wear a clear face shield, unless wearing the face shield would also cause breathing or sensory issues. Documentation from a medical provider must be on file before a person will be excused from this face covering requirement.
- D. Persons communicating with hearing-impaired individuals who need to see the other person's mouth to communicate will not be required to wear a face covering.
- E. Teachers, staff members, and students, at the direction of the teacher, may remove their face coverings when wearing them would impede instruction. Students participating in extra-curricular activities, like athletics or marching band, where the wearing of face coverings is not practicable or may create a health risk will not be required to wear face coverings during the activity but must still follow any and all safety procedures in place for the activity. The District will follow all FHSAA guidance for athletic activities.
- F. When facial masks/coverings in the school setting are prohibited by law or regulation, are in violation of documented industry standards, or are in violation of the school's documented safety policies.
- G. When a staff member works alone in an assigned work area or when social distancing outside is maintained, as determined by an adult staff member.

The Board may be required to provide written justification to the local health officials upon request explaining why a staff member is not required to wear a facial covering in the school. Therefore, if any exceptions are made to the requirement for facial coverings, the request for such exception must be submitted in writing to the individual's supervisor with appropriate medical documentation provided. A decision on the request will be provided in writing.

All medical, sensory, or developmental exceptions to the face mask/covering requirement must be supported by appropriate medical documentation which includes an indication whether a face shield may be worn even if a face mask/covering cannot be.

### Use of Face Shields

Face shields that wrap around the face and extend below the chin may be permitted as an alternative to face masks/coverings with permission of the Superintendent as the Board recognizes that face shields may be useful in some situations, including:

- A. when interacting with students, such as those with disabilities, where communication could be impacted;
- B. when interacting with English-language learners or when teaching a foreign language;
- C. settings where face masks/coverings might present a safety hazard (i.e. science labs); or
- D. for individuals who have difficulty wearing a face mask/covering for documented health, sensory, or developmental reasons.

If employees receive approval from the District administration after discussing their request not to wear a face mask/covering/shield due to a physical, mental or developmental health condition, and/or if wearing a mask/covering/shield would lead to a medical emergency or would introduce significant safety concerns, the District administration may also discuss other possible accommodations for the staff member. Such discussion shall follow Board policies and guidelines under the ADA.

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Legal	F.S. 120.54(4)
	F.S. 120.81
	F.S. 286.011
	F.S. 286.0114
	F.S. 1001.32
	F.S. 1001.33
	F.S. 1001.41
	F.S. 1001.42
	F.S. 1001.43

Last Modified by Tammy R Shroyer on December 9, 2020