

**OPINION NO. 87-104****Syllabus:**

1. As used in R.C. 4109.01(A), the word "employ" includes all arrangements which involve the provision of services, whether or not compensation is paid for such services.
2. R.C. Chapter 4109, governing the employment of minors, is applicable to all arrangements under which minors are employed to provide other

persons with services, whether or not compensation is paid for such services, except arrangements that are excluded under R.C. 4109.06.

3. If a cadet firefighting program involves the provision of services by minors, the program is subject to R.C. Chapter 4109, except to the extent that it comes within the exceptions set forth in R.C. 4109.06.
4. When a minor is employed pursuant to a juvenile court restitution order, the arrangement is subject to R.C. Chapter 4109, except to the extent that it comes within the exceptions set forth in R.C. 4109.06.

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**To: James W. Harris, Director, Department of Industrial Relations, Columbus, Ohio**

**By: Anthony J. Celebrezze, Jr., Attorney General, December 29, 1987**

I have before me your request for an opinion concerning the activities of minors in cadet firefighter programs and juvenile restitution programs. You have raised the following questions with respect to the authority of the Department of Industrial Relations to enforce provisions governing the employment of minors:

1. Are the provisions of R.C. Chapter 4109 applicable to minors who participate in cadet firefighter programs? In particular, must such minors have age and schooling certificates (commonly known as work permits), and are they subject to rules prohibiting hazardous occupations?
2. Are the provisions of R.C. Chapter 4109 applicable to minors who work pursuant to juvenile court restitution orders? In particular, must such minors have work permits?

Statutory provisions governing the employment of minors appear in R.C. Chapter 4109.<sup>1</sup> R.C. 4109.02 sets forth requirements concerning age and schooling certificates, commonly known as "work permits," as follows:

(A) Except as provided in division (B) of this section or in section 4109.06 of the Revised Code, no minor of compulsory school age shall be employed by any employer unless the minor presents to the employer a proper age and schooling certificate, as a condition of employment. The employer shall keep the certificate on file in the establishment where the minor is employed or in the office of the business or in the residence in or about which the minor is employed for inspection by any enforcement official.

A valid certificate constitutes conclusive evidence of the age of the minor and of the employer's right to employ the minor in occupations not denied by

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<sup>1</sup> The employment of minors is also regulated by the Federal Fair Labor Standards Act of 1938, 29 U.S.C. §§201-219 (1982 & Supp. III 1985). You have not inquired about the federal provisions and I am not considering them.

law to minors of that age under section 4109.06 of the Revised Code or rules adopted thereunder.

(B) Minors aged sixteen or seventeen who are to be employed during summer vacation months after the last day of the school term in the spring and before the first day of the school term in the fall, in nonagricultural and nonhazardous employment as defined by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C. 201, and similar state statutes; or in other employment not prohibited to minors age sixteen or seventeen by law, shall not be required to provide an age and schooling certificate as a condition of employment. In order to be hired for employment during summer vacation months, such minors shall provide the employer with the following....

R.C. 4109.02 thus provides that, with certain exceptions, "no minor of compulsory school age shall be employed by any employer unless the minor presents to the employer a proper age and schooling certificate, as a condition of employment." Provisions governing age and schooling certificates appear in R.C. Chapter 3331.

Other provisions governing the employment of minors appear elsewhere in R.C. Chapter 4109. For example, R.C. 4109.05 provides that the Director of Industrial Relations, after consultation with the Director of Health, shall adopt rules "prohibiting the employment of minors in occupations which are hazardous or detrimental to the health and well-being of minors." Such rules appear in 5 Ohio Admin. Code Chapter 4101:9-2. R.C. 4109.07 restricts the hours of employment of minors. R.C. 4109.08 and R.C. 4109.11 require that employers keep certain records with respect to minors whom they employ. R.C. 4109.09 governs the return of a work permit to the minor. R.C. 4109.10 provides that there must be an agreement as to the amount that a minor is to be paid, prohibits an employer from withholding a minor's compensation because of "presumed negligence or failure to comply with rules, breakage of machinery, or alleged incompetence to produce work or perform labor according to any standard of merit," and prohibits an employer from receiving security to obtain employment for a minor, ensure faithful performance, or make good losses.

R.C. 4109.01 defines "employ," for purposes of R.C. Chapter 4109, to mean "to permit or suffer to work," and defines "employer" to mean "the state, its political subdivisions, and every person who employs any individual." R.C. 4109.01(A), (B). "Minor" is defined as "any person less than eighteen years of age."<sup>2</sup> R.C. 4109.01(D).

