

Congress of the United States
House of Representatives
Washington, DC 20515-0910

MEMORANDUM

June 21, 2023

To: Members of Congress

Fr: Congressman Maxwell Alejandro Frost

Re: Ad Hoc Hearing titled “Oversight of Anti-democratic Abuses of Power in the State of Florida.”

On Thursday, June 22, 2023, at 12:00 p.m. ET, in House Visitor Center room 215 (HVC-215) of the Capitol Building, Congressman Maxwell Alejandro Frost, a Member of the House Committee on Oversight and Accountability will convene an emergency ad hoc hearing to examine such trends in the case of shocking anti-democratic abuses of power currently taking place in the State of Florida.¹

I. BACKGROUND

On May 19, 2023, Congressman Maxwell Alejandro Frost and Ranking Member Jamie Raskin sent a letter to House Committee on Oversight and Accountability Chairman James Comer regarding the continuing spread of efforts to undermine democracy by the Florida state legislative and executive branches of government.² They requested that the Committee hold a hearing to examine such trends.

The Members did not receive a response from Chairman Comer. In the absence of action from the Chairman of the House Committee on Oversight and Accountability, Congressman Frost will hold an emergency ad hoc hearing to examine the actions Florida state officials have been taking that undermine democracy.

The hearing will examine not the specific policy platform of the officials in the executive and legislative branches of government in the State of Florida but rather the way they are enacting it by any means necessary, taking illegal and unethical action. The evidence explored in this hearing includes intimidating and removing in an unconstitutional manner democratically elected officials, forcing through political appointments based on loyalty over any other qualification, pre-empting local jurisdiction to make irrelevant the input of Floridians and local elected officials, using fear and intimidation, limiting free speech, and imposing censorship.

Through these actions, members of the Florida legislative and executive branches have collaborated to consolidate power, punish dissent, and strip the rights and freedoms of Floridians. Together, these three steps are characteristic of creating a fascist state and are antithetical to the principles and practices of democracy.

¹ This is not an official House Committee on Oversight and Accountability hearing.

² *Letter to the Honorable Chairman Comer of the Committee on Oversight and Accountability*. (2023, May 19). <https://frost.house.gov/media/blog-post/letter-honorable-chairman-comer-committee-oversight-and-accountability>

Witnesses will present first-hand testimony on the implementation of an anti-democratic agenda and take questions from Members of Congress.

II. THE FLORIDA EXECUTIVE AND LEGISLATIVE BRANCHES CONSOLIDATE POWER THROUGH THE INTIMIDATION AND REMOVAL OF ELECTED GOVERNMENT REPRESENTATIVES AND OTHER PERSONNEL

A. Court Districts

The Florida Constitution allows the Governor to suspend any state or county officer for reasons such as malfeasance, neglect of duty, incompetence, or permanent inability to perform official duties, which are all non-political reasons.³ It does not allow the Governor to remove officers for voicing opposition or conflicting ideologies.

Andrew Warren was a two-term State Attorney for the Thirteenth Judicial Circuit in Florida, which covers Hillsborough County. He was elected in 2016 and re-elected in 2020 on a platform of criminal legal reform and progressive social policies. In 2022, Governor DeSantis suspended Warren from his office for signing a letter expressing opposition to prosecuting anyone who sought or provided abortion or gender-affirming healthcare, which Governor DeSantis claimed violated state laws.⁴

Warren challenged Governor DeSantis' suspension in federal court, arguing that it was politically motivated and violated his free speech rights and the separation of powers doctrine. He argued that Americans and their elected representatives are meant to represent diverse political interests, but using the power invested in a public office to attack political rivals is fundamentally anti-democratic.

After several months of legal battles, a federal judge ruled that the removal of Warren violated the law. The ruling concluded that Governor DeSantis had violated the First Amendment by basing his suspension on Warren's public statements. The judge added that he did not have the jurisdiction to address that violation – the authority to reinstate Warren lay in the Florida Senate.⁵ The Florida Senate, whose majority shares a political affiliation with the Governor, has not reinstated the former State Attorney.

Since then, Governor DeSantis has continued this behavior. In late February 2023, he publicly criticized Florida State Attorney for the Ninth Judicial Circuit Monique Worrell (Orange-Osceola), the second Black person to be elected State Attorney, for exercising prosecutorial discretion. Worrell chose not to prosecute a young man for misdemeanor marijuana charges a year before he was allegedly involved in a high-profile mass shooting case where a journalist, a 9-year-old girl, and her mother were killed.⁶ Worrell's decision to not prosecute the misdemeanor charges is neither unique to Worrell nor unusual for prosecutors across the country elected on platforms of how they plan to prioritize limited resources to achieve public safety.

³ Fla. Const. Art. III, Sect. 7 (a).

⁴ Izaguirre, Anthony. "Prosecutor Suspended by DeSantis Loses Bid to Get Job Back." ABC News, January 20, 2023. <https://abcnews.go.com/US/wireStory/prosecutor-suspended-desantis-loses-bid-job-back-96566000>.

⁵ Mazzei, Patricia, and Alexandra Glorioso. "Judge Rules DeSantis Was Wrong, but Lets Prosecutor's Suspension Stand." *The New York Times*, January 20, 2023. <https://www.nytimes.com/2023/01/20/us/desantis-prosecutor-suspended-warren.html>.

⁶ Fineout, Gary. "DeSantis May Remove Another Florida Prosecutor from Office." POLITICO, March 1, 2023. <https://www.politico.com/news/2023/03/01/desantis-remove-florida-prosecutor-00085003>.

Worrell recently stated that Governor DeSantis' request for information was part of a larger strategy to put together a pretext for her suspension. Worrell described the request as, "about the Governor wanting to control the politics across this state...quite frankly, it's dangerous because this is a democracy, not a dictatorship."⁷

Governor DeSantis' general counsel, Ryan Newman, sent a letter to Worrell's office requesting records of every case in which a person arrested for a felony or a probation violation was not prosecuted by her office. The letter accused Worrell of failing to administer justice properly and suggested she was responsible for enabling the suspect's violent behavior. However, the marijuana case was dropped because the substance found on the suspect could not be tested to determine if it was hemp or illegal marijuana due to a change in the legal definition of cannabis that Governor DeSantis himself signed into law in 2019. The law required that cannabis have at least 0.3 percent of THC, the primary psychoactive compound in marijuana, to be considered illegal.

Governor DeSantis' intimidation has led to fear; Worrell believes the Governor is building a case for her suspension.⁸ These actions against Worrell are an escalation of a legacy of intimidating and retaliating against Florida's elected attorneys. Senator Rick Scott had a history of clashing with Worrell's predecessor, Aramis Ayala. When Senator Scott was the Governor of Florida, he stripped 29 cases from Ayala after she pledged not to seek the death penalty. The victims' families have accused Governor DeSantis and Senator Scott of exploiting their children's deaths.⁹

B. Independent School Districts

There is mounting evidence that, in Florida, elected officials continue to consolidate power and are working outside of democratic channels to threaten and intimidate Floridians into compliance with policies of intellectual homogeneity.¹⁰

Sections of HB 1557, Florida's *Parent Rights in Education Act*, or "Don't Say Gay" law, that the Florida legislature passed and the Governor signed into law in 2022, prohibits public schools from having "classroom discussion" or giving "classroom instruction" about sexual orientation or gender identity from kindergarten through third grade or in any manner deemed to be against state standards in all grades. The law also prohibits public schools from adopting procedures or student support forms that maintain the confidentiality of a disclosure by a student, including of the gender identity or sexual orientation of a student, from parents.¹¹ In April 2023, the Florida Board of Education expanded the ban on teaching about sexual orientation or gender identity to all grades K-12, with the sole exception of

⁷ Cann, Christopher. "Worrell Says DeSantis Is Building a Case to Suspend Her from Office." *Orlando Sentinel*, March 9, 2023. www.orlandosentinel.com/politics/os-ne-monique-worrell-ron-desantis-keith-moses-orlando-shootings-20230309-fwrzqchyvfgtjlqhmxi62vifkm-story.html/.

⁸ Zizo, Christie. "It's dangerous: Worrell accuses DeSantis of politicizing Pine Hills tragedy to get her suspended." 2023, March 9. <https://www.clickorlando.com/news/local/2023/03/09/its-dangerous-worrell-accuses-desantis-of-politicizing-pine-hills-tragedy-to-get-her-suspended/>

⁹ Fineout, Gary. "DeSantis May Remove Another Florida Prosecutor from Office." *POLITICO*, March 1, 2023. www.politico.com/news/2023/03/01/desantis-remove-florida-prosecutor-00085003.

