

# **Exhibit 1**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION**

LEROY PERNELL, et al.,

*Plaintiffs,*

v.

FLORIDA BOARD OF GOVERNORS OF  
THE STATE UNIVERSITY SYSTEM, et al.,

*Defendants.*

Case No.: 4:22-cv-304-MW-  
MAF

**DECLARATION OF SARAH HINGER IN SUPPORT OF PLAINTIFFS’  
MOTION TO COMPEL COMPLIANCE WITH PRELIMINARY  
INJUNCTION**

I, Sarah Hinger, certify under penalty of perjury, that the following is true and correct within my personal knowledge:

1. I am an attorney with the American Civil Liberties Union and one of the attorneys representing Plaintiffs in the above captioned matter. I submit this declaration in support of Plaintiffs’ Motion to Compel Compliance with the Preliminary Injunction Order.

2. Attached as **Exhibit A** is a true and correct copy of Executive Memorandum No. 23-021.
3. Attached as **Exhibit B** is a true and correct copy of email correspondence between myself and Defendants' counsel, attorney John Ohlendorf, regarding the Executive Memorandum.

A handwritten signature in blue ink, appearing to read 'S. Hinger', written over a horizontal line.

Sarah Hinger

Executed this 10<sup>th</sup> day of January, 2023.

# **Exhibit A**



RON DESANTIS  
GOVERNOR

STATE OF FLORIDA

# Office of the Governor

THE CAPITOL  
TALLAHASSEE, FLORIDA 32399-0001

www.flgov.com  
850-717-9418

**MEMO # 23-021**

## MEMORANDUM

TO: Commissioner Manny Diaz and Chancellor Ray Rodrigues

FROM: Chris Spencer, Director *CMS*  
Office of Policy and Budget

SUBJECT: Higher Education Program and Activity Survey

DATE: December 28, 2022

As the Executive Office of the Governor prepares policy and budget proposals ahead of the 2023 Legislative Session, it is important that we have a full understanding of the operational expenses of state institutions. Governor Ron DeSantis has prioritized a cost-effective higher education system that delivers high quality service to Floridians to best prepare them for employment. Additionally, state law requires dutiful attention to curriculum content at our higher education systems as specified in sections 1000.05 and 1007.25 of the Florida Statutes.

To that effect, this letter is a request for information from the Department of Education and the State University System regarding the expenditure of state resources on programs and initiatives related to diversity, equity and inclusion, and critical race theory within our state colleges and universities.

Each Florida College System and State University System institution must complete the attached document to provide a comprehensive list of all staff, programs, and campus activities related to diversity, equity, and inclusion, and critical race theory. As part of this request, each institution must detail the below costs associated with the administration of each program or activity:

- Brief description of the program or activity;
- Positions, including full and partial FTE;
- Total funding spent to support the initiative; and
- Of the total spent to support the initiative, the amount that is state funded.

Please collect and submit all institutions' responses no later than Friday, January 13, 2023. Responses from each institution should be aggregated by your respective offices and submitted together to the Executive Office of the Governor Office of Policy and Budget.

I appreciate your assistance in this matter as we continue to work to provide our students with a world-class higher education.

Attachment



# **Exhibit B**

## Sarah Hinger

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**From:** Sarah Hinger  
**Sent:** Tuesday, January 10, 2023 11:51 AM  
**To:** John Ohlendorf; Chuck Cooper; Megan Wold; John Ramer; DeLisa Ragsdale; Michael Weitzner  
**Cc:** Leah Watson; Lauren Johnson; External - Katie Blankenship; External - Jason Leckerman; External - Kaisha Oliver; Adam Steinbaugh; JT Morris; Kelley Bregenzer  
**Subject:** RE: Pernell v. Board of Governors, No. Novoa v. Diaz: Executive Memorandum 23-021

John,

The Preliminary Injunction Order states that Defendants “must take no steps” to enforce the Act. The executive memo makes at least three references to the Act (citing curriculum provisions of section 1000.05, requesting information about critical race theory, diversity, equity, and inclusion, and indicating that this information will be used in the budgetary process). As such, we understand actions to collect the information outlined in the memo, including those actions taken by Defendants to facilitate the collection, as enforcing the Act. Given our difference of opinion and the urgency of this matter, we will file seeking the Court’s assistance.