You have asked whether participation in a cadet firefighter program constitutes employment for purposes of R.C. Chapter 4109, so as to make the provisions of R.C. Chapter 4109 applicable. I am aware of no authority that has addressed this

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<sup>2</sup> R.C. 4109.06(A)(7) and (8) exclude from the provisions of R.C. Chapter 4109 minors who have graduated from an accredited secondary school and minors who are heads of households or are parents contributing to the support of their children. I assume, for purposes of this opinion, that your questions relate to minors who do not come within these exceptions.

question. It is, however, instructive to examine the exceptions set forth in R.C. 4109.06, as follows:

(A) Chapter 4109. of the Revised Code does not apply to:

(1) Minors who are students working on any properly guarded machines in the manual training department of any school when the work is performed under the personal supervision of an instructor;

(2) Students participating in a vocational program approved by the Ohio department of education;

(3) A minor participating in a play, pageant, or concert produced by an outdoor historical drama corporation, a professional traveling theatrical production, a professional concert tour, or a personal appearance tour as a professional motion picture star, in accordance with the rules adopted pursuant to division (A) of section 4109.05 of the Revised Code.

(4) The participation without remuneration of a minor with the consent of a parent or guardian, in a performance given by a church, school, or academy, or at a concert or entertainment given solely for charitable purposes, or by a charitable or religious institution.

(5) To minors who are employed by their parents in occupations other than occupations prohibited by rule adopted under Chapter 4109. of the Revised Code;

(6) Minors engaged in the delivery of newspapers to the consumer;

(7) Minors who have graduated from an accredited secondary school;

(8) Minors who are currently heads of households or are parents contributing to the support of their children;

(9) Minors engaged in lawnmowing, snow shoveling, and other similar residential employment, on a casual basis;

(10) Minors employed in agricultural employment in connection with farms operated by their parents, grandparents, or guardians where they are members of the guardians' household. Minors are not exempt from Chapter 4109. of the Revised Code, if they reside in agricultural labor camps as defined in section 3733.41 of the Revised Code.

(B) Sections 4109.02, 4109.08, 4109.09, and 4109.11 of the Revised Code do not apply to:

(1) Minors who work in a sheltered workshop operated by a county board of mental retardation;

(2) Minors performing services for a nonprofit organization where the minor receives no compensation, except for any expenses incurred by the minor or except for meals provided to the minor.

(3) Minors employed in agricultural employment and who do not reside in agricultural labor camps.

R.C. 4109.06(A) thus excludes from the coverage of R.C. Chapter 4109 minors who are participating in specified types of activities. R.C. 4109.06(B) excludes from certain provisions of R.C. Chapter 4109 - in particular, from those provisions relating to work permit requirements - minors who are participating in other types of activities.

It might be suggested that R.C. Chapter 4109 applies only when there is an employer-employee relationship consisting of a contract of hire and an obligation for payment of compensation. Cf. 1978 Op. Att'y Gen. No. 78-033 (R.C. 4111.02, establishing minimum wage requirements, applies only where there is an employment relationship). See generally 1982

Op. Att'y Gen. No. 82-045; 1982 Op. Att'y Gen. No. 82-041; 1982 Op. Att'y Gen. No. 82-040; 1982 Op. Att'y Gen. No. 82-020; 1982 Op. Att'y Gen. No. 82-007. I note, however, that R.C. 4109.06(A)(4) expressly excludes from coverage by R.C. Chapter 4109 certain activities performed without remuneration (*i.e.*, participation with the consent of a parent or guardian in certain types of performances) and R.C. 4109.06(B)(2) expressly excludes from coverage by certain portions of R.C. Chapter 4109 uncompensated services performed for a nonprofit organization. The express reference to these activities in a list of exclusions indicates that, absent such reference, the activities would be subject to R.C. Chapter 4109 in its entirety. See generally R.C. 1.47(B); State ex rel. Boda v. Brown, 157 Ohio St. 368, 105 N.E.2d 643 (1952). It is, thus, evident that the General Assembly did not intend to use the word "employ" in R.C. Chapter 4109 in such a manner as to exclude services for which no compensation is paid.<sup>3</sup> Rather, as used in R.C. 4109.01(A), the word "employ" includes all arrangements which involve the provision of services, whether or not compensation is paid for such services. I conclude, accordingly, that R.C. Chapter 4109 is applicable to all arrangements under which minors are employed to provide other persons with services, whether or not compensation is paid for such services, except arrangements that are excluded under R.C. 4109.06.

