EXECUTIVE SUMMARY

State University System Governance Agreement

The Board of Governors of the State University System of Florida and the Presiding Officers of the Florida House of Representatives and the Florida Senate — together with their respective designated leaders, including their higher education leadership teams — have reached an amicable agreement that has resulted in the Board of Governors’ unanimous decision to dismiss its claims against the Legislature in the Graham case.

Accordingly, the Legislature will work to pass legislation in the remaining days of this 2010 regular session, which will clarify and codify, where appropriate, the cooperative and collaborative roles of the Board of Governors and the Legislature in the governance of the State University System. Likewise, the Board of Governors will work to modify its regulations, as needed, to reflect the intent of this agreement.

Specifically, agreement is reached on:

- The exclusive authority of the Board for delegating the powers and duties of the university boards of trustees, including university personnel programs; working jointly with input from the Universities, the Board has already promulgated regulations that outline these powers and duties

- The authority of the Board to govern and regulate university information technology — acknowledging that our universities are engines of economic development utilizing a level of technology that oftentimes cannot be accommodated by existing state I.T. systems

- The authority of the Legislature to set base tuition and to delegate to the Board approval authority and oversight of differential tuition, and to consider and approve tuition policies for the various universities, in alignment with their distinct missions (e.g. block tuition and the flexibility to charge market rates for noncredit courses, online courses, and courses offered through continuing education departments)

- The authority of the Board to consider and act on a university board of trustees’ request to establish a new fee or, for certain fees, to increase an existing fee beyond its current cap, based on criteria developed by the Legislature

- The authority of the Board to promulgate regulations through its Regulation Development Process to implement authority derived from the Constitution, and in certain areas like tuition and fees and public lands, to implement authority derived from the Legislature

- A collaborative approach to system and institutional accountability and data reporting, which is the foundation for a strong relationship between our state’s elected leaders and the Board of Governors

In addition to the above areas of agreement, the Board of Governors and legislative leaders agree to establish a Higher Education Coordinating Council to facilitate solutions to challenges in meeting the higher education access needs of this state.

Finally, the Board Chair and Chancellor commit to hold regular planning meetings with legislative leaders to continue and build upon the collaboration and cooperation described in this agreement.
STATE UNIVERSITY SYSTEM GOVERNANCE AGREEMENT
March 24, 2010

This Agreement is entered into by and between the Board of Governors of the State University System of Florida, a Florida public corporation ("BOG"), and the undersigned leaders of the Florida Legislature to provide a framework for the collaborative exercise of joint authority by the BOG and Legislature for Florida’s public higher education in accordance with their respective state constitutional responsibilities.

As a result of this Agreement, the BOG will file a notice of dismissal, with prejudice, of their claims as Plaintiffs in Case No. 2007-CA-1818 in the Circuit Court for the Second Judicial Circuit in and for Leon County, Florida, and the presiding officers will cause legislation to be filed in accordance with the framework set forth in this Agreement and will exercise their best efforts to accomplish final passage.

The undersigned acknowledge their shared constitutional authority for the state universities as set forth in the Constitution of the State of Florida, as revised in 1968 and subsequently amended.

THE FLORIDA LEGISLATURE: The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require. See Article IX, s. 1.(a).

THE BOARD OF GOVERNORS OF THE STATE UNIVERSITY SYSTEM OF FLORIDA: The board of governors shall be a body corporate consisting of seventeen members. The board shall operate, regulate, control, and be fully responsible for the management of the whole university system. These responsibilities shall include, but not be limited to, defining the distinctive mission of each constituent university and its articulation with free public schools and community colleges, ensuring the well planned coordination and operation of the system, and avoiding wasteful duplication of facilities or programs. The board's management shall be subject to the powers of the legislature to appropriate for the expenditure of funds, and the board shall account for such expenditures as provided by law. See Article IX, s. 7.(d). The Board of Governors is responsible for appointing five citizen members of each university board of trustees and for establishing the powers and duties of the university boards of trustees. See Article IX, s. 7.(c).

