



STATE OF SOUTH CAROLINA
DEPARTMENT OF EDUCATION

MEMORANDUM

TO: District Superintendents

FROM: John Tyler
Deputy Superintendent, Legal Affairs

DATE: April 9, 2024

RE: Released Time Programs

Given recent questions regarding Released Time programs, this memo seeks to clarify the legal status of these programs in South Carolina law and provide insight into how schools may choose to implement them legally. In short, Released Time programs are both constitutional under the U.S. Constitution *and* are affirmatively authorized by long-standing South Carolina law.

Released Time programs allow public school students to attend off-campus religious education during the school day with parental approval.¹ Released Time programs may be organized or provided by any religion, faith tradition, or denomination. Public schools have authorized Released Time programs since the early 1900s, and, in 1952, the U.S. Supreme Court ruled that Released Time programs are constitutional as long as they are held off public school grounds, are not funded by taxpayer money, and the students' participation is pursuant to parental consent.²

Since 2002, South Carolina law has allowed local school district boards of trustees to authorize Released Time programs at all grade levels. South Carolina law reflects the three requirements recognized by the Supreme Court, and requires:

- a parent or guardian to give written consent for participation;
- the program to maintain attendance records;

¹ Released Time Religious Education, "What is Released Time," [Released Time Religious Education - What is Released Time](#).

² *Zorach v. Clauson*, 343 U.S. 306 (1952).

- the program, parent, or guardian (not the school) to provide transportation between the location where the program occurs and the school;
- the program to assume responsibility and potential liability for the released student; and
- that no public funds are expended.³

The law further clarifies that students may not be excused from a core academic subject class to participate in a Released Time program, and that students are required to make up any work missed due to their participation. Students are not counted as absent while attending a Released Time program.⁴

Additionally, a local school district board of trustees may choose to award up to two elective credits to high school students who complete Released Time classes.⁵ In order to allow Released Time students to earn elective Carnegie units, the board may require a secular set of criteria including the number of hours of classroom instruction time, a review of the course syllabus, methods of assessment used in the course, and whether the course was taught by a certified teacher. The law is clear that only secular criteria may be used. Any criteria involving a test for religious content or denominational affiliation is not allowed.⁶

Because of the requirement that Released Time instruction be conducted off-campus, classes are often held at a house of worship or a religious non-profit organization's facility located near the public school and are often taught by volunteers of the non-profit organization that operates the Released Time program. Released Time classes may also be held at and taught by an accredited private school,⁷ and the local school board may accept any credit earned through the accredited private school's Released Time program without individually evaluating the aforementioned criteria.⁸

All school districts—regardless of whether they allow Released Time in their district—must also provide annual in-service training for their teachers and administrators regarding religious constitutional protections for educators and students in South Carolina public schools. This requirement includes training about “released time for religious instruction,” as well as numerous

³ S.C. Code Ann. § 59-1-460(A).

⁴ *See id.* § 59-1-460(B).

⁵ *Id.* § 59-39-112. In 2012, a parent attempted to challenge the state law allowing Released Time instruction to count for school credit, but the 4th Circuit Court of Appeals found that the policy was constitutional. *See Moss v. Spartanburg County Sch. Dist.* (4th Cir. 2012).

⁶ *See* S.C. Code Ann. § 59-39-112.

⁷ An accredited private school is one that has been approved by the State Board of Education or is a member of the South Carolina Independent Schools' Association, the South Carolina Association of Christian Schools, or another similar organization. S.C. Code Ann. § 59-65-10(A).

⁸ *Id.* § 59-39-112(C).

other categories of religious free exercise within public schools.⁹ In the coming months, the Department plans to release new training resources, aimed at helping districts easily comply with this requirement.

In conclusion, Released Time programs are legal in South Carolina at all grade levels and allow high school students to earn up to two units of credit for their participation in the programs. Released Time programs are another way that parents and students can customize public education to meet their unique needs and interests.

⁹ *See id.* § 59-17-140(A).