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April 10, 2025

Re: Policies on Released Time for Religious Instruction

Dear Members of Ohio School Boards,

As you know, a new law went into effect yesterday, April 9, 2025, requiring that every Ohio school district have a “released time” policy that allows willing students, with parental consent, to be “excused from school to attend a released time course in religious instruction.” R.C. 3313.6022(B). This law respects parents’ prerogative to take advantage of religious education opportunities for their children.

I understand that the new law gives considerable discretion to allow each school board to adopt its own released-time policy that complies with the law in ways that work for each district’s individual circumstances. I also understand that advice for implementing a policy like this can come from many fronts. Some outside organizations offering advice or proposing draft policies may be more interested in finding ways to thwart the new law than ensuring that districts enact compliant policies under the law. Your duty as a board member requires that you scrutinize any outside advice before acting on it.

As of yesterday, all school boards should have a policy in place allowing released-time programs in their districts. If your district does not have such a policy, it must adopt one immediately. And as these new policies go into effect, boards should monitor to ensure the policies effectively carry out the law and do not limit participation so much as to raise legal concerns. I hope that this letter will help your district, in this new monitoring stage, avoid these potential pitfalls.

BACKGROUND

From 2014 until now, Ohio law allowed (but did not require) school districts to release students from school for religious instruction. R.C. 3313.6022 (effective Sept. 11, 2014, to Apr. 8, 2025). Many school districts chose to enact released-time policies to make this option available to district families. Thus, for some time now, many Ohio students have had the opportunity to attend off-campus private religious courses weekly during non-core school periods. Participation in these programs has always been voluntary and has always required parent permission.

Leading up to the amendment requiring released-time programs, these programs were the subject of extensive discussion. One provider of released-time programming described how they teach a

new “character focus” like “gratitude or responsibility or humility or sacrifice” to kids “[e]ach and every week.”¹ Others describe the release programs as “weekly Bible studies.”² Opponents of released-time programs described their concern that these programs would impact the “weekly class schedule.”³ In the end, after robust debate, Ohio’s General Assembly passed the law requiring school districts to adopt released-time programs. Allowing these programs to operate is not optional anymore. 2024 H 8, eff. Apr. 9, 2025. And as of yesterday, all school boards should have a compliant policy.

POLICY PITFALLS

After reviewing policies that districts have enacted either before or in response to the new law, and after reviewing draft policies on released-time that organizations have provided to school boards, I noticed four potential pitfalls. I want to identify these potential pitfalls so that your school board can avoid their error.

First, some have suggested adopting a policy that prohibits released-time providers from providing students with “any materials” or “other items for their return to school.” They cite the potential for disruption for this restriction, and I surely support limiting disruption in schools. But taken literally, a policy with broad language like that would prohibit sharing literature like memory cards, devotional lesson books, or even Bibles. When those items are securely packed away in students’ backpacks, they do not credibly threaten disruption. And prohibiting bringing them back to school could effectively mean that released-time programs can’t even provide single copies of materials for participating students to keep for themselves. School boards could avoid potential problems under the Ohio Constitution’s religion clause and the federal First Amendment by avoiding overbroad policy language like this.

Second, some have suggested that school boards can dissociate with any released-time provider if they violate even one policy, even one time, even if by unavoidable accident. The rationale for that position is that schools may not use their own resources to track policy violations, so they would have no way of determining if program providers’ violations were habitual or serious. That’s not true. The statute prohibits using “public funds” or “public-school personnel” only for

¹ Catherine Ross, *What is LifeWise? Bible study program for public schools sparks debate*, News 5 Cleveland (July 17, 2024), <https://perma.cc/4QRR-BHQB>.

² Mike Hixenbaugh, *Prayer, Bible lessons and a big red bus: How an Ohio group is bringing God to public school*, NBC News (Apr. 2, 2024), <https://perma.cc/2ATV-VX9Q>.

³ Michael Wilson, *Bible classes for public schools students blur boundary between church and state | Opinion*, Cincinnati Enquirer (Jan. 3, 2025), <https://perma.cc/8YMG-6CDU>.

“providing the religious instruction.” R.C. 3313.6022(B)(5). That does not mean that public funds and personnel time may not go toward the schools’ role in administering its released-time policy. For example, administrative personnel will presumably take some time to look at background checks, which school boards may require of released-time programs. R.C. 3313.6030. Indeed, the very idea of passing a new policy assumes that school district personnel will spend some time and resources to ensure that students with parental consent have access to the program.

Third, some have suggested that school boards could restrict released-time programs to a mere one-to-four meetings per year, a frequency far removed from weekly meetings that released-time programs have offered in welcoming school districts. Limiting released-time opportunities to a few times a year may constitute a failure to implement a feasible released-time policy at all. The General Assembly reflected that understanding when it defined a “release time” program as a “*course* in religious instruction.” R.C. 3313.6022(A) (emphasis added). A course is “a set of classes or a plan of study on a particular subject,” “a series of classes about a particular subject in a school,” “a prescribed number of instruction periods or classes in a particular field of study,” or “a series of lessons or lectures on a particular subject.”⁴ I know of no definition that would consider a single instance, or even four sporadic events, as an educational “course.” Weekly repetition, on the other hand, plausibly fits into the statute’s terms as understood when the law was passed. It also tracks with religious norms—common to Judaism, Christianity, and Islam, to name just three—that have long used a weekly repetition for their own religious devotion. In short, while there is flexibility on the time and frequency of the released-time programs, school boards would not be faithfully executing the law if they used that leeway to effectively thwart any meaningful participation in released-time programs.

Finally, opponents of the statute have suggested other creative ways to tamp down on released-time programs. I would encourage you to reject ideas that appear to target released-time programs with burdens or discourage student participation in the programs. Schools have no reason to prevent students from inviting their friends to released-time programs, nor may they saddle these programs with burdens that others don’t have to bear. The General Assembly left school boards generous discretion to administer the released-time policies in a way that balances operational need and parents’ rights. I respect the fact that not everyone agrees with the law, but your role as a public servant calls you to administer it in good faith.

⁴ Respectively, from <https://dictionary.cambridge.org/us/dictionary/english/course>; <https://www.britannica.com/dictionary/course>; <https://www.dictionary.com/browse/course>; https://www.oxfordlearnersdictionaries.com/us/definition/english/course_1.

Yours,



Dave Yost
Ohio Attorney General

cc: North East Ohio Learning Associates (NEOLA)
Ohio Association of School Business Officials (OASBO)
Ohio School Boards Association (OSBA)