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IN THE COURT OF APPEALS OF OHIO
TWELFTH APPELLATE DISTRICT
BUTLER COUNTY

ERIN GABBARD, et al.,	:	
	:	
Plaintiffs-Appellants,	:	Case No. CA2019-03-0051
v.	:	
MADISON LOCAL SCHOOL DISTRICT BOARD OF EDUCATION, et al.,	:	On Appeal from the Court of Common Pleas, Butler County, Case No. CV 2018 09 2028
	:	
Defendants-Appellees.	:	

BRIEF OF OHIO ATTORNEY GENERAL DAVE YOST AS AMICUS CURIAE IN SUPPORT OF THE MADISON LOCAL SCHOOL DISTRICT BOARD OF EDUCATION AND REQUEST FOR ORAL ARGUMENT

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INTRODUCTION

What is the best way to stop school shootings? This is a big question. And in a big country like ours, it gives rise to a diverse set of answers. So it is a feature of localized education and our federalist system that different local school districts within different States can adopt different solutions. In doing so, States and localities can serve as laboratories of democracy, and tailor policies to best accommodate the views of their citizens.

Tragically, the question of how best to respond to school shootings is not an abstract one for the Madison Local School District Board of Education. In February 2016, a Madison junior high school student repeatedly fired a gun into a group of his classmates in their school cafeteria, injuring four of them. The Board responded by increasing security throughout the District in several noncontroversial ways: it improved its communication system; installed new security-camera systems; hired a second school resource officer; and increased the security of doors and windows in its buildings. But the Board did one more thing, which stirred some controversy and gave rise to this suit: it unanimously authorized certain school employees to voluntarily carry concealed firearms in school safety zones, as long as they first received active-shooter training, earned a handgun-qualification

certificate, and passed mental-health exams, drug-screening exams, and a background check.

This case is not about whether allowing school employees to carry concealed firearms in schools is the best way to protect schoolchildren from school shootings. That is a policy question for elected officials, and the District already decided that allowing certain of its employees to carry concealed firearms at school will help protect its students. Nor is this a case about how much training those school employees should, as a policy matter, undergo before receiving authorization to carry. That too is a question for elected officials. Instead, this case is about how much training Ohio law *currently requires* for school employees who are not school security guards to undergo before carrying concealed firearms in schools. And the trial court answered that question correctly: Although Ohio law requires school employees to undergo peace-officer training if they are hired to work in a position comparable to that of a security guard or police officer, *see* R.C. 109.78(D), it does *not* require that schools demand the same training of any other school employee authorized to carry a firearm on school grounds, *see* R.C. 2923.122(D)(1)(a).

This is not to say that the trial court's *reasoning* was entirely correct. Indeed, the trial court should not have relied so heavily on R.C. 109.78's title, because statutory titles "do not constitute any part of the law." R.C. 1.01. Still, appellate

courts review judgments, not reasons, and where the trial court's judgment is correct, the appellate court must affirm. *E.g.*, *State v. Allen*, 77 Ohio St. 3d 172, 173 (1996). The trial court's judgment was correct, so this Court should affirm.

STATEMENT OF AMICUS INTEREST AND REQUEST FOR ORAL ARGUMENT

The Attorney General is Ohio's chief law officer and regularly appears as an amicus curiae in cases "in which the state is directly or indirectly interested." R.C. 109.02. He has an interest in ensuring that, so long as they comply with Ohio law, Ohio's local school districts may make decisions about how best to protect Ohio's schoolchildren.[1]

The Attorney General believes that the trial court reached the correct result on the issue in Plaintiffs' First Assignment of Error, but takes no position on the issue in Plaintiffs' Second Assignment of Error.

Should the Court grant oral argument in this case, the Attorney General requests five minutes of argument time to present the views of the State.