Thank you,  
Sarah

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**From:** John Ohlendorf <JOhlendorf@cooperkirk.com>  
**Sent:** Monday, January 9, 2023 12:34 PM  
**To:** Sarah Hinger <shinger@aclu.org>; Chuck Cooper <cocooper@cooperkirk.com>; Megan Wold <mwold@cooperkirk.com>; John Ramer <jramer@cooperkirk.com>; DeLisa Ragsdale <dragsdale@cooperkirk.com>; Michael Weitzner <mWeitzner@cooperkirk.com>  
**Cc:** Leah Watson <LWatson@aclu.org>; Lauren Johnson <ljohnson@naacpldf.org>; External - Katie Blankenship <KBlankenship@aclufl.org>; External - Jason Leckerman <leckermanj@ballardspahr.com>; External - Kaisha Oliver <koliver@naacpldf.org>; Adam Steinbaugh <adam@thefire.org>; JT Morris <JT.Morris@thefire.org>; Kelley Bregenzer <Kelley.Bregenzer@thefire.org>  
**Subject:** RE: Pernell v. Board of Governors, No. Novoa v. Diaz: Executive Memorandum 23-021

### This Message Is From an External Sender

This message came from outside your organization.

Thank you Sarah,

We see no basis for any claim that compliance with the Governor’s request to gather and provide information raises concerns regarding compliance with the injunction. If you disagree, please advise as to your basis for concluding otherwise.

Best,  
John

John D. Ohlendorf  
COOPER & KIRK, PLLC  
1523 New Hampshire Avenue, N.W.  
Washington, D.C. 20036  
(202) 220-9617



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**From:** Sarah Hinger <[shinger@aclu.org](mailto:shinger@aclu.org)>  
**Sent:** Monday, January 9, 2023 11:53 AM  
**To:** John Ohlendorf <[JOhlendorf@cooperkirk.com](mailto:JOhlendorf@cooperkirk.com)>; Chuck Cooper <[ccooper@cooperkirk.com](mailto:ccooper@cooperkirk.com)>; Megan Wold <[mwold@cooperkirk.com](mailto:mwold@cooperkirk.com)>; John Ramer <[jramer@cooperkirk.com](mailto:jramer@cooperkirk.com)>; DeLisa Ragsdale <[dragsdale@cooperkirk.com](mailto:dragsdale@cooperkirk.com)>; Michael Weitzner <[mWeitzner@cooperkirk.com](mailto:mWeitzner@cooperkirk.com)>  
**Cc:** Leah Watson <[LWatson@aclu.org](mailto:LWatson@aclu.org)>; Lauren Johnson <[ljohnson@naacpldf.org](mailto:ljohnson@naacpldf.org)>; External - Katie Blankenship <[KBlankenship@aclufl.org](mailto:KBlankenship@aclufl.org)>; External - Jason Leckerman <[leckermanj@ballardspahr.com](mailto:leckermanj@ballardspahr.com)>; External - Kaisha Oliver <[koliver@naacpldf.org](mailto:koliver@naacpldf.org)>; Adam Steinbaugh <[adam@thefire.org](mailto:adam@thefire.org)>; JT Morris <[JT.Morris@thefire.org](mailto:JT.Morris@thefire.org)>; Kelley Bregenzer <[Kelley.Bregenzer@thefire.org](mailto:Kelley.Bregenzer@thefire.org)>  
**Subject:** RE: Pernell v. Board of Governors, No. Novoa v. Diaz: Executive Memorandum 23-021

Thank you John,

Can you confirm whether—and if so, how—your clients are responding to the executive memorandum and request for records? Our understanding is that actions are underway to collect information to provide to the Governor's office currently, impacting our clients and raising immediate concerns regarding compliance with the injunction.

Thank you,  
Sarah

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**From:** John Ohlendorf <[JOhlendorf@cooperkirk.com](mailto:JOhlendorf@cooperkirk.com)>  
**Sent:** Monday, January 9, 2023 11:37 AM  
**To:** Sarah Hinger <[shinger@aclu.org](mailto:shinger@aclu.org)>; Chuck Cooper <[ccooper@cooperkirk.com](mailto:ccooper@cooperkirk.com)>; Megan Wold <[mwold@cooperkirk.com](mailto:mwold@cooperkirk.com)>; John Ramer <[jramer@cooperkirk.com](mailto:jramer@cooperkirk.com)>; DeLisa Ragsdale <[dragsdale@cooperkirk.com](mailto:dragsdale@cooperkirk.com)>; Michael Weitzner <[mWeitzner@cooperkirk.com](mailto:mWeitzner@cooperkirk.com)>  
**Cc:** Leah Watson <[LWatson@aclu.org](mailto:LWatson@aclu.org)>; Lauren Johnson <[ljohnson@naacpldf.org](mailto:ljohnson@naacpldf.org)>; External - Katie Blankenship <[KBlankenship@aclufl.org](mailto:KBlankenship@aclufl.org)>; External - Jason Leckerman <[leckermanj@ballardspahr.com](mailto:leckermanj@ballardspahr.com)>; External - Kaisha Oliver <[koliver@naacpldf.org](mailto:koliver@naacpldf.org)>; Adam Steinbaugh <[adam@thefire.org](mailto:adam@thefire.org)>; JT Morris <[JT.Morris@thefire.org](mailto:JT.Morris@thefire.org)>; Kelley Bregenzer <[Kelley.Bregenzer@thefire.org](mailto:Kelley.Bregenzer@thefire.org)>  
**Subject:** RE: Pernell v. Board of Governors, No. Novoa v. Diaz: Executive Memorandum 23-021

