

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA

FLORIDA CHRISTIAN COLLEGE,
BRITTANY BETANCOURT, KATRENE
DELOACH, ALICIA HOFFMAN,
KELLEY REINOEHL, and LUKE
STAMPS,

Plaintiffs,

v.

KATHLEEN SHANAHAN, ROBERTO
MARTINEZ, SALLY BRADSHAW,
GARY CHARTRAND, A.K. DESAI,
BARBARA FEINGOLD, and JOHN R.
PADGET, in their official capacities as
members of the Florida Board of
Education; GERARD ROBINSON, in his
official capacity as a member of the Florida
Board of Education and as Commissioner
of the Florida Department of Education;
THERESA ANTWRORTH, in her official
capacity as Director of the Florida
Department of Education Office of Student
Financial Assistance State Scholarship and
Grant Programs; LEVIS HUGHES, in his
official capacity as Bureau Chief of the
Florida Department of Education Office of
Student Financial Assistance; and LINDA
CHAMPION, in her official capacity as
Deputy Commissioner of the Florida
Department of Education Office of Finance
and Operations,

Defendants.

Case No. _____

PLAINTIFFS' COMPLAINT

Come now Plaintiffs Florida Christian College, Brittany Betancourt, Katrene DeLoach, Alicia Hoffman, Kelley Reinoehl, and Luke Stamps, (hereinafter "Plaintiffs"), by and through counsel, and for their complaint against Defendants Kathleen Shanahan,

Roberto Martinez, Sally Bradshaw, Gary Chartrand, A.K. Desai, Barbara Feingold, John R. Padget, Gerard Robinson, Theresa Antworth, Levis Hughes and Linda Champion, hereby state as follows:

INTRODUCTION

1. This civil rights action arises from Defendants' exclusion of Florida Christian College (FCC) and its otherwise eligible students from the Florida Resident Access Grant (FRAG) program. The statutes governing the FRAG program give over \$2,000 in annual tuition assistance to students attending institutions "which ha[ve] a secular purpose." Defendants excluded FCC (and thus its otherwise eligible students) from the FRAG program apparently based upon their conclusion that FCC lacks any "secular purpose," even though FCC teaches "secular" subjects and prepares many of its students for "secular" vocations. The Constitution forbids government from penalizing conduct because of its religious purpose. Defendants lack any legally sufficient justification for categorically excluding FCC and its otherwise eligible students from the FRAG program based on FCC's religious characteristics and purposes.

2. Defendants simultaneously allow students attending a large number of other religious colleges and universities to participate in the FRAG program. Those other schools include Clearwater Christian College, Palm Beach Atlantic University, Southeastern University, Warner University, Ave Maria University, Saint Leo University, Bethune-Cookman University, Edward Waters College, and St. Thomas University. Moreover, the statute governing the FRAG program allows religious colleges that *lack* "a secular purpose" to *participate* in the program as long as they had been admitted to the

program prior to January 1, 1989, under a less restrictive measurement of “religiosity.” Accordingly, Defendants are also discriminating *among* religious institutions without adequate justification, in violation of the federal Constitution.

3. In addition, of the approximately 16 higher education scholarship, grant, or loan programs that Defendants operate, only FRAG and one other exclude students whose schools are deemed to lack “a secular purpose.” Indeed, FCC students currently participate in four of the tuition assistance programs that Defendants operate. Nothing about these two programs justifies or explains their differential treatment of religious educational institutions and their students. As a result, Defendants’ exclusion of FCC students from the FRAG program is utterly irrational and manifestly unjust.

JURISDICTION AND VENUE

4. This civil rights action raises federal questions under the United States Constitution, particularly the First and Fourteenth Amendments, and the Civil Rights Act of 1871, 42 U.S.C. § 1983.

5. This Court has original jurisdiction over these federal claims pursuant to 28 U.S.C. §§ 1331 and 1343.

6. This Court has authority to award the requested declaratory relief pursuant to 28 U.S.C. § 2201; the requested injunctive relief pursuant to 28 U.S.C. § 1343 and Fed. R. Civ. P. 65; and costs and attorneys’ fees under 42 U.S.C. § 1988.

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because the Defendants reside in this district and/or all of the acts described in this Complaint occurred in this district.

PLAINTIFFS

8. Plaintiff Florida Christian College is a four-year undergraduate college located in Kissimmee, Florida.

9. FCC is chartered by the State of Florida.

10. FCC is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.

11. FCC grants baccalaureate degrees.

12. FCC is not a state university or Florida College System institution.

13. The inclusion of FCC and its students in the FRAG program would not have the primary effect of advancing or impeding religion.

14. The receipt of state aid by students at FCC would not result in an excessive entanglement between the state and any religious sect.

15. Plaintiff Brittany Betancourt is a junior at Florida Christian College, due to graduate in the Spring of 2013.

16. Ms. Betancourt's permanent residence is in Orlando, Florida.

17. Ms. Betancourt is a U.S. citizen.

18. Ms. Betancourt does not owe a repayment and is not in default under any state or federal grant, loan, or scholarship program.

19. Ms. Betancourt has not previously received a baccalaureate degree.

20. Ms. Betancourt is enrolled in classes for which she will receive 12 or more credit hours.

21. Ms. Betancourt meets Florida's general eligibility requirements for receipt of state aid set forth in Fla. Stat. § 1009.40.

22. Ms. Betancourt is studying to obtain a baccalaureate degree with a specialization in counseling. She is not enrolled in a program of study leading to a degree in theology or divinity.

23. Plaintiff Katrene DeLoach is a sophomore at Florida Christian College, due to graduate in 2015.

24. Ms. DeLoach's permanent residence is in Kissimmee, Florida.

25. Ms. DeLoach is a U.S. citizen.

26. Ms. DeLoach does not owe a repayment and is not in default under any state or federal grant, loan, or scholarship program.

27. Ms. DeLoach has not previously received a baccalaureate degree.

28. Ms. DeLoach is enrolled in classes for which she will receive 12 or more credit hours.

29. Ms. DeLoach meets Florida's general eligibility requirements for receipt of state aid set forth in Fla. Stat. § 1009.40.

30. Ms. DeLoach is studying to obtain a baccalaureate degree with a specialization in elementary education. She is not enrolled in a program of study leading to a degree in theology or divinity.

31. Plaintiff Alicia Hoffman is a sophomore at Florida Christian College, due to graduate in 2014.

32. Ms. Hoffman's permanent residence is in Jacksonville, Florida.

33. Ms. Hoffman is a U.S. citizen.

34. Ms. Hoffman does not owe a repayment and is not in default under any state or federal grant, loan, or scholarship program.

35. Ms. Hoffman has not previously received a baccalaureate degree.

36. Ms. Hoffman is enrolled in classes for which she will receive 12 or more credit hours.

37. Ms. Hoffman meets Florida's general eligibility requirements for receipt of state aid set forth in Fla. Stat. § 1009.40.

38. Ms. Hoffman is studying to obtain a baccalaureate degree with a specialization in counseling. She is not enrolled in a program of study leading to a degree in theology or divinity.

39. Plaintiff Kelley Reinoehl is a sophomore at Florida Christian College, due to graduate in 2014.

40. Ms. Reinoehl's permanent residence is in Clearwater, Florida.

41. Ms. Reinoehl is a U.S. citizen.

42. Ms. Reinoehl does not owe a repayment and is not in default under any state or federal grant, loan, or scholarship program.

43. Ms. Reinoehl has not previously received a baccalaureate degree.

44. Ms. Reinoehl is enrolled in classes for which she will receive 12 or more credit hours.

45. Ms. Reinoehl meets Florida's general eligibility requirements for receipt of state aid set forth in Fla. Stat. § 1009.40.

46. Ms. Reinoehl is studying to obtain a baccalaureate degree with a specialization in elementary education. She is not enrolled in a program of study leading to a degree in theology or divinity.

47. Plaintiff Luke Stamps is a freshman at Florida Christian College who intends to graduate in 2017.

48. Mr. Stamps' permanent residence is in Cape Coral, Florida.

49. Mr. Stamps is a U.S. citizen.

50. Mr. Stamps does not owe a repayment and is not in default under any state or federal grant, loan, or scholarship program.

51. Mr. Stamps has not previously received a baccalaureate degree.

52. Mr. Stamps is enrolled in classes for which he will receive 12 or more credit hours.

53. Mr. Stamps meets Florida's general eligibility requirements for receipt of state aid set forth in Fla. Stat. § 1009.40.

54. Mr. Stamps currently plans to obtain a baccalaureate degree with a specialization in elementary education. He is not enrolled in a program of study leading to a degree in theology or divinity.

DEFENDANTS

55. Defendant Kathleen Shanahan is, and was at all times relevant to this Complaint, Chair and a member of the Florida Board of Education. In her official capacity as Chair and a member of the Board of Education, Shanahan is responsible for creating and implementing the policies of the Department of Education, including Fla.

