

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
FLORIDA REAL ESTATE COMMISSION**

**IN RE: PETITION FOR DECLARATORY
 STATEMENT BY GOLD COAST
 PROFESSIONAL SCHOOLS, LLC**

DS 2021-016

**FINAL ORDER GRANTING PETITION FOR
DECLARATORY STATEMENT**

Gold Coast Professional Schools, LLC, (“Gold Coast” or “Petitioner”) through legal counsel, filed a Petition for Declaratory Statement (“Petition”), assigned number DS 2021-016, on April 2, 2021. Notice of receipt of the Petition was published in the Florida Administrative Register on April 8, 2021, Vol. 47, No. 68. The Commission considered the Petition, attached hereto and incorporated fully herein as Attachment A, at its meeting in Orlando, Florida on May 19, 2021.

By its Petition, Gold Coast seeks the Commission’s determination that students enrolled in in-person classroom education courses be allowed the opportunity to take the required end-of-course examination in the same online format as is offered to the school’s “virtual live” (synchronous livestreaming) and online/distance learning students.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Gold Coast has been approved to offer Commission-approved Pre- and Post-Licensure educational courses, as well as Commission approved continuing education courses. Gold Coast offers these approved courses in live in-person and “virtual live” (synchronous online livestreaming) “classroom” formats and through online/distance education (including asynchronous streaming).

2. Petitioner asserts that Petitioner’s online/distance learning students, as well as

students enrolled in “virtual live” classroom educational courses, are authorized by Commission rules and Orders to take the required end of course examination in an “online format.” Petitioner asserts that these same statutes and rules, including sections 475.04, 475.17, 475.451, F.S., and/or Rules 61J2-3.008, 3.009, and 3.010, F.A.C., are silent on whether students enrolled in in-person classroom learning courses, are prevented from taking the required end-of-course examination in the online format, merely because they are enrolled in an in-person course, as opposed to “virtual live classroom” or online/distance learning course.

3. Petitioner asks the Commission to declare that students enrolled in Gold Coast’s in-person classroom courses may take the required end-of-course examination in the same online format as is offered to distance learning students as well as synchronous livestream students.

4. The Commission is authorized to issue this Declaratory Statement by Section 120.565, Florida Statutes. No person requested Intervention in this cause.

5. The Florida Statutes and Rules cited by Petitioner, including those identified above, while requiring an end-of-course examination, are silent on the format in which the examination must be offered and taken, i.e. online or live in-person.

6. Under the facts and circumstances outlined by the Petitioner in their request for a Declaratory Statement, the Commission cannot determine any rational purpose would be served by allowing students enrolled in virtual live (synchronous livestream) and online/distance education classes to take the end-of-course examination in an online format, while barring those choosing to attend live, in-person classroom courses the opportunity to take the examination in the same online format as is offered to all other students.

7. Accordingly, the Commission GRANTS the Petition and STATES that students enrolled in Petitioner’s in-person classroom education courses may take the required

end-of-course examination in the same online format as Petitioner offers to its students enrolled in online/distance classes or “virtual live” (synchronous livestreaming) education courses.

DONE AND ORDERED this 28th day of May, 2021.

Giuvanna Corona

For the Florida Real Estate Commission
By Giuvanna Corona
Executive Director

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES OR WITH THE COURT OF APPEAL, FIRST DISTRICT. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **Gold Coast Professional Schools c/o Daniel A. Villazon, Esq.**, Law Offices of Daniel A. Villazon, P.A., 5728 Major Blvd., #535, Orlando, FL 32819; interoffice mail to **Division of Real Estate**, 400 W. Robinson Street, Suite N 801, Orlando, Florida 32801-1757; and by Electronic Mail to Lawrence Harris, Senior Assistant Attorney General, Lawrence.Harris@myfloridalegal.com, all on this 15th day of July, 2021.

Brandon M. Nichols

FILED	
<small>Department of Business and Professional Regulation</small>	
<small>Senior Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	4/2/2021
File #	

**PETITION FOR DECLARATORY STATEMENT FROM THE FLORIDA REAL ESTATE
COMMISSION**

**ATTENTION: Department of Business and Professional Regulation
c/o Giovanna Corona
FREC Executive Director
Division of Real Estate
400 W. Robinson Street N-801
Orlando, FL 32801**

DS 2021-016

**PETITIONER: Gold Coast Professional Schools, LLC
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**PETITIONER'S
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INTRODUCTION

Gold Coast Professional Schools, LLC., a Delaware Corporation (the "Petitioner"), files this PETITION FOR DECLARATORY STATEMENT (the "Petition") from the Florida Real Estate Commission ("FREC") pursuant to Section 120.565, Florida Statutes, which provides that any person substantially affected may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision or rule as it applies to the petitioner's circumstances. A petition seeking a declaratory statement must state with particularity the petitioner's circumstances and specify the statutory provision or rule that the petitioner believes may apply to the circumstances. See *id.*

"The purpose of a declaratory statement is to allow a petitioner to select a proper course of action in advance" of an action regulated by the FREC *Gopman v Department of Education*, 908 So 2d 1118 (Fla 1st DCA 2005) It is well established that the construction of a statute by an agency charged with its administration is entitled to great weight and will not be overturned unless clearly erroneous See *Fort Pierce Utility Authority v Florida Public Service Commission*, 388 So 2d 1031 (Fla 1980), *Grady v Dept of Professional Reg* , 402 So 2d 438 (Fla 3rd DCA 1981), *PW Ventures, Inc. v Nichols*, 533 So 2d 281 (Fla. 1988), *Tri-State Systems, Inc v Department of Transportation*, 491 So.2d 1192 (Fla 1st DCA 1986), *Humana, Inc v Department of Health and Rehabilitative Services*, 492 So 2d 388 (Fla 4th DCA 1986) Petitioner seeks compliance with Florida law and FREC rules and requests FREC confirm that classroom students can take their end of course examination online Therefore, Petitioner respectfully requests that FREC as the agency charged with the oversight of real estate brokers, sales associates, and schools, issue a Declaratory Statement, finding that based on the facts, as set forth herein, and the governing laws and rules that classroom students to have the option to take their end of course examination in the same online format as its distance learning students as well as its synchronous livestream students