STATEMENT OF THE FACTS AND CASE

In 2012, following the horrifying shooting at Sandy Hook Elementary School in Connecticut, Ohioans debated whether allowing some school employees to carry concealed firearms in schools would help protect against school shootings. *See gen-*

[1] The parties have consented to the filing of this amicus brief, and their written consent is attached as Exhibit A.

erally Catherine Candisky, *Armed staffer may be option for schools, DeWine says*, Ohio.com (Dec. 20, 2012), *available at* https://bit.ly/30e69fp. Some Ohioans raised doubts about the legality of this solution. Their concerns turned on the interaction between two statutes. The first, R.C. 2923.122(D)(1)(a), allows local school districts to authorize "any . . . person" to possess a firearm in a school safety zone, and does not specify any particular training requirement for those persons. The second, R.C. 109.78(D), says that no school "shall employ a person as a special police officer, security guard, or other position in which such person goes armed while on duty," unless that person either completed peace-officer training or had already served for twenty years as an active-duty peace officer. Some argued that this second statute might apply to *all* armed school employees. In other words, they believed that *any* employee who carried a gun would qualify as a "special police officer, security guard, or other position" obligated to undergo the training specified in R.C. 109.78(D).

Then-Attorney General Mike DeWine wrote a letter addressing the issue. *See* Letter from Mike DeWine, Ohio Attorney General, and Robert Fiatal, Executive Director of the Ohio Peace Officer Training Commission, to James Irvine, Chairman of the Buckeye Firearms Association (Jan. 29, 2013), *available at* T.d. 48, Ex. L, *and at* https://bit.ly/2XINY44. In this letter, then-Attorney General Mike

DeWine concluded that "Ohio law does not prevent a local school board from arming an employee, unless that employee's duties rise to the level that he/she would be considered 'security personnel.'" *Id.* at 1. While R.C. 109.78(D) requires school-security personnel to "either have a basic peace officer certification from the Ohio Peace Officer Training Academy" or "20 years of experience as a law enforcement officer," it does not require the same for *non*-security personnel, even if the school authorizes them to carry a weapon. *Id.*

Years later, in February 2016, a student at Madison Junior-Senior High School opened fire on his classmates in the school cafeteria. Luckily, he killed no one. But he did injure four of his classmates, and could have injured or killed many more. *See* Defendant's Motion for Summary Judgment, T.d. 48, at 2–3. In response, the Madison Local School District Board of Education increased security throughout the District: it improved the District's communication system, installed new security camera systems, hired a second school resource officer, and increased the security of doors and windows throughout the District's buildings. *Id.* at 3. The Board also (in April 2018) unanimously authorized certain school employees who already held concealed-carry licenses to voluntarily carry concealed firearms in school safety zones, as long as they first received active-shooter training, earned a handgun-qualification certificate, and passed mental-health and drug-

screening exams and a criminal background check. *See id.* at 3–6; *see also* Firearm Authorization Policy, T.d. 48, Ex. C, at 2–3.

In September 2018, the plaintiffs, all of whom are parents of children in the Madison Local School District, filed this lawsuit. For ease of reference, this brief will refer to the plaintiffs collectively as "Gabbard." Gabbard argued that the District's decision to authorize certain school employees to voluntarily carry concealed firearms in school safety zones violated R.C. 109.78(D). *See generally* Complaint, T.d. 4. The trial court granted summary judgment to the District, *see* Order, T.d. 90, and Gabbard appealed.

ARGUMENT

I. R.C. 109.78(D)'s training requirements apply only to school employees hired to serve in a role comparable to that of a security guard or police officer—the statute does not apply to other employees authorized to carry a gun under R.C. 2923.122.

R.C. 2923.122 gives local school districts significant flexibility to decide both who may carry concealed firearms in school safety zones and what training they must undergo before doing so. R.C. 109.78(D) sets minimum training requirements only for employees that schools hire to serve in roles comparable to that of a police officer or security guard. *Those* employees (but only those employees) must first undergo peace-officer training, or else serve as peace officers for twenty years, before carrying firearms in school safety zones. But other employees—even em-

ployees that the school authorizes to carry a gun—need not undergo the same training requirements.