¹⁰ Greenhouse, Steven. "'The Point Is Intimidation': Florida Teachers Besieged by Draconian Laws." *The Guardian*, May 13, 2023. <https://www.theguardian.com/us-news/2023/may/13/florida-teachers-woke-law-ron-desantis>.

¹¹ Goldstein, Dana. "Opponents Call It the 'Don't Say Gay' Bill. Here's What It Says." *The New York Times*, March 18, 2022, sec. U.S. www.nytimes.com/2022/03/18/us/dont-say-gay-bill-florida.html.

health or reproductive courses.¹² As a result of these laws, a middle school art teacher was fired because she “did not follow the state mandated curriculum.”¹³

Brian Covey was a full-time substitute teacher at Mandarin Middle School in Jacksonville, Florida. He was fired after posting a video on social media showing rows of empty bookshelves in the school’s library. He said that he shared the video to elevate the impact of a new law requiring the mass review of all library media and classroom materials.¹⁴ The video was seen more than 13 million times, and Florida Governor Ron DeSantis called it a “fake narrative.”¹⁵ According to Covey, his firing has contributed to the intimidation public school teachers in Florida feel and has made them afraid to exercise their free speech rights.

On a separate occasion, the Queer Ally Alliance, a student group at Boone High School, was scheduled to hold its third annual Drag and Donuts event on March 23, 2023, but school administrators canceled it following threats from the DeSantis Administration.¹⁶ The right to hold this meeting is protected under federal law and is legal under Florida state law. The *Federal Equal Access Act*, enacted in 1984 and based on First Amendment precedent, makes clear that a high school that allows extracurricular club meetings on campus cannot bar a meeting based on the religious, philosophical, or political subject matter of the meeting. Furthermore, it says that such a meeting need only meet a short list of criteria: the meeting must be voluntary and led by students; it cannot be sponsored by the school, government, or school or government employees; the meeting cannot substantively interfere with the school’s educational activities; and someone from outside of the school cannot direct, conduct, control, or regularly attend the meeting.¹⁷

The Drag and Donuts event was a voluntary meeting, with no expectation of attendance. It was organized and led by a student-led organization, not by Boone High School. It was to be held after school, with no interference with school activities. This meeting was not a show, but a presentation on self-acceptance featuring a guest speaker in full coverage attire who has spoken at Florida schools for years.^{18,19} According to firsthand reports, the Florida Department of Education demanded the meeting’s guest speaker be disinvited and threatened to revoke the professional licenses of administrators and

¹² Ax, Joseph. “Florida Education Board Extends Ban on Gender Identity Lessons to All Grades.” *Reuters*, April 19, 2023, sec. United States. www.reuters.com/world/us/florida-education-board-vote-extending-ban-gender-identity-lessons-2023-04-19/.

¹³ Laviertes, Matt. “Florida Teacher Allegedly Fired after Discussing Sexuality with Students.” *NBC News*, May 6, 2022. <https://www.nbcnews.com/nbc-out/out-news/florida-teacher-allegedly-fired-discussing-sexuality-students-rca27656>.

¹⁴ Bella, Timothy, and Hannah Natanson. “Teacher Fired after DeSantis Says Bookshelf Video Was ‘Fake Narrative.’” *Washington Post*, February 20, 2023. <https://www.washingtonpost.com/education/2023/02/18/florida-teacher-empty-school-bookshelves-video-desantis/>.

¹⁵ “Substitute Duval teacher behind viral video showing empty bookshelves in middle school library fired.” *First Coast News*. 17 February 2023. <https://www.firstcoastnews.com/article/news/education/substitute-duval-teacher-brian-covey-behind-viral-video-showing-empty-bookshelves-in-middle-school-library-fired/77-d7027a8e-7ea4-4218-bde6-3f7c989d078f>.

¹⁶ Paschall-Brown, Gail. “Florida School’s ‘Drag and Donuts Event Cancelled After Criticism” *WESH*. March 23, 2023. www.wesh.com/article/florida-drag-donuts-canceled/43397448.

¹⁷ Equal Access Act, 20 U.S.C. 4071

¹⁸ White, Gary. “Under State Pressure Orlando High School Cancels Lakeland Man’s Drag Talk with Club.” *The Ledger*. March 24, 2023. www.theledger.com/story/news/local/2023/03/24/under-state-pressure-orlando-school-cancels-lakeland-mans-drag-talk/70041442007/

¹⁹ Allen, Jeff. “After-school Drag Event Cancelled After Concerns Raised by Florida Education Leaders, Parents.” *Spectrum News 13*. March 23, 2023. www.mynews13.com/fl/orlando/news/2023/03/23/drag-event-canceled-

teachers should they fail to follow orders.²⁰

C. Special Districts

The Florida Constitution permits the establishment of Special Districts, or units of local government that are similar to municipalities and counties except that their powers are local, specialized, and explicitly prescribed. Florida has over 1,800 of these districts, one of which was established in 1967 and called the Reedy Creek Improvement District (RCID). RCID encompasses all of Disney World.

Disney and Florida Governor Ron Governor DeSantis have been locked in a legal feud since March 2022 when, after over a hundred employees walked out in protest, Disney openly criticized HB 1557, Florida's *Parent Rights in Education Act*, or "Don't Say Gay" law and vowed to help repeal it. Governor DeSantis retaliated on April 19, 2022, by revoking Disney's unique status as a self-governing entity that operates its own services and pays lower taxes in the RCID. Revoking Disney's special status in the RCID could mean Orange and Osceola counties would face a much higher tax burden.

The RCID runs its own fire department and sewer services and handles all the road maintenance. In the ongoing legal dispute between Governor DeSantis and Disney over RCID, Orange County Tax Collector Scott Randolph estimated that the financial obligation is about \$105 million annually to operate services in Reedy Creek. Additionally, Orange County would potentially take on between \$1 billion to \$2 billion in bond debt, which would likely be paid for by a 15 to 20 percent rise in property taxes.²¹

Governor DeSantis expanded on his control over Disney in February 2023, when state legislators gave him the power to handpick members to the board that oversees Disney World's government services. Before the new governor-selected members could take power, the previous board members signed a contract that limited the board's powers to maintaining "roads and basic infrastructure."²²

Disney sued Governor DeSantis and the board in federal court in April 2023, accusing them of violating its free speech rights and abusing their power.²³ Governor DeSantis responded by trying to remove the judge assigned to the case, U.S. Chief District Judge Mark Walker, claiming he was biased against him because a distant relative owned Disney stock. Judge Walker reluctantly agreed to step down, despite dismissing Governor DeSantis' allegations as baseless.²⁴ The legal battle has also taken a

²⁰ reports that the Florida Department of Education demanded the meeting's guest speaker be disinvited and threatened the professional licenses of administrators and teachers should they fail to follow orders

²¹ Cervantes, Lauren. "Orange County Would See Financial Burden If Reedy Creek Dissolves, Tax Collector Says." WKMG, April 20, 2022. www.clickorlando.com/news/local/2022/04/20/orange-county-would-see-financial-burden-if-reedy-creek-dissolves-tax-collector-says/.

²² Swisher, Skylar. "DeSantis' Reedy Creek Board Says Disney Stripped Its Power." *Orlando Sentinel*, March 29, 2023. <https://www.orlandosentinel.com/2023/03/29/desantis-reedy-creek-board-says-disney-stripped-its-power/>.

²³ Complaint, *Walt Disney Parks and Resorts U.S., Inc., v. DeSantis*, (N.D.Fla 2023) (No. 4:23-cv-00163-MW-MAF), read-disneys-lawsuit-against-desantis-and-oversight-board.pdf; "Why Is Disney Suing Florida Gov. Ron DeSantis? - The Washington Post." Accessed June 1, 2023. www.washingtonpost.com/business/2023/04/27/disney-desantis-florida-lawsuit-explained/; Ziurcher, Anthony. "Disney v DeSantis: Why the Happiest Place on Earth Is Suing Florida's Governor." *BBC News*, April 26, 2023, sec. US & Canada. www.bbc.com/news/world-us-canada-65407134; Birlle, Jack. "DeSantis Likely Faces Uphill Legal Battle with Disney." *Washington Examiner*, April 8, 2023. www.washingtonexaminer.com/news/weekender-desantis-legal-challenge-to-disney-agreement-likely-faces-uphill-battle.

