

# OHIO AUDITOR OF STATE KEITH FABER



January 22, 2024

The Honorable Dave Yost  
Ohio Attorney General  
Office of the Solicitor General, Opinions Unit  
30 East Broad Street, 14<sup>th</sup> Floor  
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Dear Attorney General Yost:

Ohio Auditor of State Keith Faber would like to request a formal opinion from your office on the question of whether certain community school officials must satisfy the requirement in Ohio Rev. Code § 3314.037 to take training on the public records and open meeting laws by taking training that is approved by the Ohio Attorney General.

As part of audit work completed by the office of the Auditor of State, auditors determine whether officers and employees required to take training on the public records law and the open meetings law have taken the training as required. In the course of auditing community schools for compliance with ORC 3314.037, our office has found that community school officials obtain yearly training on the subjects of public records and open meetings. For some officials and community schools, the training is provided by attorneys representing the community school. There is no standardization of the content of the training or the duration of the training, and often, the training provided is one hour in length. Seeing the chance for extreme variation in the form of the training, our office had to evaluate what was intended by the General Assembly when it enacted a statute expressly requiring community school officials and employees to take training in those laws.

We found that the only other time that the General Assembly had expressly required public officials to take public records and open meetings training was when elected officials were required to take training by Ohio Rev. Code § 149.43(E)(1). That required training is the training created by the Ohio Attorney General under Ohio Rev. Code § 109.43. Looking at the statutes requiring training and those statutes addressing and defining what the training is, we concluded that the General Assembly must have intended that community school officials take the same training as the only other public officials that are required by the Revised Code to take training. Our office issued a Technical Bulletin to community school officials explaining how the Auditor of State's office will evaluate compliance with Ohio Rev. Code § 3314.037. A copy of that bulletin is attached for your reference.

Our reasoning essentially comes down to a few statutes that must work together. Ohio Rev. Code § 3314.037 requires the officers and certain employees of a community school to “complete training on an annual basis on the public records and open meetings laws, *so that they may comply with those laws as*

*prescribed by division (A)(11)(d) of section 3314.03 of the Revised Code.*" (Emphasis added.) Ohio Rev. Code § 3314.03(A)(11)(d) requires the community school to comply with Ohio Rev. Code § 149.43 (public records law) and Ohio Rev. Code § 121.22 (open meetings law). Training approved by the Attorney General under Ohio Rev. Code § 109.43 is an element of Ohio Rev. Code § 149.43 and is part of the law that the community school must satisfy.

Although we recognize that Ohio Rev. Code § 109.43 states that the Attorney General is required to create a training for elected officials, as explained above, we do not think the elected or non-elected status of a community school official is determinative. Rather, the question rests on the nature of the training. The community school, as the public office, must comply with Ohio Rev. Code § 149.43. One of those requirements is to comply with the training requirement in Ohio Rev. Code § 149.43(E)(1). The training required by Ohio Rev. Code § 149.43(E)(1) is the training approved by the Attorney General as provided in Ohio Rev. Code § 109.43. Accordingly, our office believes community school officials and employees are required to take the training created by the Attorney General under Ohio Rev. Code § 109.43.

If you have any questions regarding this request, please do not hesitate to reach out to me directly at (614) 728-7237 or MDeGenaro@ohioauditor.gov.

Respectfully,

KEITH FABER  
Ohio Auditor of State



Mary DeGenaro  
Chief Legal Counsel