Admin. Code §6A-20.007, which administers the Florida Resident Access Grant program. She is sued in her official capacity.

56. Defendant Roberto Martinez is, and was at all times relevant to this Complaint, Vice Chair and a member of the Florida Board of Education. In his official capacity as Vice Chair and a member of the Board of Education, Martinez is responsible for creating and implementing the policies of the Department of Education, including Fla. Admin. Code §6A-20.007, which administers the Florida Resident Access Grant program. He is sued in his official capacity.

57. Defendant Sally Bradshaw is, and was at all times relevant to this Complaint, a member of the Florida Board of Education. In her official capacity as a member of the Board of Education, Bradshaw is responsible for creating and implementing the policies of the Department of Education, including Fla. Admin. Code §6A-20.007, which administers the Florida Resident Access Grant program. She is sued in her official capacity.

58. Defendant Gary Chartrand is, and was at all times relevant to this Complaint, a member of the Florida Board of Education. In his official capacity as a member of the Board of Education, Chartrand is responsible for creating and implementing the policies of the Department of Education, including Fla. Admin. Code §6A-20.007, which administers the Florida Resident Access Grant program. He is sued in his official capacity.

59. Defendant A.K. Desai is, and was at all times relevant to this Complaint, a member of the Florida Board of Education. In his official capacity as a member of the

Board of Education, Desai is responsible for creating and implementing the policies of the Department of Education, including Fla. Admin. Code §6A-20.007, which administers the Florida Resident Access Grant program. He is sued in his official capacity.

60. Defendant Barbara Feingold is, and was at all times relevant to this Complaint, a member of the Florida Board of Education. In her official capacity as a member of the Board of Education, Feingold is responsible for creating and implementing the policies of the Department of Education, including Fla. Admin. Code §6A-20.007, which administers the Florida Resident Access Grant program. She is sued in her official capacity.

61. Defendant John R. Padget is, and was at all times relevant to this Complaint, a member of the Florida Board of Education. In his official capacity as a member of the Board of Education, Padget is responsible for creating and implementing the policies of the Department of Education, including Fla. Admin. Code §6A-20.007, which administers the Florida Resident Access Grant program. He is sued in his official capacity.

62. Defendant Gerard Robinson is, and was at all times relevant to this Complaint, a member of the Florida Board of Education. He is also Commissioner of the Florida Department of Education. In his official capacity as a member of the Board of Education and Commissioner of the Department of Education, Robinson is responsible for creating and implementing the policies of the Department of Education, including Fla.

Admin. Code §6A-20.007, which administers the Florida Resident Access Grant program. He is sued in his official capacity.

63. Defendant Theresa Antworth is and was at all times relevant to this Complaint, Director of Florida Department of Education Office of Student Financial Assistance State Scholarship and Grant Programs. In her official capacity as Director of Florida Department of Education Office of Student Financial Assistance State Scholarship and Grant Programs, Antworth is responsible for administration of state financial aid, scholarship, and grant programs, including the Florida Resident Access Grant program. She is sued in her official capacity.

64. Defendant Levis Hughes is and was at all times relevant to this Complaint, Bureau Chief of Florida Department of Education Office of Student Financial Assistance. In his official capacity as Bureau Chief of Florida Department of Education Office of Student Financial Assistance, Hughes is responsible for administration of state financial aid, scholarship, and grant programs, including the Florida Resident Access Grant program. He is sued in his official capacity.

65. Defendant Linda Champion is and was at all times relevant to this Complaint, Deputy Commissioner of Florida Department of Education Office of Finance and Operations. In her official capacity as Deputy Commissioner of Florida Department of Education Office of Finance and Operations, Champion is responsible for administration of state financial aid, scholarship, and grant programs, including the Florida Resident Access Grant program. She is sued in her official capacity.

66. Each and every act of Defendants alleged herein was committed by Defendants, each and every one of them, under the color of state law and authority.

FACTUAL BACKGROUND

I. The Florida Resident Access Grant (FRAG)

67. The William L. Boyd, IV, Florida Resident Access Grant program provides tuition assistance to students attending independent nonprofit colleges and universities. Fla. Stat. § 1009.89(1).

68. The Florida legislature declared that independent nonprofit colleges and universities “are an integral part of the higher education system” in the State of Florida and that “a significant number of state residents choose this form of higher education.” Fla. Stat. § 1009.89(1).

69. The Florida legislature found that “a strong and viable system of independent colleges and universities reduces the tax burden on the citizens of the state.” Fla. Stat. § 1009.89(1).

70. The Florida legislature decreed that the Florida Department of Education “shall issue through the program a William L. Boyd, IV, Florida resident access grant to any full-time degree seeking undergraduate student registered at an independent nonprofit college or university” that meets certain requirements currently set forth in Fla. Stat. § 1098.89(3).

71. In the 2010-11 academic year, the Department, through the Office of Student Financial Assistance, disbursed a total of \$83,141,005.95 through the FRAG program, benefitting 39,427 students, with an average award of \$2,108.73.

72. The annual award amount for the 2011-12 academic year is \$2,149.00.

73. The Florida legislature created the State Tuition Voucher (“STV”) program in 1979. Laws 1979, c. 79-222, § 67, eff. July 1, 1979, codified at Fla. Stat. § 248.099. The STV program is the predecessor of the FRAG program from which FCC and its students have been excluded.

74. The original version of the statute governing the STV program excluded students at “pervasively sectarian institution[s].” Laws 1979, c. 79-222(2), § 67, codified at Fla. Stat. § 248.099(2), later recodified at Fla. Stat. § 240.401(2).

75. In 1989, the Florida legislature amended the statute governing the STV program. Laws 1989, c. 89-207, § 4, eff. July 1, 1989; Laws 1989, c. 89-367, § 7, eff. July 6, 1989.

76. In the 1989 amendments, the legislature eliminated the exclusion of students at “pervasively sectarian” institutions.

77. In the 1989 amendments, the legislature added a requirement that students receiving funds under the STV program attend an institution “which has a secular purpose, so long as the receipt of state aid by students at the institution would not have the primary effect of advancing or impeding religion or result in an excessive entanglement between the state and any religious sect.” Laws 1989, c. 89-367, § 7, codified at Fla. Stat. § 240.605(3).

78. The July 1989 amendments to the STV statute included the following “grandfather clause”: “Any independent college or university that was eligible to receive tuition vouchers on January 1, 1989, and which continues to meet the criteria under

which its eligibility was established, shall remain eligible to receive tuition voucher payments.” Laws 1989, c. 89-367, § 7, codified at Fla. Stat. § 240.605(3).

79. Accordingly, a non-“pervasively sectarian” religious college or university that was eligible to participate in the FRAG program before the 1989 statutory revisions could continue to participate after the 1989 revisions, even though it lacked “a secular purpose.” In other words, whether a school lacking “a secular purpose” is permitted to participate in FRAG depends in part upon *when* it initially applied – before or after January 1, 1989.

80. In 1994, the Florida legislature changed the name of the program from “State Tuition Voucher” to “Florida Resident Access Grant” (FRAG). Laws 1994, c. 94-230, § 32, eff. July 1, 1994, codified at Fla. Stat. § 240.605.

81. In 2002, the Florida legislature recodified the statutory provision governing the FRAG program to § 1009.89. Laws 2002, c.2002-387, § 471, effective January 7, 2003.

II. Educational Institutions Participating in FRAG

82. Defendants have permitted a number of religious educational institutions and their students other than FCC and its students to participate in FRAG, including Palm Beach Atlantic University, Clearwater Christian College, Southeastern University, Warner University, Ave Maria University, St. Leo University, Bethune-Cookman University, Edward Waters College, and St. Thomas University.

A. Palm Beach Atlantic University

83. Palm Beach Atlantic University (PBA) is a private university located in West Palm Beach, Florida. <http://www.pba.edu/main>

84. PBA characterizes itself as an “interdenominational Christian university.” <http://www.pba.edu/main>

85. PBA is a member of the Council for Christian Colleges & Universities. http://cccu.org/members_and_affiliates/?member_type=mbr&location=FL

86. PBA is a member of the National Christian College Athletic Association.

87. PBA’s stated “Vision” is “to be a premier Christian university, whose graduates are intellectually prepared, possess high moral character, demonstrate outstanding citizenship and are servant leaders in their communities, the nation and the world.” <http://www.pba.edu/statement-purpose>

88. PBA states that it is “dedicated to the intentional integration of Christian principles.” <http://www.pba.edu/statement-purpose>

89. Among PBA’s stated purposes are “the enrichment of spiritual lives and the perpetuation of growth in Christian ideals.” <http://www.pba.edu/guiding-principles>

90. PBA states that it was “[f]ounded under the providence of God.” <http://www.pba.edu/guiding-principles>

91. PBA states that it desires to “develop the moral character and enrich the spiritual lives of all the people who may come within the orbit of its influence.” <http://www.pba.edu/guiding-principles>