²⁴ Fineout, Gary. "Federal Judge Who Ruled against DeSantis Will Recuse Himself from Disney Case." *POLITICO*, June 1, 2023. www.politico.com/news/2023/06/01/federal-judge-drops-desantis-disney-case-00099823.

toll on Disney’s business plans, as it had to cancel a \$1 billion office project that would have created 2,000 jobs in the area.²⁵

III. THE CONSOLIDATION OF POWER THROUGH POLITICAL APPOINTMENTS

A. Courts

Independent courts are an essential check on the risk of a rogue legislature or Governor selectively applying the rule of law and on the threats to the rights of minority groups. Governor DeSantis has not been shy about his campaign to capture the Florida Supreme Court, saying,

...I was able to replace three of the four liberals my first month in office with conservative justices. I’ve since been able to make a number of appointments since then. So we now have the most conservative state supreme court in the country. And so I think we have a really good track record on doing that.²⁶

Governor Ron DeSantis appointed Judge Meredith Sasso to the Florida Supreme Court on May 23. The appointment means that five of the Florida Supreme Court’s seven sitting justices are now Governor DeSantis’s appointees.²⁷ She joins the state Florida Supreme Court as it considers legal challenges to the Governor’s consolidation of power and laws passed by the Florida Legislature.²⁸

B. Higher Education

In addition to installing his own personal Supreme Court, Governor DeSantis has taken several steps to install surrogates across higher education, another arena that depends on independence to flourish. Governor DeSantis and the Florida state legislature have enacted plans to defund all diversity, equity, and inclusion (DEI) initiatives.²⁹ On May 15, 2023, the Governor signed SB 266 into law, which prohibits DEI programming.³⁰ The law is slated to go into effect July 1, 2023. In addition to passing sweeping reform, the Governor has used methods outside of those granted to him to alter higher education in Florida.

²⁵ Barnes, Brooks. “Disney Pulls Plug on \$1 Billion Development in Florida.” *The New York Times*, May 18, 2023, sec. Business. www.nytimes.com/2023/05/18/business/disney-ron-desantis-florida.html.

²⁶ Schonfeld, Zach. “DeSantis Pledges to ‘Do Better’ than Trump on Picking Supreme Court Justices.” *The Hill*, June 12, 2023. <https://thehill.com/homenews/campaign/4045796-desantis-pledges-to-do-better-than-trump-on-picking-supreme-court-justices/>.

²⁷ Willis, Lisa. “Gov. Ron DeSantis Is Remaking Florida’s Supreme Court: New Justice Picked.” *Daily Business Review Law.com*, May 23, 2023. www.law.com/dailybusinessreview/2023/05/23/gov-ron-desantis-is-remaking-floridas-supreme-court-new-justice-picked/.

²⁸ Fineout, Gary. “DeSantis Installs Another Conservative on Florida’s Supreme Court.” *POLITICO*, May 23, 2023. www.politico.com/news/2023/05/23/desantis-installs-another-conservative-on-florida-supreme-court-00098386.

²⁹ Ellis, Nicquel Terry. “Gov. DeSantis’ Conservative Takeover of a Liberal Arts College Could Silence Diversity, Critics Say.” *CNN*, February 15, 2023. <https://www.cnn.com/2023/02/15/us/desantis-new-college-inclusion-reaj/index.html>.

³⁰ Diaz, Jaelyn. “Florida Gov. Ron DeSantis signs a bill banning DEI initiatives in public colleges.” *NPR*, 15 May 2023. <https://www.npr.org/2023/05/15/1176210007/florida-ron-desantis-dei-ban-diversity#:~:text=Florida%20Gov.,Ron%20DeSantis%2C%20pictured%20here%20on%20April%2021%2C%202023%2C%20signed,initiatives%20in%20his%20state's%20universities.&text=Alex%20Brandon%2FAP-,Florida%20Gov.,diversity%2C%20equity%20and%20inclusion%20programs>.

New College of Florida is a small college known as an LGBTQ+-friendly liberal arts school and a self-described “community of free thinkers.” Public officials in Florida targeted the college and began to stifle opposing ideologies through anti-democratic means. In January 2023, Governor DeSantis replaced six of the 13 New College of Florida’s board of trustees members with conservative allies. This new board forced out the college’s President and appointed Governor DeSantis’s ally, Richard Corcoran, as interim President.³¹

Richard Corcoran was Florida’s commissioner of education and an ally of Governor DeSantis on controversial issues such as student mask requirements and “critical race theory.” He stepped down from the post at the end of April 2022.³² During his time as commissioner, Corcoran played a central role in a months-long mask battle with the school districts that defied the Governor and imposed mandates, withholding funds from Alachua and Broward counties.³³ Corcoran also led the education department during controversies about school curriculums. He saw his role to “police [teachers] on a daily basis” and bragged that he “censored or fired or terminated numerous teachers.”³⁴ During the summer of 2022, the State Board of Education began holding “civics bootcamp” where teachers were told “this is the way you should think.”³⁵

According to a former New College of Florida trustee, one of many consequences of Governor DeSantis’s actions against New College of Florida is that 13 major donors are canceling more than \$29 million in planned contributions.³⁶

In addition to the takeover of leadership at New College, the Florida Governor has bypassed a transparent process and installed political allies instead of qualified candidates at Florida Atlantic University and the University of Florida.

In March 2023, Governor DeSantis approached Florida State Representative Randy Fine to see if he would be interested in becoming Florida Atlantic University’s next President. Fine said he was considering applying for the position, and Governor DeSantis’ office said he would be a “good candidate.”³⁷ Governor DeSantis signaled he could have the job without allowing an open process that could have yielded someone with more experience in higher education. Randy Fine has vocally expressed his desire that the state “erase” the entire LGBTQ+ community.³⁸

³¹ Ellis, Nicquel Terry. “Gov. DeSantis’ Conservative Takeover of a Liberal Arts College Could Silence Diversity, Critics Say.” CNN, February 15, 2023. <https://www.cnn.com/2023/02/15/us/desantis-new-college-inclusion-reaj/index.html>.

³² Dailey, Ryan. “Following Years of Controversy, Florida Education Commissioner Richard Corcoran Says He’s Stepping Down.” Creative Loafing Tampa Bay, March 11, 2022. www.cltampa.com/news/following-years-of-controversy-florida-education-commissioner-richard-corcoran-says-hes-stepping-down-13035885.

³³ Moran, Danielle, and Nic Querolo. “Florida Education Chief Resigns as Schools Battle Controversy.” *Bloomberg.Com*, March 10, 2022. www.bloomberg.com/news/articles/2022-03-10/florida-education-chief-resigns-as-schools-battle-controversy.

“Education Is Freedom.” Hillsdale College. May 14, 2021. Video, <https://www.youtube.com/watch?v=HVujpIator0&t=2299s>.

³⁵ Rozsa, Lori. “In Trainings, Florida Tells Teachers That Religion Belongs in Public Life.” *Washington Post*, July 2, 2022. <https://www.washingtonpost.com/education/2022/07/02/desantis-civics-separation-church-state/>.

³⁶ Anderson, Zac. “College Board Rejects Florida’s Request to Remove LGBTQ Subjects from AP Courses.” USA TODAY, June 15, 2023. <https://www.usatoday.com/story/news/politics/2023/06/15/gov-desantis-may-target-ap-psychology-college-board-sends-defiant-letter/70325051007/>.

³⁷ Ceballos, Ana, and Jimena Tavel. “DeSantis Backs GOP Legislator in FAU President Search.” *Tampa Bay Times*, March 29, 2023. www.tampabay.com/news/florida-politics/2023/03/28/desantis-fau-randy-fine-president-search-committee/.

³⁸ Riley, John. “Florida Republican Is Fine with ‘Erasing’ LGBTQ Community.” *Metro Weekly*, April 14, 2023. <https://www.metroweekly.com/2023/04/florida-republican-is-fine-with-erasing-lgbtq-community/>.

Ben Sasse, a Senator from Nebraska, became the only person considered for the high-ranking position of President at one of Florida’s most prominent universities, the University of Florida. This was forced through despite vocal opposition from some faculty and students, partially due to his 2015 comments on LGBTQ+ rights after the U.S. Supreme Court ruled to guarantee same-sex marriage at the federal level.³⁹ Protesters called Sasse “homophobic“ and “racist.”⁴⁰

IV. THE PREEMPTION OF LAWS, POLICIES, AND ORDINANCES PASSED BY LOCAL GOVERNMENTS

The United States as a nation is predicated on the Jeffersonian maxim that government closest to the people governs best for the people. This is because, with local government, there is a greater public interest in, knowledge of, and control over the uses of power. After all, local governments are more accessible and accountable to their constituents than national governments and are more responsive to local needs and concerns.⁴¹

Together, the Florida executive and legislative branches have worked to preempt local laws that they disagree with, interfering with local democratic governance on issues from housing to curricula to environmental protection. Local governments in Florida, which are increasingly vulnerable to a volatile climate, have made efforts to secure their safety and natural environment, only to be thwarted by statewide elected officials’ self interest.