A. R.C. 2923.122 gives local school districts significant flexibility to authorize persons to carry concealed firearms in school safety zones without heightened training requirements.

Ohio law generally bans carrying a firearm into, or possessing a firearm within, a "school safety zone." A school safety zone includes schools, school buildings, school premises, and school buses. R.C. 2923.122, 2901.01(C). With limited exceptions not relevant here, *see* R.C. 2923.122(D)(4), this prohibition extends to concealed-carry license holders, R.C. 2923.126(B)(2).

The General Assembly has, however, exempted two classes of people from the general prohibition on carrying a firearm in school safety zones. First, the General Assembly made an exception for those law enforcement officers, school security officers, and federal and state employees who are authorized to carry firearms and are acting within the scope of their employment. R.C. 2923.122(D)(1)(A). That exception is not relevant to this case. But the second is: the general prohibition does not apply to "any other person who has written authorization from the board of education or governing body of a school" to possess a firearm in a school safety zone, and who does so "in accordance with that authorization." *Id.* This brief refers to this second exception as the "Authorized-Person Exception."

The Authorized-Person Exception gives local school boards great latitude to decide who to authorize and how much training boards must require as a condition of authorization. *Accord* DeWine Letter, T.d. 48, Ex. L, at 1–2. Local school districts of course may, if they wish, require authorized persons to first undergo peace-officer training, or to undergo some other level of training above and beyond what is required for concealed-carry-license holders in general. (Madison Local School District availed itself of that option, imposing a number of training requirements and other qualifications on school employees who wanted to carry a concealed firearm at school. *See* Firearm Authorization Policy, T.d. 48, Ex. C, at 2–3.) But the Authorized-Person Exception leaves those decisions to each school district.

B. R.C. 109.78(D)'s "Residual Clause" applies only to employees hired to serve as police officers, security guards, or in other comparable roles.

In a different section of the Ohio Revised Code dealing with the Attorney General's powers, the General Assembly required the Ohio Peace Officer Training Commission to certify graduates of "training programs designed to qualify persons for positions as special police, security guards, or persons otherwise privately employed in a police capacity." R.C. 109.78. This section goes on to detail these certificates and training programs and to specify certification fees, among other things. Tucked at the end of this thousand-word provision is a requirement that:

> (D) No public or private educational institution, or superintendent of the state highway patrol shall employ a person as a special police officer, security guard, or other position in which such person goes armed while on duty, who has not received a certificate of having satisfactorily completed an approved basic peace officer training program, unless the person has completed twenty years of active duty as a peace officer.

This statute sets forth minimum training requirements for people "employ[ed]" by public or private schools "as a special police officer, security guard, or other position in which such person goes armed while on duty." Specifically, it requires all such employees to have either: (1) "received a certificate of having satisfactorily completed an approved basic peace officer training program"; or (2) served at least twenty years as an active duty peace officer. All that is clear enough. But what constitutes an "other position in which such person goes armed while on duty"? More specifically, does this language—which this brief will call the "Residual Clause"—apply to individuals who are authorized to carry weapons on school grounds under the Authorized-Person Exception, but who are not employed to fill a role comparable to that of a security guard or police officer?

This answer is "no." The Residual Clause applies only to employees whose *jobs* entail carrying a weapon, and whose principal duties include keeping the peace and maintaining security on school grounds. This follows for three reasons.