92. PBA declares that it “shall stand as a witness for Jesus Christ.”
<http://www.pba.edu/guiding-principles>

93. PBA’s website states: “To assure the perpetuation of these basic concepts of its founders, it is resolved that all those who become associated with Palm Beach Atlantic University as trustees, officers, members of the faculty or of the staff, must believe in the divine inspiration of the Bible, both the Old and New Testaments; that man was directly created by God; that Jesus Christ was born of a virgin; that He is the Son of God, our Lord and Savior; that He died for the sins of all men and thereafter arose from the grave; that by repentance and the acceptance of and belief in Him, by the grace of God, the individual is saved from eternal damnation and receives eternal life in the presence of God; and it is further resolved that the ultimate teachings in this University shall always be consistent with these principles.” <http://www.pba.edu/guiding-principles>

94. PBA states that it offers “[a] Christ-centered education.”
<http://www.pba.edu/admissions>

95. PBA states that it offers “[d]edicated faculty – Christian men and women who are not only brilliant, but are down to earth and committed to your success.”
<http://www.pba.edu/admissions>

96. PBA states that “[y]our Christian faith will thrive at Palm Beach Atlantic University.” <http://www.pba.edu/christian-life>

97. PBA states that “[y]ou’ll feel Christ’s presence in all you do at PBA.”
<http://www.pba.edu/christian-life>.

98. PBA requires students to attend 24 chapel services per year. <http://www.pba.edu/christian-life>; <http://www.pba.edu/chapel>.

99. PBA sponsors missions trips, through which, according to PBA, “you can be the hands and feet of Christ in nearly a dozen countries.” PBA states, “[w]herever you go and whatever you do, you have an opportunity to model Christ through your actions.” <http://www.pba.edu/christian-life>

100. PBA students are eligible to receive tuition assistance grants through the Florida Resident Access Grant Program (FRAG).

101. In the 2010-11 school year, the Department disbursed \$3,061,629.00 for the benefit of 1,440 students at PBA.

102. Upon information and belief, PBA and its students began participating in FRAG on or before January 1, 1989, and thus were “grandfathered” in and therefore were not excluded under the “secular purpose” requirement used to exclude FCC and its students.

B. Clearwater Christian College

103. Clearwater Christian College is a private college located in Clearwater, Florida.

104. It describes itself as “home to over 600 undergraduate students pursuing a distinct Bible-based Christian education in a liberal arts environment.”

105. Clearwater Christian College’s Mission Statement declares as follows: “Clearwater Christian College exists to provide an excellent liberal arts education centered on God’s Word, with a focus on challenging students to love God wholly, to

know Him intimately, and to serve Him fervently; educating men and women to minister faithfully and humbly with evangelistic zeal as they impact eternity for Jesus Christ in every avenue of life.”

106. Clearwater Christian College describes its purpose as follows: “As an institution that upholds the fundamentals of the historic Christian faith, Clearwater Christian College exists to further the Great Commission in the lives of students by providing the environment and tools needed to develop godly character and pursue academic excellence and personal integrity. Passionate to produce effective disciples of Jesus Christ, the College challenges all students to mature in every facet of life by offering a spiritual atmosphere and a comprehensive student life experience where, in the context of accountable relationships, they are invited to love and serve God and others.”

107. Clearwater Christian College declares that “[t]he Word of God is the foundation from which we operate.”

108. Clearwater Christian College students are eligible to receive tuition assistance grants through the Florida Resident Access Grant Program (FRAG).

109. In the 2010-11 school year, the Department disbursed \$567,462.00 for the benefit of 266 students at Clearwater Christian College.

110. Upon information and belief, Clearwater Christian College and its students began participating in FRAG on or before January 1, 1989, and thus were “grandfathered” in and therefore were not excluded under the “secular purpose” requirement used to exclude FCC and its students.

C. Southeastern University

111. Southeastern University (Southeastern) is a private university located in Lakeland, Florida. <http://www.seu.edu>

112. Southeastern characterizes itself as “a university of the Assemblies of God.” http://www.seu.edu/about/mission_statement.php

113. Southeastern’s mission statement is as follows: “Southeastern, a dynamic, Christ-centered university, fosters student success by integrating personal faith and higher learning. Within our loving Pentecostal community, we challenge students to a lifetime of good work and of preparing professionally so they can creatively serve their generation in the Spirit of Christ.” http://www.seu.edu/about/mission_statement.php

114. Southeastern states that it offers “a vital, Christ-centered education that equips students for a life of world-changing leadership, both in a variety of professional careers, and ministry-related fields.” http://www.seu.edu/about/university_profile.php

115. Southeastern states that “[e]very academic program at Southeastern includes Biblical studies, professors who care about students’ academic and spiritual growth, and a campus full of people who are committed to Christ.” http://www.seu.edu/about/university_profile.php

116. Southeastern states that “[t]oday, throughout the United States and around the world, Southeastern graduates are living Christ’s message.” http://www.seu.edu/about/university_profile.php

117. Southeastern states that “[f]rom the university’s inception in 1935 as a Bible Institute to train pastors and missionaries, Southeastern has rested on a solid

foundation of vision and faith. That foundation has held firmly as Southeastern has evolved and relocated through the years, gradually expanding its mission and degree offerings.” <http://www.seu.edu/about/faq.php>

118. Southeastern states that “[t]he purpose of a liberal arts curriculum is to provide you with a more well-rounded education, to increase your understanding and appreciation of God and His creation, and to help you understand your role and responsibility in society as a Christian.” <http://www.seu.edu/about/faq.php>

119. Southeastern declares its belief that “God is the source of all truth” and that believers “must strive to better understand our world from that context.” <http://www.seu.edu/about/faq.php>

120. Southeastern states that it “seeks to graduate men and women who combine this broad knowledge with faith, compassion, humility, self-discipline and careful thinking and who take seriously the Biblically-based obligation to be the ‘salt of the earth.’” <http://www.seu.edu/about/faq.php>

121. Southeastern requires students to attend chapel. <http://www.seu.edu/about/faq.php>

122. Southeastern states that, “[a]s a Christ-centered university, our most distinctive characteristic centers on the integration of faith and learning.” <http://www.seu.edu/about/faq.php>

123. Southeastern states that “all students are encouraged and expected to include an active devotional life, regular church attendance and chapel services as part of their collegiate experience.” <http://www.seu.edu/about/faq.php>

124. Southeastern states that “Chapel services are the spiritual center of the Southeastern community and serve as a time of corporate worship.” <http://www.seu.edu/about/faq.php>

125. Southeastern states that “[a]s a Christ-centered university, Southeastern requires that all students, faculty and staff have made a commitment to the lordship of Jesus Christ in their lives. The community of believers at Southeastern University is committed to the development of spiritual and academic excellence. A commitment to join Southeastern’s community obligates each individual to a standard of scriptural behavior.” <http://www.seu.edu/about/faq.php>

126. Southeastern states that, among other things, it considers an applicant’s “Christian character” <http://www.seu.edu/about/faq.php>

127. Southeastern states that its students “[a]rriv[e] at Southeastern as people committed to following Jesus Christ.” http://www.seu.edu/about/mission_in_action.php

128. Southeastern is a member of the National Christian College Athletic Association. http://www.seu.edu/about/university_profile.php

129. Southeastern states that it “offer[s] a vital, Christ-centered education that, through a wide range of academic majors leading to bachelor’s and master’s degrees, prepares our students for a life of world-changing leadership in church-related positions and in other professional fields.” http://www.seu.edu/about/mission_in_action.php

130. One of Southeastern’s institutional goals is “[t]o create and engender a community of authentic Christian faith conducive to successful living and learning.” http://www.seu.edu/about/institutional_goals.php

131. Another of Southeastern's institutional goals is to "[p]reserve the evangelical and Pentecostal heritage and message of the Assemblies of God and provide positive direction for its future." http://www.seu.edu/about/institutional_goals.php

132. Another of Southeastern's institutional goals is to "[p]rovide sufficient religious education to enable students to be conversant in the Christian faith, to articulate their own beliefs, and to actualize their faith through consistent growth and practice by the integration of faith in all aspects of life."

133. Southeastern is a member of the Council for Christian Colleges & Universities.

134. Southeastern is a member of the Florida League of Christian Schools. <http://www.seu.edu/about/accreditation.php>.

135. Southeastern students are eligible to receive tuition assistance grants through FRAG.

136. In the 2010-11 school year, the Department disbursed \$2,812,104.00 for the benefit of 1,306 students at Southeastern.

137. Upon information and belief, Southeastern and its students began participating in FRAG on or before January 1, 1989, and thus were "grandfathered" in and therefore not excluded under the "secular purpose" requirement used to exclude FCC and its students.