A. Book Bans

According to a report by PEN America, more than 200 books were banned in various school districts across Florida between the summer of 2021 and 2022. Between July and December 2022, an additional 357 books were banned in Florida school districts. Florida had the second-highest number of book-banning incidents in the nation during that period, trailing only Texas. Many of the banned books discuss race, sexuality, sexual orientation, and gender identity. The surge in the removal of books came amid a flurry of new Florida laws, such as the *Stop W.O.K.E. Act*, which restricts teaching about systemic racism, and HB 1467, the unlawful implementation of which has resulted in shuttering classroom libraries.⁴²

A vocal minority is driving these anti-democratic policy changes. For example, an analysis of book challenges across the country by the *Washington Post* demonstrated that just 11 people filed the

³⁹ Weisfeldt, Alta Spells, Leyla Santiago, Sara. “University of Florida Faculty Passes Symbolic Vote against Possible Selection of Sen. Ben Sasse as President.” CNN, October 28, 2022. <https://www.cnn.com/2022/10/28/us/ben-sasse-university-of-florida-president-no-confidence-vote/index.html>.

⁴⁰ Musa, Amanda, Jennifer Henderson, and David Williams. “Students Protest University of Florida Presidential Finalist Ben Sasse’s Visit to School.” CNN, October 11, 2022. www.cnn.com/2022/10/11/us/university-of-florida-president-ben-sasse/index.html.

⁴¹ Songer, Donald R. “Government Closest to the People: Constituent Knowledge in State & National Politics.” *Polity* 17, no. 2 (1984): 387–95. <https://doi.org/10.2307/3234515>.

⁴² Meehan, Kasey, and Jonathan Friedman. “Banned in the USA: State Laws Supercharge Book Suppression in Schools.” PEN America, April 20, 2023. <https://pen.org/report/banned-in-the-usa-state-laws-supercharge-book-suppression-in-schools/>; Mazzei, Patricia, Elizabeth A. Harris, and Alexandra Alter. “Florida at Center of Debate as School Book Bans Surge Nationally.” *The New York Times*, April 22, 2023, <https://www.nytimes.com/2023/04/22/books/book-ban-florida.html>. Sheridan, Kerri “Students push back against book bans as the scope of a new Florida law expands.” WUSF Public Media, March 6, 2023, <https://wusfnews.wusf.usf.edu/education/2023-03-06/students-push-back-book-bans-scope-new-florida-law-expands>

majority of challenges. Records described by *The Daily Beast* show how the Florida Education Department passed on nearly 100 potentially qualified applicants and instead selected activists with a history of seeking book bans for an important working group.⁴³

Book bans promote a homogeneous and exclusive vision of our nation, history, culture, and values. They target books that challenge or criticize this vision, such as those that address issues of racism, sexism, colonialism, oppression, diversity, and inclusion. They also aim to suppress the voices and perspectives of marginalized groups, such as people of color, LGBTQ+ people, immigrants, and religious minorities. Further, book bans are not merely a recommendation but are enforced through legal sanctions, financial penalties, censorship, intimidation, harassment, or violence.

Governor DeSantis' book bans are part of a broader effort to control all aspects of society and the economy, including education, media, judiciary, health care, environment, and technology. Book bans are anti-democratic, create a climate of fear and hostility among the public and the educational community, and create a culture of obedience and conformity among students and educators, who are expected to follow the orders of the authorities without question or dissent.

B. Housing

Florida is experiencing challenges in housing availability and affordability.⁴⁴ To address this issue, some local governments have adopted rent control policies that limit the rent that property owners can charge or increase. In the November 2022 election, a rent control ballot initiative passed with 59 percent support in Orange County.⁴⁵ However, the state government has moved to preempt these popular, local policies. In January 2023, a state senator filed SB 102, the *Live Local Act*, which restricts the ability of local governments to enact rent control policies.⁴⁶ Governor DeSantis signed this bill into law in March of 2023. Previously, the state preempted a local government's ability to require affordable housing units to be part of any new development without giving developers fee waivers and other financial incentives.⁴⁷

In recent years, heavily populated counties across Florida where renters are concentrated have passed ordinances known as a "tenant bill of rights." These policies provided renters with notices about rent increases, fees, and changes of ownership on top of the *Florida Residential Landlord and Tenant Act*. In a move to preempt local government, in April 2023, the Florida Legislature passed HB 1417, the *Residential Tenancies Act*, to prohibit these ordinances and to artificially create uniformity across the state.⁴⁸

⁴³ Natanson, Hannah. "Objection to Sexual, LGBTQ Content Propels Spike in Book Challenges." *Washington Post*, May 23, 2023, sec. Education. <https://www.washingtonpost.com/education/2023/05/23/lgbtq-book-ban-challengers/>.

⁴⁴ Harris, Bracey, and Erik Ortiz. "Rents Are Soaring across the U.S. In Tampa, They're Rising at an 'abnormal' Rate." NBC News, March 30, 2022. www.nbcnews.com/news/record-spike-rents-hits-tampa-bay-newcomers-flocked-florida-pandemic-rcna21805.

⁴⁵ Mates, Thomas. "Orange County voters approve rent control; no immediate effect as controversial ordinance remains tied up in courts." *Click Orlando*. 2022 November 8. <https://www.clickorlando.com/news/politics/2022/11/09/orange-county-voters-approve-rent-control-no-immediate-effect-as-controversial-ordinance-remains-tied-up-in-courts/>

⁴⁶ Saunders, Jim. "'Very Offensive': Amid Housing Crisis, State Could Soon Override Local Tenant Laws." WLRN, March 21, 2023. www.wlrn.org/housing/2023-03-21/florida-lawmakers-could-override-local-tenant-laws; Live Local Act, S.B. 102, 2023 FL Senate. (2023).

⁴⁷ Koh, Elizabeth, and Joey Felchas. "Lawmakers Vote to Limit Florida's Local Affordable Housing Rules." *Tampa Bay Times*, May 3, 2019. www.tampabay.com/florida-politics/buzz/2019/05/04/lawmakers-vote-to-limit-floridas-local-affordable-housing-rules/.

⁴⁸ Saunders, Jim. "'Very Offensive': Amid Housing Crisis, State Could Soon Override Local Tenant Laws." WLRN, March 21, 2023. <https://www.wlrn.org/housing/2023-03-21/florida-lawmakers-could-override-local-tenant-laws>.

C. Environmental Protection

The diversity of threats to Florida’s ecosystems requires unique and targeted conservation strategies. Despite this, the local government’s policies to protect natural lands continue to be the target of state-wide preemption.

The beaches of Key West are a major attraction for travelers. Due to sustained, heavy tourist traffic, residents have attempted to preserve those waters through a series of local referendums. A ban on sunscreen potentially harmful to coral and three ordinances that restricted the massive cruise ships that were choking reefs were all subsequently preempted by the state in 2020 and 2021.⁴⁹

This preemption was followed in 2022 by the passage of SB 1210, which gave the Florida Department of Environmental Protection exclusive decision-making authority over local pollution control assessment and protects the use of potentially harmful chemicals.⁵⁰ Laws passed in 2021 preempted localities from limiting the construction of new gas stations or requiring EV infrastructure and from limiting the types of fuels used for energy consumption, thus quashing local voters’ hopes to establish clean energy goals.⁵¹

D. Ballot Initiative Threshold

Since 2006, Florida constitutional amendments have required a 60 percent supermajority for approval. This is one of the highest requirements for citizen-led state constitutional amendments. Despite the supermajority threshold, several recent ballot initiatives have passed with just over 60 percent support, including a minimum wage increase (60.82 percent), voting rights restoration for people with felonies (64 percent), and reforms to redrawing political districts (62.59 percent).^{52,53} In January 2023, Florida legislators in the majority party once again attempted to make it more difficult to pass ballot initiatives. HJR 129 was introduced to further raise the threshold to pass constitutional amendments from 60 percent to 66.67 percent.