The first is the *ejusdem generis* canon: "Where general words follow an enumeration of two or more things, they apply only to persons or things of the same general kind or class specifically mentioned." Antonin Scalia & Bryan Garner, *Reading Law: The Interpretation of Legal Texts*, at 199 (2012); *accord, e.g.*, *Ohio Grocers Ass'n v. Levin*, 123 Ohio St. 3d 303, 2009-Ohio-4872 ¶ 29 (2009); *State v. Aspell*, 10 Ohio St. 2d 1, syl. 2 (1967). Applied to the Residual Clause, this canon means that the "other position[s]" requiring peace-officer training include only positions "of a similar character as" special police officers and security guards. *Aspell*, 10 Ohio St. 2d at 4; *accord* DeWine Letter, T.d. 48, Ex. L, at 1 ("I do not believe that R.C. 109.78(D) applies to non-security personnel. . . . [T]he General Assembly's use of 'special police officer, security guard, or other position' suggests that 'other positions' applies to security personnel."). Reading the Residual Clause's "other position[s]" language to encompass *all* school employees who are armed at school would violate this "well-known legal maxim." *Aspell*, 10 Ohio St. 2d at 4.

The second reason that the Residual Clause does not apply to every employee authorized to carry a weapon under the Authorized-Person Exception is this: the Clause is explicitly position-based. In other words, whether R.C. 109.78(D) applies depends on the person's position, since it covers anyone employed "as a special po-

lice officer, security guard, or other position in which such person goes armed while on duty." And with respect to the Residual Clause, the defining characteristic of the "position" is the fact that the employee "goes armed while on duty." Nobody would describe the *position* of teacher, principal, or other similar school employee as one *requiring* the employee to go armed while on duty. By its own terms, then, R.C. 109.78(D)'s Residual Clause does not cover school employees serving in a role unlike that of a police officer or a security guard. (This would obviously be different if a school made carrying a concealed firearm at school a *job duty* for teachers or principals or other similar school employees, rather than relying on school employees to *volunteer* to carry a concealed firearm at school to protect students. *See generally* DeWine Letter, T.d. 48, Ex. L, at 1–2. But that is not the case here. Madison Local School District authorized only "approved *volunteers*" to carry concealed firearms in school safety zones. *See* Resolution, T.d. 48, Ex. B (emphasis added).)

The final clue as to the Residual Clause's meaning comes from statutory context. Courts "cannot pick out one sentence and disassociate it from the context," but must instead "consider the statutory language in context." *Elec. Classroom of Tomorrow v. Ohio Dep't of Educ.*, 154 Ohio St. 3d 584, 2018-Ohio-3126 ¶ 11 (2018) (internal quotation marks and citations omitted); *accord Great Lakes Bar Control, Inv. v. Testa*, ___ Ohio St. 3d. ___, 2018-Ohio-5207 ¶ 8–10 (2018). R.C. 109.78's

overall context supports the District's (and the State's) interpretation of the Residual Clause. Much of the statute is targeted towards training special police officers to be employed by either the state highway patrol or by a political subdivision of the State. *See* R.C. 109.78(D) ("No . . . *superintendent of the state highway patrol* shall employ a person as a special police officer, security guard, or other position in which such person goes armed while on duty . . . .") (emphasis added); R.C. 109.78(A) ("Such certificate or the completion of twenty years of active duty as a peace officer shall satisfy the educational requirements for appointment or commission as a special police officer or special deputy of a *political subdivision of this state.*") (emphasis added). And elsewhere in the statute, when describing persons who would be employed by private entities, the General Assembly over and over described them as persons seeking to be employed in "positions as special police, security guards, and other private employment *in a police capacity.*" *E.g.*, R.C. 109.78(C) (emphasis added). Although the General Assembly used slightly different language in the part of R.C. 109.78(D) that applies to public or private schools, the statutory context indicates that the statute captures those whose jobs entail carrying a gun and maintaining peace and security—not every school employee authorized by his workplace to carry a gun.

* * *

R.C. 109.78(D)'s language and context point toward one conclusion: all and only school employees in positions comparable to that of a peace officer must meet the statute's qualifications. But employees serving in other roles are not subject to R.C. 109.78(D)'s requirements simply because school districts authorize them to carry a weapon on school grounds under Authorized-Person Exception.