D. Warner University

138. Warner University (Warner) is a private university located in Lake Wales, Florida. <http://www.warner.edu/index/about/default.asp>

139. Warner was founded by the Southeastern Association of the Church of God of Anderson, Indiana. <http://www.warner.edu/index/about/default.asp>

140. Warner states that it “develop[s] servant leaders who evaluate issues from a Christian perspective and strive to live out their belief in their communities, churches and homes.” <http://www.warner.edu/index/about/default.asp>

141. Warner states that “[t]he administration, faculty and staff . . . model the values of Christian community.” <http://www.warner.edu/index/about/default.asp>

142. Warner states that its mission is “to graduate individuals who exemplify academic excellence and Christian character, who are prepared to lead and committed to serve.” <http://www.warner.edu/index/about/Just-the-Facts2010-11.pdf>

143. Warner states that its “administration, faculty and staff are Christian.” <http://www.warner.edu/index/about/Just-the-Facts2010-11.pdf>

144. Warner states that one of its core values is “[d]emonstrat[ing] Christ’s mercy and compassion to others through humility of motive, attitude and action.” <http://www.warner.edu/index/about/StrategicPlan2011-16.pdf>

145. Warner states that one of its core values is “[l]iv[ing] blamelessly in light of Christ’s imminent return.” <http://www.warner.edu/index/about/StrategicPlan2011-16.pdf>

146. Warner states that one of its core values is “[s]eek[ing] the treasures of wisdom and knowledge hidden in Christ.”

147. Warner states that one of its core values is “[c]hoos[ing] what is best according to the will of God.” <http://www.warner.edu/index/about/StrategicPlan2011-16.pdf>

148. Warner states that one of its core values is “[i]ncreas[ing] in love and knowledge to the glory of God.” <http://www.warner.edu/index/about/StrategicPlan2011-16.pdf>

149. Warner students are eligible to receive tuition assistance grants through FRAG.

150. In the 2010-11 school year, the Department disbursed \$1,595,680.00 for the benefit of 801 students at Warner.

151. Upon information and belief, Warner and its students began participating in FRAG on or before January 1, 1989, and thus were “grandfathered” in and therefore not excluded under the “secular purpose” requirement used to exclude FCC and its students.

E. Ave Maria University

152. Ave Maria University (AMU) is a private university located in Ave Maria, Florida. <http://www.avemaria.edu/AdmissionsAid/VisitOurCampus.aspx>

153. AMU states that it “is known for faithfulness to the magisterium of the Catholic Church.” <http://www.avemaria.edu/AboutAveMaria/OurCatholicIdentityandMission.aspx>

154. AMU states that it was “[f]ounded in fidelity to Christ and His Church in response to the call of Vatican II for greater lay witness in contemporary society” and

that it “exists to further teaching, research, and learning at the undergraduate and graduate levels in the abiding tradition of Catholic thought in both national and international settings.” <http://www.avemaria.edu/AboutAveMaria/OurCatholicIdentityandMission.aspx>

155. AMU states that it “takes as its mission the sponsorship of a liberal arts education curriculum dedicated, as articulated in the apostolic constitution *Ex Corde Ecclesiae*, to the advancement of human culture, the promotion of dialogue between faith and reason, the formation of men and women in the intellectual and moral virtues of the Catholic faith, and to the development of professional and pre-professional programs in response to local and societal needs.” <http://www.avemaria.edu/AboutAveMaria/OurCatholicIdentityandMission.aspx>

156. AMU states that, “[a]s an institution committed to Catholic principles, the University recognizes the importance of creating and maintaining an environment in which faith informs the life of the community and takes expression in all its programs.” <http://www.avemaria.edu/AboutAveMaria/OurCatholicIdentityandMission.aspx>

157. AMU’s website states as follows: “It can well be argued that, if for no other reason, a Catholic university is essential to the transmittal of the faith to successive generations. ‘Train up a child in the way he should go, And when he is old he will not depart from it.’ —Proverbs 22:5-7 The role Ave Maria University intends to fill is not merely catechesis (although that has been woefully deficient in other institutions), but rather the ongoing reflection of theologians and philosophers on the integration of the

truths of the faith with the social, cultural, economic, and political developments in society.” <http://www.avemaria.edu/AboutAveMaria/OurCatholicIdentityandMission.aspx>

158. AMU’s website states as follows: “This is perhaps the single most vital task for Catholic academicians: to explicate the truths of the faith, and measure against them the evolving societal propositions or practices in politics, the arts, the economy, etc. Two hundred or more years ago, those practices included slavery, laissez faire capitalism, and child labor. Fifty or more years ago, they included Marxism, Nazism, and Freudianism. Today they include abortion, fetal research, cloning, same-sex ‘marriage,’ moral relativism, and world terrorism. It is the graduates of Ave Maria University who will become the Catholic intellectuals needed to bring the truths of the faith to bear on these issues.” <http://www.avemaria.edu/AboutAveMaria/OurCatholicIdentityandMission.aspx>

159. AMU’s website states as follows: “In each of the Residence Halls there are a number of different faith based groups of men or women striving to lead one another to holiness through regularly scheduled meetings and prayer times. These Christ-centered groups strive for balanced, healthy, interpersonal relationships while they support and challenge a member to develop spiritually, emotionally, academically, and physically.” <http://www.avemaria.edu/CampusLife/Households.aspx>

160. AMU students are required to take, among other things, courses entitled “Sacred Scripture,” “Sacred Doctrine,” and “Living in Christ: Moral Theology.” Students must also take a non-credit practicum in “Gregorian Chant in History and Literature.”

161. AMU students are eligible to receive tuition assistance grants through FRAG.

162. In the 2010-11 school year, the Department disbursed \$396,484.00 for the benefit of 179 students at AMU.

F. Saint Leo University

163. Saint Leo University (SLU) is a private university located in Saint Leo, Florida. <http://www.saintleo.edu/>

164. SLU states that it is a “Catholic, liberal-arts based university serving people of all faiths.” <http://www.saintleo.edu/About-SLU/Mission-Statement>

165. SLU states that it is “[r]ooted in the 1,500-year-old Benedictine tradition, [and] . . . seeks balanced growth in mind, body and spirit for all members of its community.” <http://www.saintleo.edu/About-SLU/Mission-Statement>

166. SLU states that it “offers a practical, effective model for life and leadership in a challenging world, a model based on steadfast, moral consciousness that recognizes the dignity, value, and gifts of all people.” <http://www.saintleo.edu/About-SLU/Mission-Statement>

167. SLU is Florida’s first Catholic university and “develops hospitable Catholic learning communities everywhere we serve – in Florida and around the world.” <http://www.saintleo.edu/About-SLU/Florida-Catholic-University>

168. SLU states that “[a]nimated in the spirit of Jesus Christ, we value all individuals’ unique talents, respect their dignity and strive to foster their commitment to

excellence in our work.” <http://www.saintleo.edu/About-SLU/Florida-Catholic-University>

169. By way of its history, SLU states:

Chartered on June 4, 1889, Saint Leo College was founded when the Florida legislature authorized the Order of Saint Benedict of Florida to “have and possess the right and power of conferring the usual academic and other degrees granted by any college in this State.”

Established initially by monks from Saint Vincent Archabbey in Latrobe, Pennsylvania, the Benedictine mission in what was formerly called the “Catholic Colony of San Antonio, Florida” was transferred to the jurisdiction of Mary Help of Christians Abbey (now called Belmont Abbey) in North Carolina in 1888. Saint Leo College and Abbey are named for its first abbot, Leo Haid, the principal founder and first president of the college.

<http://www.saintleo.edu/About-SLU/History>

170. Undergraduate students at SLU are required to take three courses in religion or philosophy. <http://www.saintleo.edu/About-SLU/Catholic-Universities-in-Florida>

171. While SLU “welcomes learners of all faiths, and those with no religious affiliation,” it states that “[o]ur mission to truly live the rich Catholic values of individual and collective excellence is still as firmly intact today as it has been from our beginning. Faith has remained a constant at Saint Leo since 1889, when the Florida legislature authorized the Order of Saint Benedict of Florida to establish the university.”

<http://www.saintleo.edu/About-SLU/Catholic-Universities-in-Florida>

172. SLU states that it is an equal opportunity employer, but it also “reserves the right to designate specific positions within the University structure that require or

prefer candidates to be members of the Roman Catholic Church as permitted by law.”

<http://www.saintleo.edu/Documents.ashx?id=863>

173. SLU students are eligible to receive tuition assistance grants through FRAG.

174. In the 2010-11 school year, the Department disbursed \$6,687,540.20 for the benefit of 3,379 students at SLU.

175. Upon information and belief, SLU and its students began participating in FRAG on or before January 1, 1989, and thus were “grandfathered” in, and therefore were not excluded under the “secular purpose” requirement used to exclude FCC and its students.