(1) Master Planning & Coordinating Florida’s Higher Education Systems
The undersigned will establish a Higher Education Coordinating Council for the purpose of identifying unmet needs as well as to facilitate solutions to disputes regarding the creation of new degree programs, and the establishment of new institutes, campuses or centers. Members of the Council will include the following:
Chancellor of the State University System of Florida; Chancellor of the Florida College System; Commissioner of Education; Executive Director of Independent Colleges & Universities of Florida; Executive Director of the Commission for Independent Education, and 2 members, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives, representing the business community who are committed to developing and enhancing a world-class workforce infrastructure necessary for Florida’s citizens to compete and prosper in the ever-changing economy of the 21st century. Members of the Legislature with a special interest in higher education would be encouraged to attend and participate in Council meetings. The BOG General Office will provide staffing needs for the Council.

As an advisory board, the Council will make recommendations to the Legislature, State Board of Education and the BOG. Recommendations of the Council will be consistent with the following guiding principles:
(a) To achieve within existing resources a seamless academic educational system that fosters an integrated continuum of kindergarten through graduate school education for Florida's students.
(b) To promote consistent education policy across all educational delivery systems, focusing on students.
(c) To promote substantially improved articulation across all educational delivery systems.
(d) To promote a system that maximizes educational access and allows the opportunity for a high quality education for all Floridians.
(e) To promote a system of coordinated and consistent transfer of credit and data collection for improved accountability purposes between the education delivery systems.

(2) State University System Strategic Planning Meeting
The Chancellor and BOG chair will hold higher education strategic planning meetings each year with the Legislative Presiding Officers. Collaborative planning discussions will include the following areas:
(a) Budgets, budget requests, and accountability.
(b) Strategic planning, including university mission alignment, enrollment growth, anticipated university requests for major academic programs expansion (including new colleges, schools, and campuses), other significant policy and fiscal matters to promote collaboration and communication between the BOG and the Legislature.
(c) Issues relating to entities sharing both State University System and statewide missions and responsibilities such as the Florida Solar Energy Center.

(3) University Governance
(a) The undersigned affirm the exclusive authority of the BOG for delegating powers and duties to the boards of trustees of the universities.
(b) The undersigned affirm the exclusive authority of the BOG for the personnel programs of the state universities and its right to delegate such authority to the university boards of trustees. The BOG shall confirm the presidential selection of a university board of trustees as a means to acknowledging that system cooperation is expected. The Department of Management Services shall retain authority over state university employees for programs established in ss. 110.123, 110.1232, 110.1234, 110.1238, and 110.161 and in chapters 121, 122, and 238.
(c) The undersigned affirm the current authority of the BOG for regulation of data and technology, including information systems, communications systems, computer hardware and software, and networks. Universities will be exempt from the provisions of Chapter 282, F.S. The undersigned recognize that as technical innovations occur, the Legislature may require direct electronic access to data.
(d) The BOG recognizes and affirms its status as a constitutional executive branch agency and its constitutional requirement to report on and account for the expenditure of funds as required by the Legislature. The undersigned support the BOG's accountability initiative and university work plans as set forth in current BOG regulation and the concomitant annual, consolidated data reporting. The BOG will engage in continuous collaboration with Legislative leadership on the accountability measures, the use of data and BOG recommendations derived from such data. The BOG will continue to provide the Legislature with data as directed by general law and as requested by the Legislature.
(4) Financial Aid Programs – The BOG may establish specific financial aid programs that may be funded with state funds as provided by the Legislature, funding as provided by donors, or such programs that may be funded through a combination of funding sources. The BOG will report and account to the Legislature on all such programs.