II. The legislative history to which Gabbard points has no bearing on the meaning of R.C. 109.78(D).

Gabbard invites this Court to look to the General Assembly's debates on R.C. 109.78(D), and to use them as a reason to deviate from what the statute says. The Court should decline that invitation.

A. Ohio courts must not resort to legislative history, or a statute's perceived "purpose," to change the meaning of statutory text.

Where the text of a statute answers the question presented in a case, courts should not look beyond the statute to extraneous evidence (including legislative history) that purports to show a statute's meaning. *E.g.*, *Stewart v. Vivian*, 151 Ohio St. 3d 574, 2017-Ohio-7526 ¶¶ 23–30 (2017). In Ohio, the courts' role is "is to apply the statute as it is written—even if [the courts] think some other approach might accord with good policy.'" *Johnson v. Montgomery*, 151 Ohio St. 3d 75, 2017-Ohio-7445 ¶¶ 14–15 (2017) (quoting *Burrage v. United States*, 571 U.S. 204, 218

(2014) (alterations omitted)). Because R.C. 109.78(D)'s text answers the question presented in this case, this Court should not look to the legislative history.

There are any number of reasons courts ought to ignore legislative history. The most fundamental is this: "Because we are a government of laws, not of men, and are governed by what" the legislature "enacted rather than by what it intended, the sole object of the interpretative enterprise is to determine what a law *says.*" *Lawson v. FMR LLC*, 571 U.S. 429, 459–60 (2014) (Scalia, J., concurring in principal part and concurring in the judgment). In our system of government, "unenacted approvals, beliefs, and desires are not laws." *Puerto Rico Dep't of Consumer Affairs v. Isla Petroleum Corp.*, 485 U.S. 495, 501 (1988). And that means courts should not strive to find "a supposed hidden and unexpressed intention of the general assembly." *In re Estate of Hinton*, 64 Ohio St. 485, 492 (1901). "The law does not concern itself with the legislature's unexpressed intention." *Opdyke v. Sec. Sav. & Loan Co.*, 99 N.E.2d 84, 93 (8th Dist. 1951) (citation omitted).

The second problem with legislative history is that the legislature generally has no shared "intention" at all. The General Assembly, just like every other legislature, "is a 'they' and not an 'it.'" *United States v. Mitra*, 405 F.3d 492, 495 (7th Cir. 2005). It "lacks a brain (or, rather, has so many brains with so many different objectives that it is almost facetious to impute a joint goal or purpose to the collec-

tivity)," and thus lacks any one purpose. *Id.* (citing Kenneth A. Shepsle, *Congress is a "They," Not an "It": Legislative Intent as Oxymoron*, 12 Int'l Rev. L. & Econ. 239 (1992)).

"Because statutory details may reflect only what competing groups could agree upon, legislation cannot be expected to pursue its purposes to their logical ends; accordingly, departing from a precise statutory text may do no more than disturb a carefully wrought legislative compromise." John F. Manning, *Textualism and the Equity of the Statute*, 101 Colum. L. Rev. 1, 18 (2001). As the Supreme Court of the United States has explained, the legislature "may be unanimous in its intent to" address some problem, but "its Members may differ sharply on the means for effectuating that intent," and so "the final language of the legislation may reflect hard-fought compromises." *Bd. of Governors of Fed. Res. Sys. v. Dimension Fin. Corp.*, 474 U.S. 361, 374 (1986). Invoking "the 'plain purpose' of legislation at the expense of the terms of the statute itself takes no account of the processes of compromise and, in the end, prevents the effectuation of congressional intent." *Id.* To avoid this, "courts, out of respect for their limited role in tripartite government," should adhere to the text that results from these "legislative compromises" rather than trying "to rewrite [them] to create a more coherent, more rational statute." *Robbins v. Chronister*, 435 F.3d 1238, 1243 (10th Cir. 2006) (en

banc) (citing *Barnhart v. Sigmon Coal Co.*, 534 U.S. 438, 460-61 (2002)); *accord Va. Uranium, Inc. v. Warren*, 587 U.S. __, slip op., at 15 (U.S. June 17, 2019) (opinion of Gorsuch, J.).