G. Bethune-Cookman University

176. Bethune-Cookman University (BCU) is a private university located in Daytona Beach, Florida. <http://www.bethune.cookman.edu/>

177. BCU is a historically black university affiliated with the United Methodist Church. http://www.cookman.edu/about_BCU/umc/index.html

178. BCU states that its affiliation with the United Methodist Church “dates back to 1872, when the Cookman Institute of Jacksonville, Florida, was established and named for the Reverend Alfred Cookman, a well-known Methodist minister. Following the merger of the Cookman Institute with Dr. Mary McLeod Bethune’s school in Daytona Beach, the school that became known as Bethune-Cookman College affiliated with The United Methodist Church in 1924. It is a rich relationship that informs the values of the institution.” http://www.cookman.edu/about_BCU/umc/index.html

179. BCU states that it “shares a common set of values and educational principles with The United Methodist Church and its other church-related colleges and universities.” http://www.cookman.edu/about_BCU/umc/index.html

180. BCU defines some of those values as “emphasis on special quality of care for students, realized through residence-hall life, faculty commitment to students, special programs and performances, counseling services and an active chaplain’s office and religious life council on campus,” and “a demonstrated relationship with the church, shown through the quality of academic and community life; a sensitivity to the religious life concerns of students; scholarships for United Methodist students; hosting church events on campus; making faculty and staff available to local churches; and, doing community or international service projects.”

181. BCU’s president, Dr. Trudie Kibbe Reed, asserts in the “President’s Statement of Philosophy” that “it is my opinion that in the absence of spiritual growth, intellectual stimulation is meaningless. Providing an effective learning environment that will enhance spirituality and citizenship, while strengthening linkages to the African-American community, remains a crucial goal of all historic African-American colleges.” http://www.cookman.edu/documents/acad_docs/undergradcat10-12.pdf at 12.

182. BCU students are eligible to receive tuition assistance grants through FRAG.

183. In the 2010-11 school year, the Department disbursed \$4,801,557.00 for the benefit of 2,171 students at BCU.

184. Upon information and belief, BCU and its students began participating in FRAG on or before January 1, 1989, and thus were “grandfathered” in, and therefore were not excluded under the “secular purpose” requirement used to exclude FCC and its students.

H. Edward Waters College

185. Edward Waters College (EWC) is a private college located in Jacksonville, Florida. <http://www.ewc.edu/>

186. EWC states that it is “Florida’s oldest independent institution of higher learning as well as the state’s first institution established for the education of African Americans.” <http://www.ewc.edu/index.php/about-us/history>

187. EWC was founded in 1866 by the Reverend Charles H. Pearce, a presiding elder of the African Methodist Episcopal (AME) Church. It is named for Edward Waters, the third bishop of the AME Church. <http://www.ewc.edu/index.php/about-us/history>

188. EWC describes itself as a “small private, Christian, Historically Black, Urban, Liberal Arts College” and states that it “strives to prepare students holistically to advance in a global society through the provision of intellectually stimulating programs and an environment which emphasizes high moral and spiritual values in keeping with the African Methodist Episcopal Church.” <http://www.ewc.edu/index.php/about-us/vision>

189. EWC’s first core value is “Christian Principles-Ethics and doctrines predicated on the AME Church theology ‘GOD our Father, CHRIST our Redeemer, MAN our Brother.’” Another EWC core value is “Customer Service-Employing the Biblical tenant [sic] Matthew 7:12, ‘Therefore all things whatsoever ye would that men

should do to you, do ye even so to them: for this is the law and the prophets.”

<http://www.ewc.edu/index.php/about-us/vision>

190. Among EWC’s institutional goals, EWC states that it strives to “strengthen and support the social, cultural, and spiritual development of our students,” and “identify EWC as an African Methodist Episcopal Church related institution of learning.” <http://www.ewc.edu/index.php/about-us/vision>

191. EWC’s Academic Affairs Division website states, “Embracing Christian principles and a spirit of civic engagement, the Division of Academic Affairs promotes excellence and ethics among students, faculty, staff, and administrators.” <http://www.ewc.edu/index.php/academics/academic-affairs/message-from-dr-minus>

192. EWC has a dress code as a result of its religious commitment. It states, “Edward Waters College is committed to Sustaining the Principles of Excellence and Ethics with unity of purpose, integrity and effectiveness practices. This includes a commitment to Christian principles and values, moral and ethical behavior. In accordance with its affiliation with the African Methodist Episcopal Church, the College expects faculty, staff and students to model and uphold high standards of conduct and behavior both on and off campus, conducting themselves with pride and respect. Edward Waters College adheres to a business casual dress code.” http://issuu.com/edwardwaterscollege/docs/2010_catalog_draft4 at 65.

193. All EWC students are required to take “Introduction to Biblical Studies” in order to graduate “in keeping with the unique mission of the College.” http://issuu.com/edwardwaterscollege/docs/2010_catalog_draft4 at 76.

194. The course description for “Introduction to Biblical Studies” is as follows: “An introduction to the Judeo-Christian tradition is designed to foster knowledge [and] understanding of the literature of the Judeo-Christian heritage and relate it to life, relationships, and the contemporary world through selected readings from the Bible and contemporary biblical scholarship.”

195. Upon information and belief, the course is taught by Dr. Damaris M’Mworia, who is described by EWC as a “committed Christian” who is “actively involved in the work and ministry of Bartley Temple United Methodist Church in Gainesville, Florida, where her husband Rev. Dr. Silas Miriti M’Mworia is the Pastor.” <http://www.ewc.edu/index.php/component/content/article/119-faculty-archives/202-dr-damaris-mmworia>

196. EWC students are eligible to receive tuition assistance grants through FRAG.

197. In the 2010-11 school year, the Department disbursed \$1,151,453.00 for the benefit of 561 students at EWC.

198. Upon information and belief, EWC and its students began participating in FRAG on or before January 1, 1989, and thus were “grandfathered” in, and therefore were not excluded under the “secular purpose” requirement used to exclude FCC and its students.

I. St. Thomas University

199. St. Thomas University (STU) is a private university located in Miami Gardens, Florida. <http://www.stu.edu/>

200. The President of STU is the Rev. Monsignor Franklyn M. Casale.
<http://www.stu.edu/AboutSTU/tabid/54/Default.aspx>

201. STU states that it is “a Catholic university with rich cultural and international diversity committed to the academic and professional success of its students who become ethical leaders in our global community.”
<http://www.stu.edu/AboutSTU/OurMission/tabid/91/Default.aspx>

202. St. Thomas University was founded in 1961 as Biscayne College by the order of the Augustinian Friars. The University came under the sponsorship of the Archdiocese of Miami in 1988, conferring upon St. Thomas “the distinction of being the only Catholic Archdiocesan sponsored university in the State of Florida.”
<http://www.stu.edu/AboutSTU/UniversityHistory/tabid/185/Default.aspx>

203. STU states that it “traces its roots to the Universidad de Santo Tomas de Villanueva, founded in 1946 in Havana, Cuba, by American Augustinians with assistance from European Augustinians. When the Castro government expelled the Augustinians from Cuba in 1961, several of the American Augustinians came to Miami where they founded Biscayne College.” <http://www.stu.edu/AboutSTU/UniversityHistory/tabid/185/Default.aspx>

204. STU states that it “works to prepare men and women to live in and make their contributions to the human community. It aims to assist in the development of people knowledgeable of self, rooted in faith, educated in mind, compassionate in heart, responsive to civic and social obligations, and able to respond to an ever-changing world. At St. Thomas University we welcome collaboration with everyone of good will, and we

rejoice in the endless possibility of discovery, for this is how the face of God is uncovered in our world.” <http://www.stu.edu/AboutSTU/CatholicIdentity/tabid/72/>

Default.aspx

205. A component of STU is its School of Theology and Ministry. <http://www.stu.edu/Default.aspx?alias=www.stu.edu/theology>

206. Two components of STU’s required general education coursework are Religious Studies and Catholic Identity. STU states that “Religious Studies (STM) explores the general phenomenon of religion and religious experience. It is also theological in that it promotes ‘the search for meaning’ (*Ex Corde Ecclesiae*) within its own courses as well as by placing the Gospel in conversation with other university disciplines and with society at large. The Catholic Identity Requirement promotes understanding of and appreciation for the Catholic intellectual and artistic heritage.” <http://www.stu.edu/LinkClick.aspx?fileticket=HCrytBd8Dew%3d&tabid=1176> at 71.

207. STU students are required to take at least one course in “Religious Studies” and one course in “Catholic Identity” in order to graduate. <http://www.stu.edu/LinkClick.aspx?fileticket=HCrytBd8Dew%3d&tabid=1176> at 74-75.

208. STU students are eligible to receive tuition assistance grants through FRAG.

209. In the 2010-11 school year, the Department disbursed \$1,782,401.00 for the benefit of 849 students at STU.

210. Upon information and belief, STU and its students began participating in FRAG on or before January 1, 1989, and thus were “grandfathered” in, and therefore

were not excluded under the “secular purpose” requirement used to exclude FCC and its students.

III. Florida Christian College

211. Approximately 380 undergraduate students are currently enrolled at FCC. Of these, approximately 211 are Florida residents who would be eligible for FRAG grants if FCC were deemed eligible by Defendants.

212. Defendants have refused to admit FCC and its students to the FRAG program.

213. FCC offers four degrees – Associate of Arts, a two-year program; the Bachelor of Arts and the Bachelor of Science, which are four-year programs; and the Bachelor of Theology, which is a five-year program.

