



DAVE YOST

OHIO ATTORNEY GENERAL

Administration
Office 614-728-5458
Fax 614-466-5087

November 1, 2023

Paul Craft, Superintendent
Buckeye Valley Local
679 Coover Rd
Delaware, Ohio 43015
pcraft@mybvls.org

Re: "Released time" programs in Ohio public schools and their legality

Dear Superintendent:

Several people have asked me recently about schools' "released time" programs, under which public-school students may briefly leave the school grounds during the school day to receive private religious education from private groups. Apparently, an out-of-state lobbying group, the Freedom From Religion Foundation, is discouraging Ohio schools from starting or continuing these valid, legal programs. As Ohio's Attorney General, I want to reassure you that Ohio law takes into account all relevant constitutional issues, and that you are free to follow Ohio law to best serve the needs of your community. Although I am not your legal counsel, and you should consult your own counsel in addressing any particular facts in your districts, I'd like to share these basic points.

First, released-time programs are not new or legally controversial in the least. Unlike some of the latest, hotly contested issues, the validity of such programs was confirmed long ago. The United States Supreme Court said so in 1952, in *Zorach v. Clauson*, 343 U.S. 306. The Court there said, "[W]e guarantee the freedom to worship as one chooses. . . . When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions." If a school simply *allows* students to leave, according to parents' wishes and without public funds, the school is honoring religious liberty, not violating any rules against establishing a state religion.

Second, Ohio law authorizes such programs and provides even more guidelines to ensure that constitutional standards are met, and more. Ohio Revised Code Section 3313.6022 details the rules to follow regarding the role of the school and of the outside sponsor, the need for parental consent, and so on.

Third, I issued a formal opinion in 2019 addressing legal issues beyond those rules. That opinion, No. 2019-015, clarifies, for example, that schools generally may not prohibit students from inviting other students to join them at such programs (unless that student-to-student speech

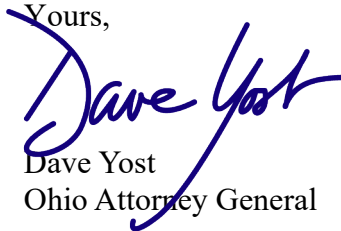
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substantially interferes with schoolwork, etc.), that school employees may likewise use their free-speech rights to talk about such programs in their personal capacities, and more.

I have enclosed a copy of that opinion for your convenience. I hope that this, along with any consultation with your local counsel if needed, reassures you that Ohio schools need not worry about honoring the religious liberty of the students and families in your districts.

Yours,

A handwritten signature in blue ink that reads "Dave Yost". The signature is written in a cursive style with a large, sweeping "D" and "Y".

Dave Yost
Ohio Attorney General

Enclosure