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<sup>3</sup> The words "employ," "employee," and "employment" are used throughout the Revised Code and may have different meanings in the various contexts in which they appear. See, e.g., R.C. 124.01; R.C. 2744.01; R.C. 4101.01; R.C. 4111.01; R.C. 4123.01. For purposes of this opinion, I am considering "employ" and its companion, "work," only in the sense in which they are used in R.C. Chapter 4109. In a recent case, the Ohio Supreme Court considered the meaning of the word "work" as used in R.C. Chapter 4141 (unemployment compensation), noted that the word was used both as a synonym for "labor" or "toil" and as a synonym for "employment," and stated: "The term aptly illustrates Judge Learned Hand's observation that '[w]ords are chameleons, which reflect the color of their environment.' Commissioner v. National Carbide Co. (C.A. 2, 1948), 167 F.2d 304, 306." Radcliffe v. Artromick International, Inc., 31 Ohio St. 3d 40, 42 n. 3, 508 N.E.2d 953, 955 n. 3 (1987). The meanings attributed to the words "work" and "employ" in other provisions of the Revised Code are, accordingly, not determinative of their meanings for purposes of R.C. Chapter 4109. See generally Walling v. Portland Terminal Co., 330 U.S. 148, 150 (1947) ("in determining who are 'employees' under the [Federal Fair Labor Standards] Act, common law employee categories or employer-employee classifications under other statutes are not of controlling significance"); Donovan v. Gillmor, 535 F. Supp. 154, 160 (N.D. Ohio), appeal dismissed, 708 F.2d 723 (6th Cir. 1982) (concluding that a migrant worker may be considered an employee for purposes of the Federal Fair Labor Standards Act even though he is exempted from such status for purposes of the Internal Revenue Code, and stating: "It is evident that depending on the statute involved and its purpose, an individual's status can vary accordingly").

Your letter of request refers generally to cadet firefighting programs and does not specify the nature of the organization or scope of such programs. A member of your staff has informed me that the programs vary. They involve different types of activities and different amounts of training. In some instances, cadets receive compensation for their efforts. I am unable, by means of this opinion, to analyze each of the different types of programs that may be established. I am, accordingly, setting forth general principles to be applied to various factual situations.

I note first that, as discussed above, in order for a cadet firefighting program to come within R.C. Chapter 4109, it must involve the provision of services by minors. A program that is recreational or educational in nature does not come under R.C. Chapter 4109 if it does not involve an arrangement under which minors work or provide services. See generally, e.g., Walling v. Portland Terminal Co., 330 U.S. 148 (1947). Whether a particular program is a program for the provision of services to others may be determined only upon review of the pertinent facts. Programs under which minors provide more than incidental assistance to firefighters in such tasks as cleaning fire equipment and rolling up hoses appear to constitute programs for the provision of services.

A cadet firefighting program that involves the provision of services and, thus, appears to be subject to R.C. Chapter 4109 is excluded from the coverage of R.C. Chapter 4109 if it comes within the exceptions set forth in R.C. 4109.06(A). The only exception set forth in R.C. 4109.06(A) that appears likely to apply to a cadet firefighting program is the one contained in R.C. 4109.06(A)(2): "Students participating in a vocational program approved by the Ohio department of education."

R.C. 3313.90 requires school districts to provide vocational education that meets standards adopted by the State Board of Education. See also 3 Ohio Admin. Code Chapter 3301-61. Further, R.C. 3303.07 authorizes the State Superintendent of Public Instruction, with the advice and counsel of the Advisory Committee for Fire Fighter and Fire Safety Inspector Training, to "assist in the establishment and maintenance by any state agency, or any county, township, city, village, or school district of a fire service training program for the training of all paid and volunteer fire fighters and fire safety inspectors in this state." The State Board of Education is required to adopt standards to regulate such training programs, and the State Superintendent of Public Instruction is required to provide for the classification and chartering of such training programs. R.C. 3303.07. Each person satisfactorily completing a chartered training program receives a certificate. R.C. 3303.07. Rules governing fire service training programs under R.C. 3303.07 appear in 3 Ohio Admin. Code Chapter 3301-63. Completion of a training program and receipt of a certificate is required of anyone who serves the fire department of a township, fire district, village, or city as a member or volunteer firefighter. See R.C. 505.38 (a permanent full-time paid member of the fire department of any township or fire district must be certified if his duties include firefighting; a volunteer firefighter of the fire department of any township or fire district must be certified within one year of his appointment); R.C. 737.08 (imposing similar requirements upon city fire departments); R.C. 737.22 (imposing similar requirements upon village fire departments). See generally 1987 Op. Att'y Gen. No. 87-003.