214. FCC operates and grants degrees under a license granted by means of accreditation by the Commission for Independent Education with the Florida Board of Education.

215. FCC is a member of the National Association of Independent Colleges and Universities (NAICU), and the Florida Association of Colleges and Universities.

216. FCC is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (a secular association) and by the Association for Biblical Higher Education (a religious association) to award Associate and Bachelor degrees.

217. FCC programs are approved by the Bureau of State Approving for Veterans' Training for persons eligible under laws administered by the Veterans Administration.

218. FCC is approved as an eligible private institution for receipt of federal and state financial aid by the U.S. Department of Education and the Florida Department of Education.

219. Each FCC student majors in Bible and also chooses a "ministry" major.

220. The "ministry" major does not mean every student in these programs is going into church-based ministry or that each of the degree programs is exclusively devotional, theological, or doctrinal in nature. The term "ministry" simply reflects FCC's belief that every Christian's vocation, whether within or outside of the church, is his or her "ministry."

221. FCC offers bachelor's degrees in the following disciplines: Elementary Education, Christian Education Leadership, Musical Arts, Counseling, Bible, Bible and Humanities, Children's Ministry, Christian Leadership (LEAD), Christian Ministry, Cross-Cultural Ministry, Music Ministry, Preaching, and Youth and Family Ministry.

222. Several of FCC's degree programs are designed to prepare students for employment outside of the church.

223. For example, FCC's Cooperative Program through the Christian Ministry degree is specifically designed for the student who desires a biblically based education and the experience of a Christian campus community, while preparing for a profession outside of vocational ministry.

224. Through the Cooperative Program, FCC and the Florida Hospital College of Health Sciences (FHCHS) have established an agreement by which a student may earn a Bachelor of Science in Christian Ministry from FCC and an Associate of Science in one of five fields from FHCHS. Those fields include Diagnostic Medical Sonography, Nuclear Medicine Technology, Occupational Therapy Assistant, Pre-Professional Studies, and Radiography.

225. FCC has similar arrangements with Valencia Community College and the Technical Education Center Osceola.

226. As another example, FCC offers a Bachelor of Science in Elementary Education. The Elementary Education Specialization is for the student who desires the benefit of a Bible College education, who desires certification to teach in the Christian school or in the public school setting.

227. One explicit objective of the course block is to help students pass the Florida Teacher's Certification Examination.

228. Many of the courses in the Elementary Education block can fairly be characterized as non-ecclesiastical or "secular." These include Composition, Western Civilization, Music History & Literature, Speech: Public, Finite Math, and College Algebra, among others.

229. Another example of an educational track that can fairly be characterized as non-ecclesiastical or "secular" is the Musical Arts Specialization.

230. Many of the courses in the Music Education block can fairly be characterized as non-ecclesiastical or “secular”. These include Introduction to Music Theory, Sight-singing & Ear Training, Conducting, and Piano Pedagogy, among others.

231. A further example is the Counseling Specialization, which is designed to prepare students to pursue graduate work in social work or counseling psychology.

232. Many of the courses in the Counseling block can fairly be characterized as non-ecclesiastical or “secular.” These include Personality Theories, Developmental Psychology, Abnormal Psychology, Developmental Issues Concerning Children and Adolescents, and Crisis Counseling.

233. Counseling students are also required to complete a field internship as part of their degree requirements, which need not be completed in a religious setting.

234. Another example is the Non-Profit Management Specialization, which is designed to prepare students for leadership in a non-profit organization and for graduate level studies within the organizational leadership field.

235. Many of the courses in the Non-Profit Management block can be fairly characterized as non-ecclesiastical or “secular.” These include Group and Team Process, Organizational Assessment and Decision-Making, Financial Management, Organizational Communications, Legal and Governance Issues Affecting Non-Profit Organizations, and Philanthropy and Fundraising for Non-Profit Organizations.

236. Applicants to FCC need not profess faith in Christ in order to be admitted as students.

IV. Other Florida Higher Education Aid Programs

237. The State of Florida financially assists college and university students through a number of programs in addition to FRAG.

238. The overwhelming majority of these do *not* exclude students because of the religious character of the institution they attend or of their course of study.

239. Indeed, FCC students participate in at least four of these programs.

240. Florida operates the Private Student Assistance Grant Program. Laws 1989, c. 89-207, § 16, eff. July 1, 1989; Laws 1989, c. 89-367, § 4, eff. July 6, 1989, codified at Fla. Stat. § 1009.51. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study. FCC and its students participate in Private Student Assistance Grant Program.

241. Florida operates the Bright Futures Scholarship Program. Laws 1997, c. 97-77, § 2, eff. May 23, 1997, codified at Fla. Stat. § 1009.53. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study. FCC and its students participate in the Bright Futures Scholarship Program.

242. Florida operates the Jose Marti Scholarship Challenge Grant Program. Laws 1986, c. 86-225, § 27, eff. July 2, 1986, codified at Fla. Stat. § 1009.72. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study. FCC and its students participate in the Jose Marti Scholarship Challenge Grant Program.

243. Florida operates the Work Experience Program. Fla. Stat. § 1009.77. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study. FCC and its students participate in the Work Experience Program.

244. Florida operates the Postsecondary Student Assistance Grant Program. Laws 1989, c. 89-207, § 17, eff. July 1, 1989, codified at Fla. Stat. § 1009.52. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

245. Florida operates the Academic Scholars Award Program. Laws 1997, c. 97-77, § 6, eff. May 23, 1997, codified at Fla. Stat. § 1009.534. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

246. Florida operates the Medallion Scholars Program. Fla. Stat. § 1009.535. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

247. Florida operates the Gold Seal Vocational Scholars Award Program. Laws 1997, c. 97-77, § 8, eff. May 23, 1997, codified at Fla. Stat. § 1009.536. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

248. Florida operates the Seminole and Miccosukee Indian Scholarships Program. Laws 1989, c. 89-207, § 19, eff. July 1, 1989, codified at Fla. Stat. § 1009.56.

The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

249. Florida operates the Minority Teacher Education Scholars Program. Laws 1997, c. 97-297, § 1, eff. July 1, 1997, codified at Fla. Stat. § 1009.60. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

250. Florida operates the Medical Education Reimbursement and Loan Repayment Program. Laws 1990, c. 90-295, § 9, eff. July 3, 1990, codified at Fla. Stat. § 1009.65. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

251. Florida operates the Nursing Student Loan Forgiveness Program. Laws 1989, c. 89-332, § 1, eff. July 5, 1989, codified at Fla. Stat. § 1009.66. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

252. Florida operates the Florida Education Fund. Laws 1993, c. 93-98, § 1, eff. July 1, 1993, codified at Fla. Stat. Ann. § 1009.70. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

253. Florida operates the Mary McLeod Bethune Scholarship Program. Laws 1989, c. 89-207, § 37, eff. July 1, 1989, codified at Fla. Stat. § 1009.73. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

254. Florida operates the Student Loan Program. Fla. Stat. Ann. § 1009.78. The statute governing the program does not exclude students because of the religious character of the institution they attend or of their course of study.

255. Prior to July 1, 2010, Florida provided scholarships to the children and spouses of deceased or disabled veterans. Laws 2002, c. 2002-387, § 430, codified at Fla. Stat. § 1009.5385. The statute governing the program did not exclude students because of the religious character of the institution they attend or of their course of study. FCC and its students participated in this scholarship program.

256. Only one other tuition assistance program – the Access to Better Learning and Education Grant Program – has the same religious exclusion as found in the FRAG statute. Laws 2003, c. 2003-65, § 1, eff. June 2, 2003, codified at Fla. Stat. § 1009.891(3).

V. FCC's Efforts to Participate in FRAG

257. At some point prior to March 25, 1996, FCC submitted materials to the Florida Department of Education's Office of Student Financial Assistance (OSFA). The apparent purpose of this submission was to seek participation in state student financial aid programs.

258. In a letter to Dr. A. Wayne Lowen, then president of FCC, M. Elizabeth Sweeney, OSFA Acting Director, informed him that FCC was eligible to participate in the following State of Florida student financial aid programs beginning in the 1996-1997 academic year: the Florida Undergraduate Scholars' Fund (FUSF), the Vocational Gold Seal Endorsement Scholarship (VGSES), the Jose Marti (JM) Scholarship Challenge

Grant Fund, the Limited Access Competitive Grant (LACG), and the Seminole-Miccosukee Indian Scholarships.

259. In that same letter, Ms. Sweeney informed Dr. Lowen that FCC “does not meet the institution eligibility requirements for participation in the following state student financial assistance programs: the Florida Resident Access Grant (FRAG), the Florida Student Assistance Grant-Private (FSAG-Private), the Florida Teacher Scholarship & Forgivable Loan Program (FTS&FL), and the Florida Work Experience Program (FWEP).”