V. FLORIDA GOVERNMENT OFFICIALS CONSOLIDATE POWER BY BLOCKING PATHS TOWARD ACCOUNTABILITY, OVERSIGHT, AND LIMITING FREE SPEECH

Anti-democratic actors have two preferred playbooks to consolidate power: voter suppression and the courts. Voter suppression ensures that officials and their policies are never genuinely subject to the electorate’s approval. It removes power from the people and entrenches it with the elected few. The courts

⁴⁹ Gross, Samantha. “Key West Banned Sunscreen to Protect Reefs. Florida Legislature Voted to Overrule That.” *Miami Herald*, March 10, 2020. www.miamiherald.com/news/local/community/florida-keys/article241057161.html; Stofan, Jake. “Port Preemption Bill Goes to Florida Senate.” WJXT, April 14, 2021. www.news4jax.com/news/florida/2021/04/14/port-preemption-bill-goes-to-florida-senate/; Klas, Mary Ellen. “Pier Operator Fighting Key West Cruise Referendum Gives DeSantis’ Committee \$1 Million.” *Miami Herald*, April 26, 2021. www.miamiherald.com/news/politics-government/state-politics/article250934164.html.

⁵⁰ An act relating to pollution control standards and liability, S.B. 1210, 2022 FL Senate. (2022).

⁵¹ F.L. Legislature, House, Rules Committee, *An act relating to preemption over restriction of utility services*. 2021 Session. Chpt. 2023-150, <https://laws.flrules.org/2021/150>.

⁵² “Florida House Committee Passes Resolution Raising Amendment Threshold to 67%.” *Democracy Docket*. 2023 May 5. <https://www.democracydocket.com/news-alerts/florida-house-committee-passes-resolution-raising-amendment-threshold-to-67/>

⁵³ “Florida Legislative District Boundaries, Amendment 5 (2010).” *Ballotpedia*. Accessed 2023 June 18. [https://ballotpedia.org/Florida_Legislative_District_Boundaries,_Amendment_5_\(2010\)](https://ballotpedia.org/Florida_Legislative_District_Boundaries,_Amendment_5_(2010))

are a branch of our government that intentionally operates outside the confines of democracy to perform its primary function best – protecting the rights of the marginalized. When the courts no longer see protecting the rights of the marginalized, they immediately become a tool of consolidation power and are easily co-opted into a fascist regime.

A. Transparency

Throughout the 20th century, the “Sunshine State” has had robust transparency laws. However, a 2019 law ended transparency in the process of selecting college and university presidents. It consolidated that power with the Governor, paving the way for the appointment of political allies instead of individuals committed to serving students.⁵⁴

To avoid scrutiny, Governor DeSantis has asserted executive privilege to keep his vetting process of potential Florida Supreme Court Justices away from the public,⁵⁵ and in 2023, Governor DeSantis signed a law shielding the records of his taxpayer-funded travel from the public.⁵⁶ In a rare defeat, the legislature did not pass a bill championed by the Governor that would make it easier to sue journalists for defamation.⁵⁷ All of these measures involve public institutions and the use of public funds. Sidestepping public accountability on these fronts undermines democracy and facilitates the construction of an undemocratic, fascist regime that is not accountable to the public.

Further, 2023 marked the third consecutive year that the majority party in the State of Florida, who hold supermajorities in both chambers, pushed through alterations to the state’s election laws. This year, the most recent sweeping election law changes include a provision that clears the way for politicians in office to run for another political position without resigning if they are running for two positions: President or Vice President. Other provisions of SB 7050 go into effect July 1, 2023 but the provision that clears the way for Governor DeSantis to run for president took effect immediately.⁵⁸ The appointment process and law limiting a governor’s ability to run for President are meant to ensure that Floridians are represented by officials that are most capable and most invested in their wellbeing. Undermining and circumventing these safeguards is further evidence of a disregard for democracy by the Governor and legislature.

Additionally, the state legislature passed, and Governor DeSantis signed into law, SB 1616, which will hide records about certain elected officials’ past and future travel, as well as people they meet with.⁵⁹ This will conceal from the public the Governor’s meetings with donors and other influential people.

⁵⁴ Lieb, David. “Is DeSantis Darkening Florida’s Sunny Open-Records Laws?” AP NEWS, March 13, 2023. <https://apnews.com/article/sunshine-week-ron-desantis-florida-records-a0061801ffbd075af3de46c73e9e4db>;

Stripling, Jack. “DeSantis Signs Bill to Defund DEI Programs at Florida’s Public Colleges.” *Washington Post*, May 16, 2023. www.washingtonpost.com/education/2023/05/15/desantis-defunds-dei-programs-florida-colleges/.

⁵⁵ Swisher, Skyler. “Not ‘a King:’ DeSantis Claims Executive Privilege to Keep Records Secret.” *Orlando Sentinel*, January 27, 2023. www.orlandosentinel.com/politics/os-ne-desantis-executive-privilege-20230124-6c7nadd3tfdypo6pazzu7vhrca-story.html/.

⁵⁶ CBS Miami Team. “Gov. DeSantis Signs Bill That Keeps His Travel Records Secret,” May 12, 2023. www.cbsnews.com/miami/news/gov-desantis-signs-bill-that-keeps-his-travel-records-secret/.

⁵⁷ Bensinger, Ken. “In Blow to DeSantis, Florida Bills to Limit Press Protections Are Shelved.” *The New York Times*, May 3, 2023. www.nytimes.com/2023/05/03/us/politics/desantis-florida-defamation-bills.html.

⁵⁸ Fineout, Gary. “Florida Legislature Passes Bill Allowing DeSantis to Run for President as Governor.” *POLITICO*, April 28, 2023. www.politico.com/news/2023/04/28/florida-legislature-desantis-presidential-run-00094467.

⁵⁹ “CS/SB 1616: Public Records/Transportation and Protective Services.” *The Florida Senate*. Accessed: June 18 2023. <https://www.flsenate.gov/Session/Bill/2023/1616>

B. Voting Rights

Florida is one of only nine states that restrict the right to vote of formerly incarcerated people who have completed their sentence.⁶⁰ This is in stark contrast to some jurisdictions that allow formerly incarcerated people to vote and allow incarcerated people to vote too.⁶¹ In 2018, Florida voters approved with 64.5 percent support Amendment 4, a constitutional amendment to the Florida Constitution, that lifted the lifetime voting ban for people with felonies, except those with murder or sexual offense convictions.⁶² Governor DeSantis called this increased access to democracy a “mistake” and the Florida legislature and Governor DeSantis responded in 2019 when Governor DeSantis signed SB 7066 into law, which requires that redefining “completion of all terms of sentence” to include full payment of restitution and fees.⁶³ This meant that despite the democratic intent of Floridians for these returning citizens to vote, many risked being further criminalized if they ventured to cast a ballot.

The voter suppression project in Florida took another step in 2021 when Governor Ron DeSantis signed SB 90. The law created significant new obstacles to voter access by restricting vote-by-mail, ballot drop-boxes, and criminalizing activities such as providing water to voters waiting in line in the Florida heat.⁶⁴

The Governor established a new election police force, the Office of Election Crimes and Security, to focus on pursuing those who happen to violate any of the legal barriers that the Governor and Florida Legislature put in place.⁶⁵ In August 2022, heavily armed Florida police officers descended on the homes of two men accused of illegally voting and arrested one of them at gunpoint. Both men were in their underwear, unarmed, when placed in handcuffs.⁶⁶

C. State Supreme Court Reversals

Courts are the part of our government that is intentionally shielded from democracy. Therefore, they are frequently targeted by politicians seeking to consolidate power.⁶⁷ The Supreme Court of Florida consists of seven justices: six members are chosen from different districts around the state to foster geographic diversity, and one is selected at large. Immediately after appointment, the initial term is three

⁶⁰ American Civil Liberties Union. “Felony Disenfranchisement Laws (Map).” Accessed June 1, 2023. www.aclu.org/issues/voting-rights/voter-restoration/felony-disenfranchisement-laws-map.

⁶¹ “In the District of Columbia, Maine and Vermont, felons never lose their right to vote, even while they are incarcerated” National Conference of State Legislatures. “Felon Voting Rights,” April 6, 2023. www.ncsl.org/elections-and-campaigns/felon-voting-rights.

⁶² Levine, Sam. “The Biggest Voting Rights Win in Recent US History – and the Republicans Trying to Thwart It.” *The Guardian*, January 9, 2020. <https://www.theguardian.com/us-news/2020/jan/09/florida-voting-rights-felons-amendment-4>.

⁶³ Goldstein, Jenni. “Florida Convicted Felons Allowed to Vote for 1st Time in Presidential Election after Completing Sentences.” ABC News, October 25, 2020. <https://abcnews.go.com/Politics/convicted-florida-felons-allowed-vote-1st-time-presidential/story?id=73822173>.