If a cadet firefighter program is approved as a vocational program by the Ohio Department of Education pursuant to R.C. 3303.07, R.C. 3313.90, or any other provision, it is, pursuant to R.C. 4109.06(A)(2), exempt from the provisions of R.C. Chapter 4109.<sup>4</sup> It appears, however, that your question relates, in general, to programs that have not received such approval.

A cadet firefighting program that involves the provision of services and is not exempt from R.C. Chapter 4109 pursuant to R.C. 4109.06(A)(2) is excluded from the coverage of R.C. 4109.02, 4109.08, 4109.09, and 4109.11, which require work permits and related record keeping, if it comes within the exceptions set forth in R.C. 4109.06(B). This situation exists, pursuant to R.C. 4109.06(B)(2), if minors perform services for a nonprofit organization and receive no compensation except for meals or reimbursement for expenses. As used in R.C. 4109.06(B)(2), a "nonprofit organization" appears to include a governmental entity, as well as a nonprofit corporation or charitable agency. See generally R.C. 4109.01(B) ("employer" includes the state and its political subdivisions, as well as private persons). Firefighting programs may be operated by governmental entities or by private nonprofit organizations. See generally, e.g., R.C. 9.60 (defining "firefighting agency" to mean "a municipal corporation, township, township fire district, joint ambulance district, or joint fire district" and defining "private fire company" to mean "any nonprofit group or organization owning and operating firefighting equipment not controlled by any firefighting agency"). When cadet firefighters participate in a program established by a governmental entity or other nonprofit organization and receive no compensation for their services (except for meals or reimbursement for expenses), they are not required to have work permits. In such circumstances, the cadet firefighting program is exempt from the provisions of R.C. 4109.02, 4109.08, 4109.09, and 4109.11, but remains subject to the other provisions of R.C. Chapter 4109. Such a program is, in particular, subject to R.C. 4109.05, which prohibits the employment of minors in hazardous occupations. Rules implementing R.C. 4109.05 appear in 5 Ohio Admin. Code Chapter 4101:9-2, entitled "Prohibition of the Employment of Minors in Occupations Hazardous or Detrimental to Their Health."<sup>5</sup> See 5 Ohio Admin. Code 4101:9-2-02 (prohibiting certain occupations for fourteen and fifteen-year-old minors); 5 Ohio Admin. Code 4101:9-2-17(A) ("[t]he occupations of motor-vehicle driver and outside helper...are prohibited for minors under eighteen years of age," with certain exemptions). See generally 1973 Op. Att'y Gen. No. 73-011.

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<sup>4</sup> R.C. 3737.33 authorizes the State Fire Marshal to establish and conduct the Ohio Fire Academy for the training of firefighters and persons interested in the vocation of firefighting. Your request asks about local cadet firefighting programs and I am, therefore, not considering the provisions of R.C. 3737.33. See generally 1987 Op. Att'y Gen. No. 87-003.

<sup>5</sup> Existing rules do not directly address firefighting as a hazardous occupation. Pursuant to R.C. 4109.05, the Director of Industrial Relations, after consultation with the Director of Health, may adopt such rules, if he deems such action appropriate. See 5 Ohio Admin. Code 4101:9-2-01.

In response to your first question, I conclude that R.C. Chapter 4109, governing the employment of minors, is applicable to all arrangements under which minors are employed to provide other persons with services, whether or not compensation is paid for such services, except arrangements that are excluded under R.C. 4109.06. If a cadet firefighting program involves the provision of services by minors, the program is subject to R.C. Chapter 4109, except to the extent that it comes within the exceptions set forth in R.C. 4109.06.