(5) Administrative Procedures Act & BOG Regulations
(a) The BOG and each university will adopt regulations and policies establishing due process procedures to be accorded to any party whose substantial interests are adversely affected by any final action of the BOG or its constituent universities in the performance of its constitutional duties or responsibilities, and the adequate due process procedures adopted by regulation shall be published prominently on the BOG and universities’ web sites. 
(b) The BOG will follow the applicable provisions of the Administrative Procedures Act when adopting rules as may be required to implement legislatively delegated authority that arises from the Legislature’s general police power to provide for public health, safety, and welfare; its powers of eminent domain and sovereign immunity; and when the Legislature delegates to the BOG any other authority for subjects outside the scope of the BOG’s constitutional authority.
(c) The BOG recognizes the authority of the Legislature with respect to establishment of tuition and fees and the management and oversight of state lands, public buildings and public construction. However the undersigned agree that the BOG and the universities will be authorized to continue to utilize the BOG’s Regulation Development Procedure for the promulgation of regulations to implement legislative authority in these areas. JAPC may publish BOG and university regulations as rules in the Florida Administrative Code as it deems appropriate without requiring the BOG or universities to submit to the formal rule promulgation, revision or repeal processes under Chapter 120, F.S.

(6) Tuition - The Legislature will establish base tuition and the BOG will establish the tuition differential pursuant to general law. Within the tuition authority granted by the Legislature to the BOG, the Legislature delegates to the BOG the flexibility to consider and approve tuition policies as may be requested by a university board of trustees, and in alignment with its mission, such as block tuition and the flexibility to charge market tuition rates for noncredit courses, online courses, and courses offered through Divisions of Continuing Education. Any such decisions will not increase the state’s fiscal liability or obligations.

(7) Fees, Fines, Deposits & Surcharges –
(a) The undersigned agree to delegate authority for the establishment of the fees enumerated in s. 1009.24(13)(a)-(r), (14) and (15), F.S. to the BOG. The undersigned recognize that these fees fall into four basic categories:
1. Fees that have an established monetary cap;
2. Fees that are charged to recover the reasonable costs of services provided;
3. Fines, and
4. Fees that are set at market rates.
(b) The undersigned agree that the BOG may further delegate the establishment of fees in (2), (3) and (4), above to the university boards of trustees.
(c) A university board of trustees may request the BOG for approval to establish a new fee not currently authorized or to increase a fee with an established cap, (1), above. The BOG may approve a university request upon consideration of the following criteria:
(a) For a request to establish a new fee, the BOG will consider: the purpose(s) to be served or accomplished by the new fee; whether there is a demonstrable student-based need for the new fee that is not currently being met through existing university services, operations, or another fee; whether any alternative resources are available to meet the need; whether the financial impact on students is warranted in light of other charges assessed to students for tuition and associated fees; and whether any restrictions, limitations, or conditions should be placed on the use of the fee.
(b) For a request to increase the current cap for an existing fee, the BOG will consider: the services or operations currently being funded by the fee; whether those services or operations can be performed more efficiently to alleviate the need for any increase; the additional or enhanced services or operations to be funded by the increase;
whether any alternative resources are available to meet the need; and whether the financial impact on students is warranted in light of other charges assessed to students for tuition and associated fees.

c) Any fee increases approved by the BOG under this approval authorization delegated by Legislature will not be included in any award under ss. 1009.531 or 1009.532, F.S.

(8) Acknowledgements
(a) The undersigned agree they are responsible for the payment of their own attorney’s fees and costs incurred in Case No. 2007-CA-1818.
(b) In the case of United Faculty of Florida, et. al. v. Florida Board of Governors, Case No. 2008 CA 018, the BOG will tender the defense of said case to the State and will be represented by the Office of the Attorney General. The cost of the defense will be borne by the BOG.

For the Senate:

Jeff Atwater, President

Mike Haridopolos, President Designate

Don Gaetz, PSC on Social Responsibility Chair

J.D. Alexander, PSC on Ways & Means Chair

Evelyn Lynn, Higher Education Appropriations Chair

Steve Wise, Education Pre-K-12 Appropriations Chair

Al Lawson, Minority (Democratic) Leader

For the House:

Larry Cassel, Speaker

Dean Cannon, Speaker Designate

Seth McKeel, Higher Education Policy Chair

Bill Proctor, Higher Ed Appropriations Chair

Will Weatherford, Education Policy Council Chair

For the Governor:

Charlie Crist, Governor

For the Board of Governors:

Ava L. Parker, Chair

Frank Brogan, Chancellor