260. The March 25, 1996 letter stated that Florida Christian College is ineligible to participate in these programs for the following reasons: (a) “No[] secular purpose – FRAG, FSAG-Private, FTS&FL, FWEP”; and (b) “No state-approved teacher program – FTS&FL (CTS Loan).”

261. No later than May 2008, Dr. Terry Allcorn, FCC Dean, commenced a dialogue with Theresa Antworth, Director, State Scholarships and Grants, Office of Student Financial Assistance, Florida Department of Education, about the participation of FCC students in the FRAG program.

262. On May 15, 2008, following up on a telephone conversation earlier in the day, Dr. Allcorn emailed Ms. Antworth. Attached to that email was a document prepared by FCC employee Sandra Peppard. That document identified a number of Florida colleges and universities that had been permitted to participate in the FRAG program despite their religious purposes.

263. On May 22, 2008, Bruce M. Dusterhoft, FCC's Director of Student Financial Aid, completed on FCC's behalf the online "Renewal Eligibility Application for Institutional Participation in State Scholarship and Grant Programs, 2008-09." Item 56 of the application states, "This institution is: Secular Non-secular." FCC checked the "Non-secular" box.

264. On June 3, 2008, Ms. Antworth emailed Dr. Allcorn regarding FCC's desire to participate in the FRAG program. Regarding the institutions listed in the Sandra Peppard-prepared document attached to Dr. Allcorn's May 15, 2008, email, Ms. Antworth stated that these institutions "met the following criteria," including "[o]ffer[ing] degree programs secular in nature" and "[s]elf-report[ing] as secular on the PSI renewal eligibility application." As to FCC, Ms. Antworth's June 3, 2008, email indicated that the college and its students were not eligible because "[a]ll degrees contain religious wording; i.e. Bachelor of Arts in Christian Education" and because FCC "[s]elf-report[ed] as non-secular on the PSI renewal eligibility application."

265. On or before October 3, 2008, Dr. Allcorn emailed a response to Ms. Antworth's June 3, 2008 email, posing a number of questions. He first asked about Ms. Antworth's allegation that all of FCC's degrees contained "religious wording." More specifically, he asked: "In observing that FCC degrees 'contain religious wording,' are you stating the factual foundation of a legal conclusion that FCC lacks a 'secular purpose' – something institutions must have in order to be eligible under Fla. Stat. Ann sec. 1009.89(3)?" In an email dated October 3, 2008, Ms. Antworth responded, "No."

266. In an email dated October 6, 2008, Ms. Antworth offered to forward Dr. Allcorn's questions to the Department's legal counsel. By response email that same day, Dr. Allcorn asked Ms. Antworth to do so.

267. On December 19, 2008, Ms. Antworth sent an email to Dr. Allcorn stating as follows: "I am sorry that it has taken the time that it has by our DOE review team to do the additional research and evaluation of your institution's eligibility to participate in the FRAG program. However, I did receive a response this week, and our original evaluation for FRAG of 'Not Eligible to Participate' is upheld and remains in place for the same reasons cited on your 2008-09 Renewal Letter, see attached. I have also attached a copy of your most recent application and your institution[']s original letter of state financial aid participation. All of these documents were reviewed and considered in the review. Should you find any additional information that you believe we need to consider, please feel free to contact me again. We do appreciate your institution, their role in the pursuit of higher education for our state's citizens, and are pleased to support your students with many other available state financial aid dollars."

268. In a letter to Theresa Antworth dated November 8, 2010, counsel for FCC requested that the Office of Student Financial Assistance admit FCC and its student to the FRAG program. The letter argued that FCC was eligible for the FRAG program under Section 1009.89(3) and thus should be admitted. Specifically, the letter argued that the "secular purpose" requirement could not and should not be used to deny FCC's application. The letter next argued that FCC students' receipt of FRAG aid would not have the primary effect of advancing or impeding religion. The letter finally argued that

FCC students' receipt of FRAG aid would not result in an excessive entanglement between the state and any religious sect.

269. In a letter dated November 15, 2010, counsel for the Department acknowledged receipt of FCC's counsel's November 8, 2010 letter and promised a response.

270. Counsel for FCC subsequently sent emails on November 22, 2010, December 9, 2010, December 13, 2010, December 17, 2010, January 4, 2011, January 28, 2011, February 28, 2011, March 8, 2011, March 11, 2011, March 13, 2011, March 27, 2011, and April 4, 2011, asking the Department for a decision on FCC's request that it and its students be admitted to the FRAG program.

271. Counsel for the Department sent counsel for FCC a letter dated April 8, 2011. That letter did not announce any decision on FCC's request that it and its students be admitted to the FRAG program. Instead, it asked "whether FCC serves a secular purpose." It also stated: "please identify how FCC determines eligibility for its students."

272. On April 15, 2011, counsel for FCC sent counsel for the Department an email asking, among other things, how FCC's student eligibility determinations were relevant to its eligibility for the FRAG program. In a subsequent email dated April 18, 2011, counsel for FCC asked whether an institution's admissions criteria and process were related in some way to the institutional eligibility criteria set forth in Section 1009.89(3). In an email later that same day, counsel for the Department responded in part, "I don't have the time or inclination to provide a response to your question."

273. In a letter dated May 5, 2011, counsel for FCC explained how the College has “a secular purpose,” properly understood. The letter also addressed the Department’s request for information about FCC student admissions criteria and process, attaching the relevant excerpt from the FCC College Catalog. The letter stated, “As you will see, an applicant need not profess faith in Christ in order to be admitted.”

274. In the wake of the May 5, 2011 letter answering the Department’s questions, counsel for FCC followed up by email with counsel for the Department on May 12, 2011, May 20, 2011, and June 3, 2011. On June 9, 2011, counsel for the Department sent an email asking counsel for FCC to confirm that FCC did not require students to convert or profess faith in Christ. Counsel for FCC subsequently provided that confirmation. Upon information and belief, the high level of scrutiny applied to FCC’s eligibility application was not applied to the application of any other school.

275. In the wake of the June 9, 2011 email exchange, counsel for FCC followed up by email with counsel for the Department on June 10, 2011, June 15, 2011, June 21, 2011, and June 28, 2011. None of these emails generated a substantive response to FCC’s request that it and its students be able to participate in the FRAG program.

276. In a letter to counsel for the Department dated June 28, 2011, counsel for FCC expressed disappointment at the Department’s lengthy delay in making a decision on FCC’s request that it and its students be able to participate in the FRAG program. The letter stated that FCC would commence legal action as soon as was practicable. Counsel for the Department and for FCC spoke briefly by telephone on July 7, 2011. Since that

time, Defendants have made no indication that they plan to admit FCC and its students to the FRAG program and in fact currently deny such access.

FIRST CAUSE OF ACTION

Violation of the First Amendment to the United States Constitution Free Exercise Clause

277. Plaintiffs incorporate by reference paragraphs 1 through 276.

278. Defendants' exclusion of FCC and its otherwise eligible students from the FRAG program violates the Free Exercise Clause of the First Amendment to the United States Constitution, made applicable to the Defendants by the Fourteenth Amendment.

279. Defendants' exclusion of FCC and its otherwise eligible students from the FRAG program based upon FCC's religious nature constitutes unjustified discrimination on the basis of religion, impermissible under the Free Exercise Clause. Defendants excluded FCC and its otherwise eligible students from the FRAG program under a state statute that dictates that otherwise eligible students may not receive FRAG grants unless the institution they attend "has a secular purpose." Examining FCC's religious character, Defendants determined that FCC lacked a secular purpose and denied it and its otherwise eligible students eligibility for the FRAG program. In denying FCC's application to participate in the FRAG program, Defendant Antworth alleged that "[a]ll [of FCC's] degrees contain religious wording." Defendants also relied upon FCC's self-characterization as "non-secular" on the institutional eligibility application when denying FCC's request to participate in FRAG. Defendants admitted to the FRAG program those institutions that characterized themselves as "secular" in their institutional eligibility applications. Deeming "secular" institutions eligible while deeming "non-secular"

institutions ineligible is discrimination on the basis of religion, which violates the Free Exercise Clause.

280. Defendants excluded FCC and its otherwise eligible students from the FRAG program pursuant to a statute that is not religiously neutral. The relevant statute, Fla. Stat. § 1009.89(1), sets forth religious criteria for determining institutional eligibility for the FRAG program. Specifically, the statute declares that students who wish to receive a FRAG grant must attend an institution “which has a secular purpose, so long as the receipt of state aid by students at the institution would not have the primary effect of advancing or impeding religion or result in an excessive entanglement between the state and any religious sect.” In denying FCC’s application to participate in the FRAG program, Defendant Antworth alleged that “[a]ll [of FCC’s] degrees contain religious wording.” Defendants also relied upon FCC’s self-characterization as “non-secular” on the institutional eligibility application when denying FCC’s request to participate in FRAG. The reliance upon such considerations reveals that Defendants’ criteria for institutional FRAG eligibility are not neutral, and thus subject to strict scrutiny – something Defendants’ exclusion of FCC cannot survive.