I turn now to your second question, which concerns the applicability of R.C. Chapter 4109 to minors who work pursuant to juvenile court restitution orders. Courts are expressly authorized to order that a child who has been found to be a delinquent child or a juvenile traffic offender make restitution for his acts. R.C. 2151.355(A)(2) and (8); R.C. 2151.356. The court is given broad discretion concerning the nature of such restitution. For example, R.C. 2151.355(A)(2) states:

(A) If a child is found by the court to be a delinquent child, the court may make any of the following orders of disposition:

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(2) Place the child on probation under any conditions that the court prescribes. If the child is adjudicated a delinquent child because he violated section 2909.05, 2909.06, or 2909.07 of the Revised Code and if restitution is appropriate under the circumstances of the case, the court shall require the child to make restitution for the property damage caused by his violation as a condition of the child's probation. If the child is adjudicated a delinquent child because he violated any other section of the Revised Code, the court may require the child as a condition of his probation to make restitution for the property damage caused by his violation and for the value of the property that was the subject of the violation he committed, if it would be a theft offense, as defined in division (K) of section 2913.01 of the Revised Code, if committed by an adult. The restitution may be in the form of a cash reimbursement paid in a lump sum or in installments, the performance of repair work to restore any damaged property to its original condition, the performance of a reasonable amount of labor for the victim approximately equal to the value of the property damage caused by his violation or to the value of the property that is the subject of the violation if it would be a theft offense if committed by an adult, the performance of community service or community work, any other form of restitution devised by the court, or any combination of the previously described forms of restitution. (Emphasis added.)

See also R.C. 2151.355(A)(8). Your question thus covers a wide variety of types of arrangements. I am unable, by means of this opinion, to consider each of the factual circumstances that may arise and am, instead, setting forth general principles to be applied to various situations.

It should be noted, first, that R.C. 2151.355(A)(2) and the related provisions that govern restitution requirements for juveniles do not expressly address the applicability of R.C.



Chapter 4109. There is, accordingly, no statutory indication that the provisions of R.C. Chapter 4109 are to be disregarded. Unless a particular court order contains indications to the contrary,<sup>6</sup> it is, therefore, appropriate to assume that the court order should be carried out in accordance with the provisions of R.C. Chapter 4109 that are applicable in the circumstances, even as it is carried out in accordance with other provisions of law, such as driver's license requirements. The appropriateness of this conclusion is evident in the case of a minor who is ordered by the court simply to make cash reimbursement in a lump sum or in installments. Such a minor may seek a job from any employer. Both he and the employer are, however, subject to the work permit requirements, limitations on hours, and other provisions that appear in R.C. Chapter 4109.

There are, nonetheless, certain circumstances in which the exceptions set forth in R.C. 4109.06 will operate to exclude an employment arrangement entered into pursuant to a juvenile court order for restitution from some or all of the provisions of R.C. Chapter 4109. As discussed above, R.C. 4109.06(A) completely excludes certain activities from the coverage of R.C. Chapter 4109. Among the excluded activities are "lawnmowing, snow shoveling, and other similar residential employment, on a casual basis." R.C. 4109.06(A)(9). Instances in which a court orders "the performance of repair work to restore any damaged property to its original condition" or "the performance of a reasonable amount of labor for the victim approximately equal to the value of the property damage caused by his violation or to the value of the property that is the subject of the violation if it would be a theft offense if committed by an adult" may fit within this exception. R.C. 2151.355(A)(2).

In addition, R.C. 4109.06(B)(2) excludes from the work permit requirements of R.C. Chapter 4109 "[m]inors performing services for a nonprofit organization where the minor receives no compensation, except for any expenses incurred by the minor or except for meals provided to the minor." Instances in which a court orders "the performance of community service or community work" may fit within this exception. R.C. 2155.355(A)(2). As noted above, the term "nonprofit organization" appears to include a governmental entity, as well as a nonprofit corporation or charitable agency. The concept of "compensation," in this context, appears to contemplate receipt of money or other tangible benefits directly by the minor. It may, thus, be argued that, where all money earned by a minor is used for restitution and none of the money is received by the minor for his own use, the minor has received no compensation for purposes of the exception of R.C. 4109.06(B)(2). If, in such an arrangement, services are performed for a nonprofit organization, then R.C. 4109.06(B)(2) may provide an exception from work permit requirements. See generally Op. No. 82-045.

Materials furnished with your opinion request indicate that, in some of the restitution programs, participating minors receive money for their own use, with only a certain percentage of their earnings being applied to purposes of restitution.

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<sup>6</sup> For purposes of this opinion, I assume that the court orders under consideration do not address the applicability of R.C. Chapter 4109.

Those programs are not exempt under R.C. 4109.06(B)(2) from work permit provisions, even if the minors are employed by nonprofit organizations. Rather, R.C. Chapter 4109 applies in its entirety to such programs, unless they come within other exceptions set forth in R.C. 4109.06.