⁶⁴ Sachs, Sam. “How Florida’s New Election Law May Affect Your Vote.” WFLA, May 6, 2021. <https://www.wfla.com/news/politics/how-floridas-new-election-law-may-affect-your-vote/>.

⁶⁵ Schouten, Fredreka. “DeSantis Signs Bill Creating New Florida Election Police Force | CNN Politics.” CNN, April 25, 2022. <https://www.cnn.com/2022/04/25/politics/desantis-florida-election-bill-signing/index.html>.

⁶⁶ Levine, Sam. “Man Arrested at Gunpoint in DeSantis Voter Fraud Crackdown, Video Shows.” *The Guardian*, January 12, 2023. <https://www.theguardian.com/us-news/2023/jan/12/florida-police-man-arrest-voter-fraud-body-camera>.

⁶⁷ Chappell, Bill, and Daniel Estrin. “Here’s Why Netanyahu’s Court Overhaul, Now on Hold, Brought Israel to the Brink.” *NPR*, March 27, 2023, sec. Middle East. <https://www.npr.org/2023/03/27/1166200532/israel-civil-war-netanyahu-court-control>.

years or less, but serve six-year terms and remain in office if retained in the general election near the end of each term.

Since only 2019, Governor DeSantis has appointed seven justices to the Supreme Court of Florida. This new court has overturned several precedents, including the requirement of unanimous juries in death sentences and the prohibition of prison sentences of over 20 years for juveniles.⁶⁸ They have also made it easier to execute defendants with mental illness.⁶⁹ This consolidation of judicial power by Governor DeSantis has had a chilling effect on Floridians seeking defense of their rights in court. That this new court has made a sharp departure from precedent in a way that does not protect the rights of the most marginalized or least sympathetic individuals reveals that the Florida Supreme Court, almost entirely replaced by the Governor, is now facilitating the rise of an anti-democratic, fascist regime.

D. Military Consolidation

To secure a fascist regime, dismantling democratic institutions is often followed by a total usurpation of military power.⁷⁰ This expanded military is then given responsibilities, including enforcing compliance with social policies not subject to democratic approval.

In May 2023, Governor DeSantis signed legislation to expand and make permanent the Florida State Guard, which he had reestablished in 2022. The Florida State Guard is a state militia that answers directly to the Florida Governor, rather than the U.S. Army, as the National Guard does. The signing of HB 1285 into law more than tripled authorized personnel numbers from 400 to 1500 and ballooned the militia's operating budget from \$10 million to \$107.6 million.⁷¹ In addition to this expansion, one provision calls for establishing a "Specialized Unit" that will be armed and possess the same authority as law enforcement.⁷²

VI. THE FLORIDA GOVERNOR HAS EXCEEDED HIS POWER, DRAWING FLORIDA INTO LEGAL BATTLES HE IS LIKELY TO LOSE OR ABANDON

As of December 2022, Governor DeSantis's administration has spent \$16.7 million in court on legal fees as a party in over a dozen lawsuits during his first term in office.⁷³ These cases have repeatedly thwarted Governor DeSantis' agenda, including enjoining three of his most touted laws. The Florida Legislature's 2021 HB 1, *Combating Public Disorder Act*, broadly known as the "Anti-Riot" bill was found by the Federal District Court to be a vague, overbroad criminalization of Floridians' rights to

⁶⁸ Ellenbogen, Romy. "DeSantis Signs Death Penalty Bill. It Could Have Sent Parkland Shooter to Death Row." *Miami Herald*, April 20, 2023. www.miamiherald.com/news/politics-government/state-politics/article274535026.html; Kam, Dara. "Florida Supreme Court Reverses Its Course on Juvenile Sentencing." *Miami Herald*, March 12, 2020. <https://www.miamiherald.com/news/state/florida/article241149301.html>.

⁶⁹ Farrington, Brendan. "Florida High Court Again Reverses Itself on Death Penalty." AP NEWS, May 21, 2020. <https://apnews.com/article/---da9ef55f81ebcdf5ead09f8b1f546cb1>.

⁷⁰ "World at War: What is Fascism?". *Council on Foreign Relations*. Accessed 13, June 2023. <https://world101.cfr.org/historical-context/world-war/what-fascism>

⁷¹ Lehrfeld, Jonathan, and Davis Winkie. "Florida Expands State Defense Force, Establishes It as Permanent Unit." *Military Times*, June 7, 2023. <https://www.militarytimes.com/news/your-military/2023/06/07/florida-expands-state-defense-force-establishes-it-as-permanent-unit/>.

⁷² Giallombardo. Florida State Guard, Pub. L. No. H.B. 1285 (2023). <https://www.flsenate.gov/Session/Bill/2023/1285/BillText/er/PDF>.

⁷³ Klas, Mary Ellen. "DeSantis' Culture Wars Grabbed Headlines — and Legal Challenges That Cost \$17 Million." *Miami Herald*, December 22, 2022. www.miamiherald.com/news/politics-government/state-politics/article270290952.html.

assemble just months after the law's passage.⁷⁴ The continuing injunction on the law was upheld in April 2023 by the Federal 11th Circuit Court of Appeals.

The state of Florida and school districts are facing legal challenges in federal and administrative courts. A lawsuit challenging HB 7, the *Stop W.O.K.E. Act*, argues the law violates the First and 14th Amendments by imposing viewpoint-based restrictions on educators and students that are value and discriminatory and that it violates the Equal Protection Clause because it was enacted with the intent to discriminate against Black educators and students. The Florida Department of Education is facing ongoing legal proceedings alleging it exceeded its authority and rewrote the state law by, among other things, imposing new requirements and restrictions beyond those approved by the Legislature.⁷⁵ A Federal judge also struck down the *Stop W.O.K.E. Act*, calling it “dystopian” in its official banning of views disfavored by the administration and its outlawing of academic freedom.⁷⁶

Similarly, when Florida passed a law to bar social media platforms from banning elected officials, a lawsuit claimed, “The act is so rife with fundamental infirmities that it appears to have been enacted without any regard for the Constitution...The act imposes a slew of hopelessly vague content-based, speaker-based, and viewpoint-based restrictions on the editorial judgments and affirmative speech of the selected online businesses that it targets.” The trial court and the 11th Circuit both struck down the law.⁷⁷

The 11th Circuit Court, which ruled on all three of these cases, is considered one of the most conservative Circuit Courts. Currently, six of its twelve members were appointed by former President Donald J. Trump.⁷⁸

In 2023, the League of Women Voters of Florida sued, arguing that SB 7050 violates members' First Amendment rights to speech and assembly by curtailing their ability to register voters.⁷⁹ This comes in addition to the continuing legal battle with Disney, which document how Governor DeSantis targeted and retaliated against its acts of speech in a 77-page legal filing.⁸⁰

⁷⁴ Anderson, Curt. “Florida’s GOP-Backed ‘anti-Riot’ Law Blocked by Judge.” AP NEWS, September 9, 2021. <https://apnews.com/article/courts-george-floyd-florida-race-and-ethnicity-laws-bd110e1229212aa5345a039db2223325>.

⁷⁵ For more information see: Democracy Forward at <https://democracyforward.org/work/desantis-censorship-agenda/>; NAACP LDF at [https://www.naacpldf.org/press-release/eleventh-circuit-affirms-decision-to-preliminarily-block-unlawful-stop-w-o-k-e-censorship-law/#:~:text=The%20lawsuit%20argues%20the%20Stop,that%20are%20vague%20and%20discriminatory](https://www.naacpldf.org/press-release/eleventh-circuit-affirms-decision-to-preliminarily-block-unlawful-stop-w-o-k-e-censorship-law/#:~:text=The%20lawsuit%20argues%20the%20Stop,that%20are%20vague%20and%20discriminatory;); or PEN America at <https://pen.org/pen-america-v-escambia-county/>.

⁷⁶ The Foundation for Individual Rights and Expression. “*Novoa v. Diaz — Opposition to Defendant’s Motion to Dismiss*.” The Foundation for Individual Rights and Expression. Accessed June 13, 2023. <https://www.thefire.org/research-learn/novoa-v-diaz-opposition-defendants-motion-dismiss>.

⁷⁷ Saunders, Jim. “Industry Groups File Federal Lawsuit Challenging Florida’s New Laws Aimed at Big Tech.” *Miami Herald*, May 27, 2021. www.miamiherald.com/news/politics-government/state-politics/article251739288.html.

⁷⁸ Rankin, Bill. “Trump Packs Influential Atlanta Court with Conservative Judges.” *The Atlanta Journal-Constitution*, n.d., sec. Local News.