The third problem with legislative history is that "Ohio does not maintain a comprehensive legislative history of its statutes." *City of Riverside v. State*, 64 N.E.3d 504, 2016-Ohio-2881 ¶ 20 (2d Dist. 2016) (citing *State v. South*, 144 Ohio St. 3d 295, 2015-Ohio-3930 ¶ 20 (2015)). As a result, "there is no means to analyze the exact or most-often cited arguments in support of legislation." *Id.* The upshot is that, in Ohio, even more than in the federal system, judicial investigation of drafting history "has the tendency to become . . . an exercise in 'looking over a crowd and picking out your friends.'" *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 568 (2005) (citation omitted).

B. Gabbard's reliance on legislative history highlights the problems with its use.

Gabbard's reliance on prior drafts of R.C. 109.78, and proposed amendments to the statute, show why courts should be wary about invoking legislative history.

Prior drafts of R.C. 109.78. Gabbard puts great stock in the fact that the General Assembly rejected a previous draft of the bill that became R.C. 109.78, which used the phrase "in any similar position" rather than "other position in which such person goes armed while on duty." Gabbard Br. at 8-9. From this,

Gabbard infers that the latter phrase—the one the General Assembly actually passed into law—must refer to a broader class of people than those in a "similar position" to that of a police officer or security guard. *Id.*

Gabbard's conclusion does not follow from her premises. She seems to think that the difference in language suggests that the General Assembly rejected the "in any similar position" language as unduly narrow, and so passed a broader Residual Clause to encompass employees who do not serve in a role comparable to that of a security guard or police officer. But it is just as likely that the General Assembly thought the two phrases—one of which the House included in *its* version of the bill, and the other of which the Senate introduced in *its* version—meant the same thing in context, and chose the final version rather than the first for some reason having nothing to do with their meaning.

Even assuming Gabbard found a "friend" in the drafting history, the District can just as easily point to a "friend" on the other side. Specifically, it can point to the House's journal, which addresses that chamber's "intent" (to the extent there is any such thing) "to prohibit circumvention of the requirements for appointment *as a peace officer.*" *See* House Journal, T.d. 49, Ex. L, at 386 (emphasis added). So, to the extent legislative history tells us anything, it indicates that the General As-

sembly was targeting only peace-officer-related positions, not *all* positions in which someone may carry a gun while at work.

Proposed amendments to R.C. 109.78. Gabbard also argues that the General Assembly has "consistently rejected attempts to exempt teachers, staff, and other persons authorized by a local school board to carry a firearm at school from the peace officer training requirement in R.C. 109.78(D)." Gabbard Br. at 9–10 (emphasis omitted). Specifically, she points to a number of failed attempts at amending R.C. 109.78(D) to include this exemption. From this, she infers that the General Assembly must understand R.C. 109.78(D) as *applying* to positions dissimilar from that of a security guard or police officer—otherwise, no one would have bothered to propose an amendment.

That hardly follows. Perhaps the amendments have consistently failed because legislators are convinced the Residual Clause *does not* apply to teachers and other school employees who serve in roles dissimilar from that of a police officer or security guard. Or perhaps the General Assembly *agrees* the Residual Clause does not apply to these employees, but some of its members want to amend the law to leave no doubt. After all, legislators have been known to use a "belt and suspenders approach" to statutory drafting, passing redundant passages to remove any ambiguity. *Olds v. Jones*, 2012-Ohio-4941, ¶ 14 (8th Dist. 2012).

