

July 30, 2025

The Honorable Keith Faber  
Auditor of State  
65 East State Street  
Columbus, Ohio 43215

SYLLABUS:

2025-013

1. The annual training requirement of R.C. 3314.037 for community school officials and personnel on the state's public records and open meeting laws is not constrained by statute to the same training that is certified by the attorney general and conducted either by the attorney general or a third party through a contract with the Attorney General.
2. For the purpose of auditing compliance with R.C. 3314.037 when the statute does not stipulate the specific training requirements, the auditor of state has authority to set a reasonable standard for training necessary to ensure community school personnel know how to comply with the public records and open meetings laws.



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July 30, 2025

OPINION NO. 2025-013

The Honorable Keith Faber  
Auditor of State  
65 East State Street  
Columbus, Ohio 43215

Dear Auditor Faber:

You have requested a formal opinion regarding the annual training on the state's public records and open meetings laws that is required of community school officials and personnel. I have framed your question as follows:

Must the annual training on public records and open meetings laws that the governing authority and other specified individuals of a community school are mandated to complete annually under R.C. 3314.037 be the same training required of elected officials pursuant to R.C. 149.43, which is training certified by the Ohio Attorney General and presented by the Attorney General or by a third party under contract with the Attorney General pursuant to R.C. 109.43(B) and (D)?

For the reasons that follow, I conclude that the mandated annual training under R.C. 3314.037 for community school officials and personnel on public records and open meeting laws is not constrained by statute to the same training certified by the attorney general and conducted either by the attorney general or a third party through a contract with the attorney general described in R.C. 109.43(B) and (D).

The auditor of state has authority, for the purpose of auditing compliance with R.C. 3314.037 when the statute does not specify the specific training requirements, to set a reasonable standard for training necessary to ensure community school personnel know how to comply with the public records and open meetings laws.

I

We begin with the text of R.C. 3314.037. The full text of that section states:

The members of the governing authority of a community school, the designated fiscal officer of the school, the chief administrative officer and other administrative employees of the school, and all individuals performing supervisory or administrative services for the school under a contract with the operator of the school *shall 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.)*

Nothing in the text of R.C. 3314.037 requires the mandatory training to be the training that is certified and conducted by the Attorney General under R.C. 149.43(E)(1) or conducted by contract under R.C. 109.43(B) and (D). There is a cross-reference in R.C. 3314.037 to R.C. 3314.03(A)(11)(d) that requires each contract between a community school sponsor and the governing board to include a requirement to comply with R.C. 149.43 (Public Records law) and R.C. 121.22 (Open Meetings law) in addition to multiple other revised codes sections. R.C. 3314.03, in relevant part, states:

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

...

(11)(d) The school will comply with sections . . . 121.22, 149.43, . . . of the Revised Code *as if it were a school district.* (Emphasis added).

This pares the issue down to whether the subject provision means that officials and personnel of a community school must comply with training requirements that are, textually, stated as only applicable to elected officials. In other words, do the interlocking references bootstrap the public records training required of community schools to that which is certified by the attorney general?

In answering this question, I consider how the statute phrases the requirement of community school officials and personnel in R.C. 3314.03(A)(11)(d). Specifically, that division requires a community school to comply with a specific listing of statutes “*as if it were a school district.*” That list includes R.C. 121.22 and 149.43. But, for purposes of public records and public meeting trainings, only the *elected* officials (or their designees) of school districts are required to take the training certified and provided by the attorney general. See R.C. 149.43(E)(1).

Because none of a community school’s officials and personnel listed in R.C. 3314.037 are *elected* officials, the mandate pertaining to school district elected officials cannot apply to community schools. Although community school officials may choose to attend the trainings certified and provided by the Attorney General (or provided through contract with the Attorney General) as the method by which they receive the required training, they are not required to do so. Thus, a fair reading

of the statute establishes that the legislature included only elected officials or their designees within the ambit of the attorney general's certified training requirements.