⁷⁹ League of Women Voters of Florida. “League of Women Voters of Florida Sues State For Restricting & Penalizing Voter Engagement Efforts.” *League of Women Voters of Florida* (blog), May 24, 2023. <https://lwvfl.org/league-of-women-voters-of-florida-sues-state-for-restricting-penalizing-voter-engagement-efforts/>.

⁸⁰ CNN. “READ: Disney’s Lawsuit against DeSantis and Oversight Board.” CNN, April 26, 2023. <https://www.cnn.com/2023/04/26/politics/read-disney-desantis-lawsuit/index.html>.

The Florida legislature, anticipating further lawsuits, passed a new budget in May of 2023, including \$16 million earmarked for litigation costs to defend Florida statutes and policies.⁸¹ All these lawsuits stem from actions to suppress voters, consolidate power, and strip away rights and freedoms that could get in the way of a fascist regime. Regardless of what agenda or platform the Florida governor and Legislature want to push, there are democratic channels in place to ensure that public officials are always accountable to the electorate. Here, those channels are not only being circumvented to the detriment of the public's democratic rights but at great expense to the taxpayer.

VII. THE UNDERMINING OF DEMOCRACY IN FLORIDA IS AN IMMINENT THREAT

A. Fascism in Florida

This memo has outlined an extensive list of anti-democratic actions taken by Governor DeSantis and allied Florida state officials. Not only are these actions undemocratic, but they represent the stages of fascism.

Experts document that fascist governments are defined by three key activities: (1) dismantling democratic institutions and customs through administrative law and policy changes, (2) consolidating power across government branches through removal of elected officials and political cronyism, and (3) abuse of official power by a charismatic leader, at the expense of the people the leader purports to serve, to further the leader's own political ambitions.⁸² A review of the actions outlined in the memo makes it clear that Governor DeSantis and other state Florida officials have been and will likely continue to carry out a range of actions that fit clearly into these categories.

Dismantling Democracy

Governor DeSantis and his allies in the Florida state government have launched a full out attack on several democratic cornerstones in the state, overturning local laws and infringing on speech to push policies that help consolidate their power. They have disregarded the will of the people, as expressed through countless local and state ballot initiatives, by preempting them with state laws that oftentimes predominantly benefit allies of the Florida executive.⁸³ Worse, the Florida state legislature followed these anti-democratic reversals by attempting to raise the threshold for ballot initiatives, further limiting

⁸¹ Klas, Mary Ellen. "DeSantis' Culture Wars Grabbed Headlines — and Legal Challenges That Cost \$17 Million." *Miami Herald*, December 22, 2022. www.miamiherald.com/news/politics-government/state-politics/article270290952.html.

⁸² Soucy, R. "Fascism." *Encyclopedia Britannica*, May 2, 2023. <https://www.britannica.com/topic/fascism>.

⁸³ Saunders, Jim. "'Very Offensive': Amid Housing Crisis, State Could Soon Override Local Tenant Laws." *WLRN*, March 21, 2023. www.wlrn.org/housing/2023-03-21/florida-lawmakers-could-override-local-tenant-laws; Live Local Act, S.B. 102, 2023 FL Senate. (2023).; Koh, Elizabeth, and Joey Felchas. "Lawmakers Vote to Limit Florida's Local Affordable Housing Rules." *Tampa Bay Times*, May 3, 2019. www.tampabay.com/florida-politics/buzz/2019/05/04/lawmakers-vote-to-limit-floridas-local-affordable-housing-rules/; Gross, Samantha. "Key West Banned Sunscreen to Protect Reefs. Florida Legislature Voted to Overrule That." *Miami Herald*, March 10, 2020. www.miamiherald.com/news/local/community/florida-keys/article241057161.html; Stofan, Jake. "Port Preemption Bill Goes to Florida Senate." *WJXT*, April 14, 2021. www.news4jax.com/news/florida/2021/04/14/port-preemption-bill-goes-to-florida-senate/; Klas, Mary Ellen. "Pier Operator Fighting Key West Cruise Referendum Gives DeSantis' Committee \$1 Million." *Miami Herald*, April 26, 2021. www.miamiherald.com/news/politics-government/state-politics/article250934164.html.

Floridians’ democratic right to affect policies that directly impact them.⁸⁴

Another way that Governor DeSantis’s government has shrunk democracy in Florida is by serving their censorship objectives through the continued expansion of “Don’t Say Gay” laws, book bans, and DEI bans, limiting the freedoms of teachers and students.⁸⁵ Enforcing these policies has led to increased infringement on educators’ First Amendment rights, with officials firing teachers and canceling public events that fail to comply with the executive’s agenda. Further, when Disney spoke out against these measures, Governor DeSantis retaliated by revoking Disney’s self-governing status, stacking Disney’s governing board with his allies, and trying to get Disney’s suit disputing these attacks assigned to a friendly judge.⁸⁶

Consolidating Power

Governor DeSantis’s administration has engaged in a comprehensive campaign to remove elected officials that they disagree with and replace them with political allies, oftentimes bypassing key transparency measures in the process. They removed democratically elected State Attorney Warren and are threatening Circuit Judge Worrell’s employment for expressing policy positions that oppose their own.⁸⁷ Governor DeSantis has enforced his educational agenda by replacing college board of trustees members who disagreed with the executive and bypassing selection transparency processes to install political allies as school chancellors, simultaneously overlooking qualified candidates that were backed by the universities.⁸⁸ Finally, Governor DeSantis has moved quickly to replace justices on the state Supreme Court with politically friendly justices, allowing the body to overturn a plethora of recent caselaw that the Governor disagrees with.⁸⁹

Abuse of Official Power

⁸⁴ “Florida House Committee Passes Resolution Raising Amendment Threshold to 67%.” *Democracy Docket*. 2023 May 5. <https://www.democracydocket.com/news-alerts/florida-house-committee-passes-resolution-raising-amendment-threshold-to-67/>

⁸⁵ Goldstein, Dana. “Opponents Call It the ‘Don’t Say Gay’ Bill. Here’s What It Says.” *The New York Times*, March 18, 2022, sec. U.S. www.nytimes.com/2022/03/18/us/dont-say-gay-bill-florida.html.; Ax, Joseph. “Florida Education Board Extends Ban on Gender Identity Lessons to All Grades.” *Reuters*, April 19, 2023, sec. United States. www.reuters.com/world/us/florida-education-board-vote-extending-ban-gender-identity-lessons-2023-04-19/.; Laviertes, Matt. “Florida Teacher Allegedly Fired after Discussing Sexuality with Students.” *NBC News*, May 6, 2022. <https://www.nbcnews.com/nbc-out/out-news/florida-teacher-allegedly-fired-discussing-sexuality-students-rcna27656>.; Paschall-Brown, Gail. “Florida School’s ‘Drag and Donuts Event Cancelled After Criticism” *WESH*. March 23, 2023. www.wesh.com/article/florida-drag-donuts-canceled/43397448.

⁸⁶ Swisher, Skylar. “DeSantis’ Reedy Creek Board Says Disney Stripped Its Power.” *Orlando Sentinel*, March 29, 2023. <https://www.orlandosentinel.com/2023/03/29/desantis-reedy-creek-board-says-disney-stripped-its-power/>.

⁸⁷ Fineout, Gary. “DeSantis May Remove Another Florida Prosecutor from Office.” *POLITICO*, March 1, 2023. <https://www.politico.com/news/2023/03/01/desantis-remove-florida-prosecutor-00085003>.

⁸⁸ Ellis, Nicquel Terry. “Gov. DeSantis’ Conservative Takeover of a Liberal Arts College Could Silence Diversity, Critics Say.” *CNN*, February 15, 2023. <https://www.cnn.com/2023/02/15/us/desantis-new-college-inclusion-reaj/index.html>.

⁸⁹ Fineout, Gary. “DeSantis Installs Another Conservative on Florida’s Supreme Court.” *POLITICO*, May 23, 2023. www.politico.com/news/2023/05/23/desantis-installs-another-conservative-on-florida-supreme-court-00098386.

Finally, Governor DeSantis, aided by his political allies, has abused his official power, harming Floridians in the process, by passing laws reducing government transparency, expanding state military bodies, and engaging in legal battles to defend his policies. The Florida legislature, backed by the Governor, recently passed measures that would shield his taxpayer-funded travel from the public and allow him to keep his office while pursuing higher office, diminishing accountability to Floridians.⁹⁰ The Governor has also consolidated his power through force by strengthening the Florida State Guard and police force tied to the Office of Election Crimes and Security, which he is using to intimidate voters.⁹¹ Finally, he has spent \$16.7 million in court and legal fees for a dozen lawsuits to defend policies he has implemented to appeal to and grow his supporters and normalize fascism.⁹²

Since Governor DeSantis and his allies' administration in Florida have indisputably and reputably carried out actions that fall into the three traits of fascism, their government can only be categorized as fascist.