It might be argued that, when a minor performs work pursuant to a restitution order, he is not "employed" for purposes of R.C. 4109.01, since he is required to perform the work, rather than being permitted or suffered to perform the work, and is, accordingly, entirely exempt from R.C. Chapter 4109. I cannot, however, accept this argument as a means of excluding restitution arrangements from the coverage of R.C. Chapter 4109. Cf. McCoy v. Ohio Department of Rehabilitation & Correction, 31 Ohio App. 3d 228, \_\_\_ N.E.2d \_\_\_ (Franklin County 1986), motion to certify overruled, No. 86-1138 (Ohio Sup. Ct. Sept. 24, 1986) (status as a prisoner does not make an individual an employee of the institution in which he is incarcerated for purposes of R.C. 4101.11 and 4101.12 (duty of employer to furnish safe place of employment), even though he may be required to perform services; however, if the prisoner performs services for a consideration of direct or indirect gain or profit, he may become an employee within the meaning of R.C. 4101.01(D), which defines an "employee" as a person who is subject to the direction of an employer "in consideration of direct or indirect gain or profit"). As noted above, there are instances in which a minor acting pursuant to a court order for restitution is permitted to seek a job of his choice, the requirement being only that he make the required restitution from his wages. In such an instance, the minor is clearly employed for purposes of R.C. Chapter 4109, and both he and his employer are subject to the provisions of that chapter. Even if the minor is directed by the court to perform a particular type of work, the effect of such order may be to permit or suffer the minor to work, rather than to suffer other consequences. See generally R.C. 2151.355(A)(2) and (8); R.C. 2151.356. Work performed pursuant to a court order may, notwithstanding the order, be performed for an employer who "permits or suffers" the minor to work. See R.C. 4109.01(A). Further, as discussed above, R.C. Chapter 4109 does not require a traditional employer-employee relationship, but applies whenever a minor is rendering services for others. The concept of providing services is inherent in a restitution scheme: the minor is providing services to others in order to earn money or in some other way make payment for the damages that he has caused.

The purpose of R.C. Chapter 4109 is to protect minors by preventing them from undertaking work that interferes with their schooling or that threatens their health or well-being. See 1927 Op. Att'y Gen. No. 161, vol. I, p. 274 at 275 (child labor statutes "were enacted to protect the youth of the state and to prevent the health and physical well being of the state's future citizens from being injured or harmed by employment in dangerous, unhealthful or objectionable occupations....These sections are of general application to all youth of the state and were enacted to effect the purpose intended and promote the general welfare"). Accord, Op. No. 73-011. This type of protection is appropriate even in instances in which a child has been found to be a delinquent child or juvenile traffic offender. See generally note 3, supra. Thus, while I am aware of no authority that has directly addressed the question, I am of the opinion that the concept of employment used in R.C. Chapter 4109 includes work

carried out by a minor pursuant to a juvenile court restitution order. See generally R.C. 2744.01(B) (including as an "employee" for purposes of R.C. Chapter 2744, governing political subdivision tort liability, "[a] child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to [R.C. 2151.355] to perform community service or community work in a political subdivision"); R.C. 2744.03(A)(4). But see McCoy v. Ohio Department of Rehabilitation & Correction, 31 Ohio App. 3d at 230, \_\_\_ N.E.2d at \_\_\_ ("[e]mployment connotes a voluntary relationship, even though while that relationship exists the employer may exert control over the employee who remains free to discontinue the relationship rather than perform services he does not wish to perform. A prisoner, however, has no such option...").

In response to your second question I conclude, accordingly, that when a minor is employed pursuant to a juvenile court restitution order, the arrangement is subject to R.C. Chapter 4109, except to the extent that it comes within the exceptions set forth in R.C. 4109.06.

It is, therefore, my opinion, and you are hereby advised, as follows:

1. As used in R.C. 4109.01(A), the word "employ" includes all arrangements which involve the provision of services, whether or not compensation is paid for such services.
2. R.C. Chapter 4109, governing the employment of minors, is applicable to all arrangements under which minors are employed to provide other persons with services, whether or not compensation is paid for such services, except arrangements that are excluded under R.C. 4109.06.
3. If a cadet firefighting program involves the provision of services by minors, the program is subject to R.C. Chapter 4109, except to the extent that it comes within the exceptions set forth in R.C. 4109.06.
4. When a minor is employed pursuant to a juvenile court restitution order, the arrangement is subject to R.C. Chapter 4109, except to the extent that it comes within the exceptions set forth in R.C. 4109.06.