

November 11, 2024

Chair Manning, Vice Chair Fowler Arthur, Ranking Member Robinson, and Members of the Committee:

My name is Linda Hoover, and I reside in Greene County, Ohio in the Beavercreek City School District. I have a grandchild enrolled in a Beavercreek elementary school. I'm writing to you today to express opposition to House Bill 445, for Released Time Religious Instruction (RTRI).

I do not oppose this bill on religious grounds, but rather because of serious safety concerns. As a mother, grandmother, and Pediatric Nurse Practitioner with over 25 years of professional experience, the safety and medical wellbeing of children is incredibly important to me. I do not feel that this bill adequately protects the legal rights of students with disabilities and complex medical needs. It also strips away local control, and may inhibit schools' ability to comply with other Federal laws and Constitutional rights. This may leave children susceptible to accident or grave injury, and schools open to lawsuits, or even criminal charges.

The 1952 Supreme Court decision, *Zorach v. Clauson* permits, but does not *require*, schools to allow students to attend an offsite RTRI program with parental permission. Since 1952, there have been significant medical advancements, and laws such as Sec. 504 of the Rehabilitation Act of 1973, the Education for All Handicapped Children Act of 1975 (now known as IDEA), and Title II of the Americans with Disabilities Act of 1990 that have made public education much more accessible to students with physical or developmental disabilities, and medical conditions such as allergies, asthma, seizure disorders, special dietary needs, and conditions requiring feeding tubes (to name just a few). House Bill 445, in 2024, should in turn reflect modern medical science and Federal standards for public education.

Mandating the adoption of this outdated RTRI policy may create an untenable situation in which schools are forced by the State to forgo Fourteenth Amendment rights in deference to First Amendment ones, or vice-versa. The Fourteenth Amendment is very clear that "No State shall...deny to any person within its jurisdiction the *equal protection* of the laws." Under the policy required by this bill, a school cannot deny *any* student participation in an RTRI program if their parent so wishes. To do so would violate First Amendment rights. The problem this creates, is that in order to fully comply with the requirements prescribed by this bill, public school personnel would have no choice but to let some Federal requirements fall to the wayside. Inversely, if schools must comply with Sec. 504, IDEA and ADA requirements, they would have to violate portions of this bill.

This bill says that *no public funds* shall be expended. Ideally, some communication

about offsite management of medical needs would be necessary between RTRI and school staff, in order to make sure that upon the student's return, school staff can continue to provide care of the highest quality and accuracy *in loco parentis* as required by Federal law. To accomplish this, *some* public funds would have to be used. Communicating, recording and filing of information requires use of staff time, school equipment and supplies, which are all taxpayer-funded. If this *isn't* allowed, which logic seems to imply, then school staff may not be able to do their jobs properly without access to complete information about the student's time offsite.

Under this proposed law, who will ensure that inhalers, epi-pens, and medications travel offsite, and return again with the student? Who will ensure that medications and other treatments are properly administered? Who will ensure that no overdoses occur, or that no doses are missed? If a student requires an aide at school, who will accompany them offsite, and who will review their qualifications, if *no public funds* may be expended and *no public school personnel* may be involved? The consequences of mismanagement of any of these things can be dire. I do not think student safety at any time during the school day should be dependent on a private entity, who is not obligated to comply with ADA, Sec. 504 or IDEA, or undergo the same medical and safety trainings as public school staff.

In my opinion, the bill's language regarding liability is vague and incomplete. It is also unrealistic to assume that liability will fall back on parents, when the ultimate decision may lie with a judge; the United States of 2024 is also much more litigious than it was in 1952. The responsibility of fine-tuning policy, in this instance, should not be placed upon school boards. If the State wishes to mandate this policy, then the *State* should ensure that the language of the policy is up to date, clearly defined, thoroughly researched, and comprehensive *before* it is passed into law. Experts should be also be consulted regularly throughout the drafting process.

Instead of removing local control, I feel it is more ideal that community members remain free to tell their school districts what is best for their unique needs. If a school district feels that collectively, any of its vulnerable students would be negatively impacted by one or more RTRI programs in operation, then they should be able to decline adoption of such a policy. I respectfully urge you not to advance House Bill 445 for a vote. Thank you.

Sincerely,
Linda Hoover