B. Stages of Fascism

Fascism spreads during severe socio-political and economic distress, exploiting people's fears and dissatisfaction. These fears may be amplified by a rapidly changing national demographic or a global event that significantly disrupts employment or financial security. The exploitation of these fears often manifests as a promise to restore national dignity, solve economic problems, and counter perceived threats. The effective use of propaganda and suppression of opposition generally aids the spread of fascist ideology.

The progression of fascism takes place in five stages: initial creation, rooting, arrival to power, consolidation of power, and radicalization or entropy.⁹³

1. **Initial Creation:** In the initial creation stage, fascist ideologies are formed in response to a socio-political crisis and discontent, typically during economic instability or a perceived threat to national identity.
2. **Rooting:** During the rooting stage, fascism becomes entrenched within a portion of the population, often through charismatic leadership and propaganda emphasizing national unity and power.
3. **Seizure of Power:** The movement reaches mainstream acceptance in the third stage, leading to

⁹⁰ CBS Miami Team. "Gov. DeSantis Signs Bill That Keeps His Travel Records Secret," May 12, 2023. www.cbsnews.com/miami/news/gov-desantis-signs-bill-that-keeps-his-travel-records-secret/; Fineout, Gary. "Florida Legislature Passes Bill Allowing DeSantis to Run for President as Governor." *POLITICO*, April 28, 2023. www.politico.com/news/2023/04/28/florida-legislature-desantis-presidential-run-00094467.

⁹¹ Lehrfeld, Jonathan, and Davis Winkie. "Florida Expands State Defense Force, Establishes It as Permanent Unit." *Military Times*, June 7, 2023. <https://www.militarytimes.com/news/your-military/2023/06/07/florida-expands-state-defense-force-establishes-it-as-permanent-unit/>; Schouten, Fredreka. "DeSantis Signs Bill Creating New Florida Election Police Force | CNN Politics." *CNN*, April 25, 2022. <https://www.cnn.com/2022/04/25/politics/desantis-florida-election-bill-signing/index.html>.

⁹² Klas, Mary Ellen. "DeSantis' Culture Wars Grabbed Headlines — and Legal Challenges That Cost \$17 Million." *Miami Herald*, December 22, 2022. www.miamiherald.com/news/politics-government/state-politics/article270290952.html.

⁹³ Paxton, Robert O. "The Five Stages of Fascism." *The Journal of Modern History* 70, no. 1 (1998): 1–23. <https://doi.org/10.1086/235001>.

political power, often via democratic means, exploiting divisions and fears within society.

4. Consolidation of Power: This stage involves systematically dismantling democratic institutions and establishing autocratic rule, often justified as necessary for national security or unity.
5. Radicalization or Entropy: The final stage can involve increased radicalization, leading to wars or genocide, or entropy, wherein the regime cannot maintain its momentum and begins to decay.

The evidence of anti-democratic abuses of power by the Florida state executive and legislative branches of government demonstrates that these parties have been intentional or complicit in advancing the early and middle stages of fascism. Unconstitutionally intimidating and removing democratically elected officials, forcing through political appointments based on loyalty over any other qualification, preempting local jurisdiction to make irrelevant the input of Floridians and local elected officials, using fear and intimidation, limiting free speech, and imposing censorship align with the characteristics of the initial creation, rooting seizure of power, and consolidation of power stages of fascism.

B. Radicalization in Florida

Historically, the final stage of fascism, radicalization, has led to mass torture, murder, genocide, and war fueled by hate and allegiance. Much luck and even more sacrifice have ensured that fascist regimes progressing through all five stages are short-lived and of internal collapse due to overreach, total military defeat, popular resistance, and revolution.

There is ample reason to be concerned that radicalization will take hold in any state or country, especially if the first four stages of fascism are not reversed, and budding radicalization is ignored, not openly and clearly condemned, or endorsed by those who hold power.

From 2020 to 2021, there was a 72 percent rise in extremist-related incidents in Florida. The increase grew by an additional 9 percent from 2021 to 2022. Not only is Florida home to the most people charged concerning the January 6, 2021, attack on the U.S. Capitol, but hate crimes against Jewish people have risen 300 percent since 2012.⁹⁴

On June 10, 2023, two dozen people gathered outside Disney in Orlando, Florida, holding flags displaying the Swastika and “Governor DeSantis 2024.”⁹⁵

On Monday, June 12, 2023, Governor DeSantis had not yet commented on the activity.⁹⁶

VIII. WITNESSES

Rep. Anna V. Eskamani, State Representative, Florida House District 42

Representative Anna V. Eskamani is an Orlando native and daughter of immigrants. Before her time in office, Anna served as the Senior Director of Public Affairs and Communications for Planned Parenthood of Southwest and Central Florida. Anna won her legislative seat in 2018 and won by overwhelming majorities in 2020 and 2022, making history as the first Iranian-American

⁹⁴ “Hate in the Sunshine State: Extremism & Antisemitism in Florida, 2020-2022. (2022, September 13). Accessed 2023, June 13. <https://www.adl.org/resources/report/hate-sunshine-state-extremism-antisemitism-florida-2020-2022>

⁹⁵ Morgan, Silas. “Officials denounce Nazi demonstration outside Disney amid rising antisemitism in Florida. *Orlando Sentinel*. (2023, June 12). Accessed 2023, June 13. <https://www.orlandosentinel.com/2023/06/12/officials-denounce-nazi-demonstration-outside-disney-amid-rising-antisemitism-in-florida/>

⁹⁶ Id.

elected to any public office in Florida. In the Florida legislature, she has seen first-hand the coordination between the Florida state legislative and executive branches of government. Eskamani has resisted the anti-democratic consolidation of power around the State Executive since her time in office began. She has drawn attention to the attacks on the environment, the freedoms of Floridians, and public schools.

Andrew Warren, Former State Attorney, Florida's 13th Circuit

Warren was born and raised in Gainesville, Florida. Following law school, he clerked in federal district court before serving as a federal prosecutor with the United States Department of Justice. As a prosecutor, Mr. Warren earned accolades from the Justice Department and federal law enforcement agencies, including the 2013 Attorney General Award for Trial Litigation. He has lectured and served on panels across the United States and abroad regarding criminal justice, and he was an instructor at the Justice Department's national training center. Warren was elected as State Attorney of Florida's 13th Judicial Circuit, Hillsborough County, in 2016 and re-elected in 2020. In 2022, Governor DeSantis suspended Mr. Warren indefinitely, making him one of several Florida elected officials removed or threatened to be removed from office by the Governor.

Jasmine Burney-Clark, Founder and Consulting Director, Equal Ground

Jasmine Burney-Clark, is the Founder of Equal Ground Education Fund and Action Fund, a Black-led community-centered civic engagement organization prioritizing voter registration, education, and turnout. Most recently, she was a Senior Advisor to the NAACP (National) and Executive Director of the Florida 501c3 Civic Engagement Table, where she advanced work through three state-wide programs: Civic Engagement (voter registration and turnout, issue advocacy, and constituency engagement), Civic Access (voting rights and election administration) and Civic Representation (census, redistricting and "clean elections"). She worked to expand equal access to the ballot box on behalf of the New American Majority. She is now working to defend voting rights and access to the ballot in her home state of Florida. She has done pro-democracy work in Florida since 2010.

Brian Covey, Former Duval County, Florida, substitute math teacher

Brian Covey was a Florida substitute teacher fired for documenting how an unfunded mandate resulted in the sudden removal of all books from Duval County Public Schools. Prior to pursuing a career in teaching, Brian spent 13 years in corporate Financial Planning & Analysis before co-developing a mobile and scalable waste-management solution for locally produced, large-scale water quality improvement. Governor DeSantis has publicly called Brian's documentation of empty bookshelves "a fake narrative", "a stunt", and used his firing as an example of "Exposing the Book Ban Hoax". Understanding the historical significance of his children's current reality being called a "Blueprint for America", Brian used his financial experience to show that Florida House Bill 1467 – which skipped Appropriations Committee Review – will cost just one of the 67 Florida Public School Districts over \$15 million and would take over a decade at current rate of review.

Written Testimony

Paul Cox, President, IATSE Local 631

Matletha Bennett, Senior Staff Attorney, Southern Poverty Law Center's Voting Rights Program