R.C. 109.43(B) states in part:

The attorney general shall develop, provide, and certify training programs and seminars for *all elected officials* or their appropriate designees, and for all future officials who choose to satisfy the training requirement before taking office, in order to enhance the officials' knowledge of the duty to provide access to public records as required by section 149.43 of the Revised Code and to enhance their knowledge of the open meetings laws set forth in section 121.22 of the Revised Code. (Emphasis added).

According to R.C. 109.43(D), "the attorney general may contract with one or more other state agencies, political subdivisions, or other public or private entities to conduct the training programs and seminars for *elected officials*, their appropriate designees, and future officials under this section." (Emphasis added).

The text of R.C. 149.43(E)(1) and R.C. 109.43(B) and (D) make clear that the mandated attorney general

training requirement pertains to “elected officials.” As noted above, R.C. 3314.037 does not use the term “elected officials” with respect to community schools. Nor could it. Community school positions are not elected. It naturally follows, then, that these individuals are excepted from the specific attorney general trainings in R.C. 149.43(E)(1) and R.C. 109.43(B) and (D).

In accordance with a plain reading of the text of the statutes, I must conclude that the legislature chose not to mandate that the required training set forth in R.C. 3314.037 must be the same specific training that is conducted by the attorney general or a training entity under contract with the attorney general. *See* 2006 Ohio Atty.Gen.Ops. No. 2006-030, at 2-270 (“as chief law officer for the state of Ohio, I am obligated to read and apply the law as it is written.”).

## II

I recognize that this statutory provision creates a situation where the auditor of state must audit compliance with a statutory training requirement that is described only by an end result: that community school district personnel are sufficiently knowledgeable with the state’s public records and open meetings law that they “may comply with those laws as prescribed by division (A)(11)(d) of section 3314.03 of the Revised Code.” R.C. 3314.037. In the absence of legislative clarification,

however, the auditor of state may fulfill this duty to audit compliance by any reasonable means.

The auditor of state's principal duty is to audit public offices and determine "whether the laws, rules, ordinances, and orders pertaining to the office have been observed, and whether the requirements and rules of the auditor of state have been complied with." R.C. 117.11(A). The Ohio Supreme Court has held that "community schools fall within the definition of public office [contained in R.C. 117.01] because they are entities 'established by the laws of this state for the exercise of [a] function of government.'" *Cordray v. Internatl. Preparatory School*, 2010-Ohio-6136, ¶22. For this reason, the auditor of state must audit community schools and determine whether they comply with applicable laws, including the annual public records and public meeting training requirement in R.C. 3314.037.

The concern is how to evaluate community school compliance with R.C. 3314.037 if the specific training certified by the attorney general is not statutorily required. The duty to act exists but without a set standard by which to judge compliance.

The well-recognized rule is that "[w]hen a statute authorizes performance of a particular act, but does not specify how that act is to be done, the general inference is that the act is to be carried out in a reasonable manner." *State v. Gaul*, 117 Ohio App.3d 839, 850 (1997),



citing *State ex rel. Attorney General v. Morris*, 63 Ohio St. 496, 512 (1900); *Jewett v. Valley Ry. Co.*, 34 Ohio St. 601, 608 (1878). Although we have concluded that R.C. 3314.037 does not require community school personnel to take the specific sunshine law training certified by the attorney general, still, the law *does require* “training on an annual basis on the public records and open meetings laws” sufficient to ensure “that they may comply with those laws.” R.C. 3314.037.

2017 Ohio Atty.Gen.Ops. No. 2017-018, Slip Op. at 6; 2-190, presents the guiding principle applicable here:

It is well established that when a statute commands an officer to do a certain act, but does not describe the means by which that act shall be completed, the officer may exercise reasonable discretion to determine the manner in which he shall perform the act required of him. *State ex rel. Kahle v. Rupert*, 99 Ohio St. 17, 19, 122 N.E. 39 (1918) (“[e]very officer of this state or any subdivision thereof not only has the authority but is required to exercise an intelligent discretion in the performance of his official duty”); *State ex rel. Hunt v. Hildebrant*, 93 Ohio St. 1, 112 N.E. 138 (1915) (syllabus, paragraph 4) (“[w]here an officer is directed by . . . a statute . . . to do a particular thing, in the

absence of specific directions covering in detail the manner and method of doing it, the command carries with it the implied power and authority necessary to the performance of the duty imposed”); *Jewett v. Valley Ry. Co.*, 34 Ohio St. 601, 608 (1878) (“[w]here authority is given to do a specified thing, but the precise mode of performing it is not prescribed, the presumption is that the legislature intended the party might perform it in a reasonable manner”).

