

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

**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

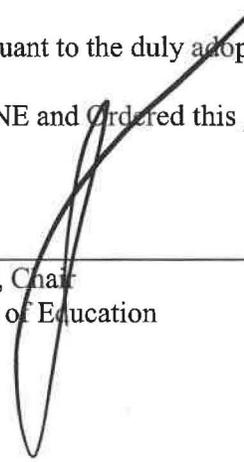
Robert P. Hyatt

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 20th 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
620 East University Avenue
Gainesville, FL 32601-5448

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


AGENCY CLERK