As all this suggests, failed statutory amendments—sometimes called "subsequent" or "post-enactment" "legislative history"—are "a particularly dangerous ground on which to rest an interpretation of a prior statute." *Gamble v. United States*, 587 U.S. __, slip op., at 5 (U.S. June 17, 2019) (quoting *United States v. Craft*, 535 U.S. 274, 287 (2002)). "A bill may fail for numerous unexpressed reasons that are unrelated to the merit or content of any one proposed provision." *Rice v. CertainTeed Corp.*, 84 Ohio St. 3d 417, 421 (1999). As a result, the "'act of refusing to enact a law . . . has utterly no legal effect, and thus has utterly no place in a serious discussion of the law.'" *Id.* (quoting *United States v. Estate of Romani*, 523 U.S. 517, 535 (1998) (Scalia, J., concurring in part and concurring in the judgment)).

On top of that, to the extent legislative purpose matters, what matters is the purpose of the General Assembly *that enacted* the law. And "'the views of a subsequent [General Assembly] form a hazardous basis for inferring the intent of an earlier one.'" *Jefferson Cty. Pharm. Ass'n v. Abbot Labs.*, 460 U.S. 150, 165 n.27 (1983) (quoting *United States v. Price*, 361 U.S. 304, 313 (1960)). This "post-enactment legislative history by definition 'could have had no effect on the [earlier General Assembly's] vote,'" and thus "is not a legitimate tool of statutory interpretation." *Bruesewitz v. Wyeth LLC*, 562 U.S. 223, 242 (2011). So even if it is true that more-

recent General Assemblies were uninterested in explicitly exempting non-security-guard school employees from R.C. 109.78(D)'s peace-officer training requirements for school security guards, this does not tell us what the General Assembly that passed R.C. 109.78(D) intended.

True enough, the Ohio Supreme Court has at least once discussed a proposed-but-rejected statutory amendment that "support[ed]" the conclusion that the Court had already reached as a matter of statutory text. *See Anderson v. Barclay's Capital Real Estate, Inc.*, 136 Ohio St. 3d 31, 2013-Ohio-1933 ¶¶ 21–25 (2013). But it has never, to the State's knowledge, allowed rejected amendments to alter its interpretation of the statutory text. Indeed, *Rice* seems to foreclose that approach to statutory interpretation in its critique of post-enactment legislative history. 84 Ohio St. 3d at 421.

CONCLUSION

For these reasons, the Ohio Attorney General asks this Court to affirm the judgment of the trial court.

Respectfully submitted,

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Ohio Attorney General

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Amicus Brief of the Ohio Attorney General in Support of the Madison Local School District Board of Education was served by regular U.S. mail this 11th day of July, 2019, upon the following counsel:

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EXHIBIT A

Jason D Manion

From:	Rachel Bloomekatz <rachel@bloomekatzlaw.com>
Sent:	Thursday, July 11, 2019 8:31 AM
To:	Jason D Manion; Alla Lefkowitz; Jed Miller
Cc:	Ewing, Alexander L.; Conover, Brodi J.; Benjamin M Flowers
Subject:	Re: Consent to file an amicus brief in Gabbard v. Madison Local School District

Yes, the plaintiffs consent. Thanks.

On Wed, Jul 10, 2019 at 11:53 AM Jason D Manion <Jason.Manion@ohioattorneygeneral.gov> wrote:

Rachel,

The State plans to file an amicus brief on behalf of the Madison Local School District in this case. I understand that you and Brodi have agreed to allow all amicus briefs, but I wanted to reach out to you and get your consent to file.

Thanks!

Jason Manion

Simon Karas Fellow/Deputy Solicitor, Appeals Section

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Jason D Manion

From: Conover, Brodi J. <bconover@fbtlaw.com>
Sent: Thursday, July 11, 2019 8:48 AM
To: Jason D Manion; Benjamin M Flowers
Cc: Ewing, Alexander L.
Subject: Gabbard v. Madison appeal

Jason –

The Madison Local School District consents to the State filing an amicus brief in support of the District.

Thanks,
Brodi

Brodi J. Conover
Attorney at Law

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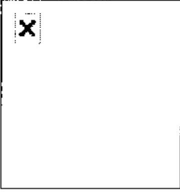

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