281. Defendants’ exclusion of schools that lack “a secular purpose” from the FRAG program is not generally applicable and thus violates the Free Exercise Clause. At least 15 other tuition assistance programs do not categorically exclude students based on the religious character or attributes of their school. These include the Private Student Assistance Grant Program, the Bright Futures Scholarship Program, the Jose Marti Scholarship Challenge Grant Program, the Work Experience Program, the Postsecondary

Student Assistance Grant Program, the Academic Scholars Award Program, the Medallion Scholars Program, the Gold Seal Vocational Scholars Award Program, the Seminole and Miccosukee Indian Scholarships Program, the Minority Teacher Education Scholars Program, the Medical Education Reimbursement and Loan Repayment Program, the Nursing Student Loan Forgiveness Program, the Florida Education Fund, the Mary McLeod Bethune Scholarship Program, and the Student Loan Program.

282. Defendants' exclusion of FCC and its otherwise eligible students from the FRAG program targets them based on religion, in violation of the Free Exercise Clause. Defendants excluded FCC and its otherwise eligible students because of the College's religious character. Defendants determined that FCC lacks "a secular purpose" and denied FCC's application to participate in the program based upon that determination. In denying FCC's application to participate in the FRAG program, Defendant Antworth alleged that "[a]ll [of FCC's] degrees contain religious wording." Defendants also relied upon FCC's self-characterization as "non-secular" on the institutional eligibility application when denying FCC's request to participate in FRAG.

283. Defendants' exclusion of FCC and its otherwise eligible students from the FRAG program substantially burdens the religious exercise of FCC and its otherwise eligible students.

284. Defendants' exclusion of FCC and its otherwise eligible students from the FRAG program does not advance a compelling state interest. The state has no interest – much less a compelling one – in excluding FCC and its otherwise eligible students from the FRAG program, especially given Defendants' inclusion of FRAG students in a

number of other tuition assistance programs and their inclusion of students at both religious and “secular” schools in an even larger number of programs, none of which are different from the FRAG program in a way that might justify the differential treatment.

285. Defendants’ exclusion of FCC and its otherwise eligible students from the FRAG program is not the least restrictive means of advancing whatever interest the state might have.

SECOND CAUSE OF ACTION

Violation of the First Amendment to the United States Constitution Establishment Clause

286. Plaintiffs incorporate by reference paragraphs 1 through 276.

287. Defendants’ exclusion of FCC and its otherwise eligible students from the FRAG program violates the Establishment Clause of the First Amendment to the United States Constitution, made applicable to the Defendants by the Fourteenth Amendment.

288. Defendants’ exclusion of FCC and its otherwise eligible students from the FRAG program, in light of their inclusion of other religious colleges and their students, constitutes unjustified differential treatment among religious groups, impermissible under the Establishment Clause. While excluding FCC and its students, Defendants allow students attending a large number of other religious colleges and universities to participate in the FRAG program. Those other schools include Clearwater Christian College, Palm Beach Atlantic University, Southeastern University, Warner University, Ave Maria University, Saint Leo University, Bethune-Cookman University, Edward Waters College, and St. Thomas University. Moreover, the statute governing the FRAG programs allows religious colleges that *lack* “a secular purpose” to *participate* in the

program as long as they had been admitted to the program prior to January 1, 1989, under a less restrictive measurement of “religiosity.” Accordingly, Defendants are discriminating *among* religious institutions without adequate justification, in violation of the Establishment Clause.

289. Defendants’ exclusion of FCC and its otherwise eligible students from the FRAG program, in light of their inclusion of other colleges (both religious and secular) and their students, reveals hostility on the basis of religion, in violation of the Establishment Clause. Defendants have punished FCC because of the religious character of one or more of the motives and purposes behind its education and training and students. Defendants examined the names of the degrees FCC offers, invoking the “religious wording” in some of those degrees as a reason for excluding FCC and its students from the program. Defendants examined the role religion plays in the student admissions process and otherwise in the relationship between students and the College. Defendants’ reliance upon their findings in this regard in excluding FCC from the FRAG program reveals their hostility towards religion, which violates the Establishment Clause.

290. Defendants’ criteria and process for determining institutional eligibility for the FRAG program are unduly invasive in violation of the Establishment Clause, in that they create an excessive entanglement and interfere with the constitutionally protected autonomy of religious organizations. Defendants examined FCC’s purposes and motives, seeking to determine whether any religious purpose might render it and its students ineligible for the FRAG program. Defendants examined the names of the degrees FCC offers, invoking the “religious wording” in some of those degrees as a reason for

excluding FCC and its students from the program. Defendants examined the role religion plays in the student admissions process and otherwise in the relationship between students and the College.

THIRD CAUSE OF ACTION

Violation of the First Amendment to the United States Constitution Free Speech Clause

291. Plaintiffs incorporate by reference paragraphs 1 through 276.

292. Defendants' exclusion of FCC and its otherwise eligible students from the FRAG program violates the Free Speech Clause of the First Amendment to the United States Constitution, made applicable to the Defendants by the Fourteenth Amendment.

293. Defendants' exclusion of FCC and its otherwise eligible students from the FRAG program constitutes content and viewpoint discrimination. Because Defendants' content and viewpoint discrimination is not the least restrictive means of pursuing a compelling state interest, their exclusion of FCC and its students violates the Free Speech Clause.

294. Defendants excluded FCC and its students based upon how FCC characterized itself in its institutional eligibility application, its website, its course materials, and other contexts. Defendants' unjustified exclusion of FCC and its students from the FRAG program based upon FCC's expression violates the Free Speech Clause.

FOURTH CAUSE OF ACTION

Violation of the Fourteenth Amendment to the United States Constitution Equal Protection Clause

295. Plaintiffs incorporate by reference paragraphs 1 through 276.

296. Defendants' exclusion of FCC and its otherwise eligible students from the FRAG program violates the Equal Protection Clause of the Fourteenth Amendment.

297. Defendants' exclusion of FCC and its otherwise eligible students, based upon its religious character, in light of their treatment of other similarly situated educational institutions and their students, constitutes a suspect classification. These similarly situated schools include Clearwater Christian College, Palm Beach Atlantic University, Southeastern University, Warner University, Ave Maria University, Saint Leo University, Bethune-Cookman University, Edward Waters College, and St. Thomas University. Because this classification is not supported by a constitutionally adequate justification, it violates the Equal Protection Clause.

298. Defendants excluded FCC and its otherwise eligible students from the FRAG program because of their exercise of fundamental rights (freedom of religious exercise and freedom of speech), without adequate justification, in violation of the Equal Protection Clause.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray for judgment as follows:

a. That this Court issue preliminary and permanent injunctions ordering Defendants to grant FCC institutional eligibility to participate in FRAG;

b. That this Court issue preliminary and permanent injunctions ordering Defendants to convey 2011-2012 FRAG program grants to Betancourt, DeLoach, Hoffman, Reinoehl, and Stamps;

c. That this Court issue preliminary and permanent injunctions ordering Defendants to convey 2011-2012 FRAG program grants to all otherwise eligible current FCC students;

d. That this Court render a Declaratory Judgment that Fla. Stat. Ann. § 1009.89(3)'s "secular purpose" requirement is facially unconstitutional;

e. That this Court permanently enjoin Defendants from applying, implementing, or otherwise using Fla. Stat. Ann. § 1009.89(3)'s "secular purpose" requirement in determining the eligibility of Florida colleges and universities to participate in the FRAG program;

f. That this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy, in order that such declarations shall have the force and effect of a final judgment;

g. That this Court retain jurisdiction of this matter for the purpose of enforcing any Orders;

h. That this Court award Plaintiffs' costs and expenses of this action, including a reasonable award of attorneys' fees, in accordance with 42 U.S.C. § 1988 and/or any other provision of law under which Plaintiffs and their counsel may claim entitlement to fees and costs;

i. That this Court issue the requested injunctive relief without a condition of bond or other security being required of Plaintiffs; and

j. That this Court grant such other and further relief as the Court deems equitable and just in the circumstances.

Respectfully submitted this the 8th day of March, 2012.

s/Heather Gebelin Hacker

Heather Gebelin Hacker
CA Bar No. 249273
Alliance Defense Fund
101 Parkshore Drive, Suite 100
Folsom, CA 95630-4726
(916) 932-2850
(916) 932-2851 Fax
hghacker@telladf.org

David A. Cortman
FL Bar No. 0018433
Alliance Defense Fund
1000 Hurricane Shoals Road
Suite D-1100
Lawrenceville, GA 30043-4826
(770) 339-0774
(770) 339-6744 Fax
dcortman@telladf.org

Gregory S. Baylor*
TX Bar No. 01941500
Alliance Defense Fund
801 G Street, NW, Suite 509
Washington, DC 20001-3729
(202) 393-8690
(202) 237-3622 Fax
gbaylor@telladf.org

Attorneys for Plaintiffs

*Petition for admission forthcoming.