Sarah,

I hope you had a good weekend. As you requested, we can confirm that our clients intend to comply with the injunction in *Pernell* and *Novoa* requiring them to refrain from enforcing the enjoined provisions, so long as it remains in force. We are assessing your request for rolling production of university responses to the Governor's December 28 memorandum and will get back to you as soon as we have a position on that.

Best,  
John

John D. Ohlendorf  
COOPER & KIRK, PLLC  
1523 New Hampshire Avenue, N.W.  
Washington, D.C. 20036  
(202) 220-9617

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**From:** Sarah Hinger <[shinger@aclu.org](mailto:shinger@aclu.org)>  
**Sent:** Friday, January 6, 2023 1:26 PM  
**To:** John Ohlendorf <[JOhlendorf@cooperkirk.com](mailto:JOhlendorf@cooperkirk.com)>; Chuck Cooper <[ccooper@cooperkirk.com](mailto:ccooper@cooperkirk.com)>; Megan Wold <[mwold@cooperkirk.com](mailto:mwold@cooperkirk.com)>; John Ramer <[jramer@cooperkirk.com](mailto:jramer@cooperkirk.com)>; DeLisa Ragsdale <[dragsdale@cooperkirk.com](mailto:dragsdale@cooperkirk.com)>; Michael Weitzner <[mWeitzner@cooperkirk.com](mailto:mWeitzner@cooperkirk.com)>

**Cc:** Leah Watson <[LEWATSON@aclu.org](mailto:LEWATSON@aclu.org)>; Lauren Johnson <[LJOHNSON@naacpldf.org](mailto:LJOHNSON@naacpldf.org)>; External - Katie Blankenship <[KBLANKENSHIP@aclufl.org](mailto:KBLANKENSHIP@aclufl.org)>; External - Jason Leckerman <[LECKERMANJ@ballardspahr.com](mailto:LECKERMANJ@ballardspahr.com)>; External - Kaisha Oliver <[KOLIVER@naacpldf.org](mailto:KOLIVER@naacpldf.org)>; Adam Steinbaugh <[ADAM@thefire.org](mailto:ADAM@thefire.org)>; JT Morris <[JT.MORRIS@thefire.org](mailto:JT.MORRIS@thefire.org)>; Kelley Bregenzer <[KELLEY.BREGENZER@thefire.org](mailto:KELLEY.BREGENZER@thefire.org)>

**Subject:** Pernell v. Board of Governors, No. Novoa v. Diaz: Executive Memorandum 23-021

Counsel:

We are in receipt of the attached December 28, 2022 memorandum from the Office of the Governor requiring the Department of Education, all State College Systems and State University System institutions to provide documentation of courses, staff positions, and other activities related to “diversity, equity, and inclusion, and critical race theory” and referencing section 1000.05 as requiring “dutiful attention to curriculum content” for consideration in the budgetary proposal before the 2023 legislative session.

We ask you to confirm by **12pm eastern, Monday January 9<sup>th</sup>** that your clients intend to comply with the Preliminary Injunction Order in the *Pernell* and *Novoa* cases and are not taking actions to enforce the Stop WOKE Act (Section 1000.05(4)(a)-(b)) or its implementing regulations, including actions taken pursuant to the December 28 memorandum. Please confirm whether, and if so, how your clients plan to respond to the Governor’s memorandum and request for reporting. If defendants are unable to provide assurance of compliance with the injunction, plaintiffs will need to seek the court’s assistance.

Further, while we appreciate that discovery is currently stayed in the *Novoa* case, we ask that as a sign of good faith, your clients agree to produce any university’s response to the memo on a rolling basis to both *Pernell* and *Novoa* plaintiffs as those responses are sent.

Thank you for your attention to this matter,

**Sarah Hinger**

Pronouns: she, her

Senior Staff Attorney  
Racial Justice Program  
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