I JURISDICTION

Sections 475 05 and 120 565, Florida Statutes, confers jurisdiction upon FREC to issue declaratory statements to answer questions of practice that arise in its proceedings having regard to Chapter 475, Part 1 Florida Statutes, and the rules in force The question before FREC directly pertain to Sections 475 04, 475 17 and 475 451 Florida Statutes, and Rules 61J2-3 008, 61J2 - 3 009 and 61J2-3 010, Florida Administrative Code Therefore, FREC is vested with the requisite authority to issue a declaratory statement in this instance Petitioner has standing to

seek this declaratory statement because, a declaration from the FREC will permit the Petitioner to allow its classroom students the option of taking their end of course examination in the same online format as its distance learning students as well as its synchronous livestream students

II, STATEMENT OUTLINING WHY PETITIONER NEEDS A DECLARATORY STATEMENT

Petitioner seeks to offer its in classroom students the same opportunity currently provided to its distance learning students who are satisfying the course requirement through asynchronous online learning and synchronous livestream learning, to take the end of course examination in the same online format

The foregoing declaration by the FREC will provide a reasonable interpretation of the law and FREC's rules as it applies to Petitioner's facts and circumstances and afford Petitioner the opportunity to provide its classroom students the same opportunity to take an online end of course examination as its students taking asynchronous online and livestream courses

III SPECIFIC PROVISIONS OF THE STATUTE UPON WHICH PETITIONER SEEKS A DECLARATORY STATEMENT

1 Sections 475 17(2)(a)1 and 475 17(2)(a)2, Florida Statutes, state in pertinent part “[i]n addition to other requirements under this part, the commission may require the satisfactory completion of one or more of the educational courses or equivalent courses conducted, offered, sponsored, prescribed, or approved pursuant to s 475 04, taken at an accredited college, university, or community college, at a career center, or at a registered real estate school, as a condition precedent for any person to become licensed or to renew her or his license as a broker, broker associate, or sales associate The course or courses required for one to become initially licensed shall not exceed a total of 63 classroom hours of 50 minutes each, inclusive of examination, for a sales associate and 72 classroom hours of 50 minutes each, inclusive of examination nation, for a broker The satisfactory completion of an examination administered by the accredited college, university, or community college, by a career center, or by the registered real estate school shall be the basis for determining satisfactory completion of the course However, notice of satisfactory completion shall not be issued if the student has absences in

excess of 8 classroom hours. A distance learning course or courses shall be approved by the commission as an option to classroom hours as satisfactory completion of the course or courses as required by this section. The schools authorized by this section have the option of providing classroom courses, distance learning courses, or both. However, satisfactory completion of a distance learning course requires the satisfactory completion of a timed distance learning course examination. Such examination shall not be required to be monitored or given at a centralized location (emphasis added)

IV STATEMENT OF THE FACTS

1 Petitioner is a licensed real estate school

2 Petitioner offers FREC approved pre-license, post license and continuing education courses that are approved to be delivered either in classroom, through asynchronous distance learning and via livestream

3 Petitioner's students taking asynchronous and livestream classes are approved to take the end of course examination in an online delivery format

4 Petitioner desires to offer its in class students the option to take the end of course examination in the same approved online format that its asynchronous and livestream students are permitted to take

V ANALYSIS OF THE LAWS AS THEY APPLY TO THE FACTS

A GENERAL PRINCIPLES OF LAW

1 In construing the meaning of a statute, a court first looks at the plain language. See *Montgomery v State*, 897 So 2d 1282, 1285 (Fla. 2005)

2 After establishing legislative intent, the court then reads the statute as a whole in order to give full effect to the statutory provisions in harmony with one another See *id* , quoting *Forsythe v Longboat Key Beach Erosion Control District*, 604 So 2d 452, 455 (Fla 1992)

3 Courts will not give a statute a literal interpretation that would produce an unreasonable or ridiculous conclusion See *Maddox v State*, 923 So 2d 442, 446 (Fla 2006)

4 Section 475 17, Florida Statutes, provides no language that precludes in classroom students from taking the end of course examination online

5 Currently Petitioner's students who are live streaming the in-person class are permitted to take the end of course examination in the same online format as the asynchronous distance learning students

6 Precluding Petitioner's classroom students from taking the end of course examination in the same delivery format as students taking the same livestream class as well as those students who are taking the same course credit hours through asynchronous distance education would produce an unreasonable or ridiculous conclusion

WHEREFORE, upon giving the statute and each word within it effect, FREC should find that the intent of the Legislature was not to preclude Petitioners in classroom students from taking the end of course examination in the same online delivery format that Petitioner's asynchronous distance learning and livestream students are permitted to take

Respectfully submitted,

Daniel Villazon

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CERTIFICATE OF SERVICE

I CERTIFY that a true copy of the foregoing petition was served by E-mail on this 31st day of March to Giuvanna Corona, FREC Executive Director, Division of Real Estate, Giuvanna Corona@myfloridalicense.com and Lawrence D Harris, FREC Legal Counsel, Senior Assistant Attorney General Office of the Attorney General, Lawrence Harris@myfloridalegal.com

Daniel Villazon
Daniel Villazon