The auditor of state, therefore, may set a reasonable standard for training, against which to audit compliance, that achieves the stated statutory purpose of the training: enabling community school district officials and personnel to comply with the public record and open meeting laws “as if it were a school district.” R.C. 3314.03(A)(11)(d). Doing so will enable the state auditor to perform the auditor’s statutory requirement to audit for compliance.

The auditor of state could, conceivably, specify the minimum qualifications of instructors or amount of training that would be sufficient to ensure community school officials and personnel are able to comply with open meeting and public record laws. The content and length of such training certified by the attorney general, or some portions thereof, might serve as a model

or benchmark for that standard. In this regard, the auditor of state has authority to issue advisory bulletins, directives, instructions, and to adopt rules that set auditing standards. *See* R.C. 117.19 and 117.20.

What constitutes a “reasonable manner” or “reasonable standard” in this circumstance is, of course, a question of fact. 1998 Ohio Atty.Gen.Ops. No. 98-005, paragraph two of the syllabus (“Whether a particular action is reasonable and necessary is a question of fact to be decided on a case-by-case basis.”); *Taylor v. Marshall Plaza II*, 1989 WL 10309, \*7 (9th Dist. Feb. 8, 1989) (“Reasonableness is a question of fact.”); *Lewanowicz v. Lewanowicz*, 1976 WL 190957, fn. 5 (8th Dist. June 10, 1976) (“The question of reasonableness is a question of fact.”)

An opinion of the attorney general, however, may not resolve questions of fact through the opinion-rendering function. “This office is not equipped to serve as a fact-finding body; that function may be served by your office or, ultimately, by the judiciary.” 1983 Ohio Atty.Gen.Ops. No. 83-057, at 2-232. *See, e.g.*, 2013 Ohio Atty.Gen.Ops. No. 2013-029, at 2-299, fn. 12; 1986 Ohio Atty.Gen.Ops. No. 86-108, at 2-599; 1999 Ohio Atty.Gen.Ops. No. 99-007, at 2-54. “R.C. 109.14 does not authorize the attorney general to decide questions of fact by means of an opinion.” 1987 Ohio Atty.Gen.Ops. No. 087-082, paragraph three of the syllabus.

Nor may the attorney general direct how your office exercises its authority. *See* 1986 Ohio Atty.Gen.Ops. No. 86-076, at 2-422 (“I am not authorized to exercise on behalf of another officer or entity of the government discretion that has been bestowed by statute on that officer or entity.”) For the purpose of auditing compliance with R.C. 3314.037, however, I conclude that the auditor of state may set a reasonable standard for training that ensures community school personnel know how to comply with the public records and open meetings laws.

#### Conclusion

Accordingly, it is my opinion, and you are hereby advised that:

1. The annual training requirement of R.C. 3314.037 for community school officials and personnel on the state’s public records and open meeting laws is not constrained by statute to the same training that is certified by the attorney general and is conducted either by the attorney general or a third party through a contract with the attorney general.
2. The auditor of state has authority, for the purpose of auditing compliance with R.C. 3314.037 when the statute does not stipulate the specific training requirements, to set a

reasonable standard for training necessary to ensure community school personnel know how to comply with the public records and open meetings laws.

Respectfully,

A handwritten signature in blue ink that reads "Dave Yost". The signature is fluid and cursive, with a large loop at the end of the word "Yost".

DAVE YOST  
Ohio Attorney General