



TO: House Education Committee
FROM: Gary Daniels, Associate Director, ACLU of Ohio
DATE: December 10, 2013
RE: House Bill 171

To Chairman Stebelton, Vice Chair Brenner, Ranking Minority Member Fedor, and members of the House Education Committee, my name is Gary Daniels, associate director for the American Civil Liberties Union of Ohio (“ACLU of Ohio”) and I appear today to present opponent testimony on House Bill 171.

The ACLU is the oldest and largest civil liberties organization in the world with over 500,000 members nationwide and over 30,000 members and supporters across Ohio. The ACLU and ACLU of Ohio are non-profit, non-partisan membership organizations devoted to protecting basic civil rights and civil liberties for all Americans and all Ohioans.

House Bill 171 is a misguided bill that, if passed into law, would allow students to receive academic credit for religious instruction they receive off campus through “released time”. Released time – allowing students to leave public school for such instruction without penalty – has been in existence for decades and the practice was upheld by the U.S. Supreme Court in 1952.

In short, the difference between what the U.S. Supreme Court upheld and House Bill 171 is the awarding of academic credit. There are several, inter-related problems with expanding released time in this way.

To be clear, HB 171 allows for academic credit for purely religious instruction, whether done via a private school, a place of worship or other non-school entity. It addition, it places significant limitations on the ability of schools and school districts to review and analyze what is taught during released time.

Under HB 171, school boards can evaluate released time courses but only on “purely secular criteria”. While the bill does anticipate school boards might (but are not required to) review a course syllabus that reflects course requirements and materials used, this raises many questions.

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So-called Young Earth Creationists sincerely believe the Earth is only several thousand years old and dinosaurs existed with humans. Does a school district have any authority in HB 171 to refuse academic credit for such lessons? If any, how much? Would proponents of this bill argue refusing credit for such teachings is not based on "purely secular criteria", as HB 171 requires? Or, that their First Amendment right to freely practice their religion is being impacted?

What's the worst case scenario with HB 171? You have surely heard of the Westboro Baptist Church. They are the religious group which, among other actions, pickets military funerals to call attention to themselves and what they maintain is American tolerance of gays and lesbians.

Westboro Baptist Church members have the freedom to believe whatever they want. But I see very little - to potentially nothing - in HB 171 to prevent them from setting up an unaccredited, non-school entity to teach their beliefs and demanding their released time students get academic credit. At best, this is an open question under House Bill 171.

At a previous hearing, you heard from well-meaning supporters of HB 171 who spoke eloquently about their feelings toward released time and the benefits they believe it provides.

But this bill is not about the existence or practice of released time. The U.S. Supreme Court settled that question a long time ago.

This bill is simply about the awarding of credit - and all the questions, unintended consequences and inevitable problems that would come with opening that door.

The First Amendment requires the government to remain neutral with respect to religion and religious practices. A public school providing credit for purely religious teachings unquestionably violates that mandate.

House Bill 171 is replete with practical and constitutional problems. The ACLU of Ohio urges you to vote against this legislation.