

LOUISIANA



CONSTITUTIONAL PROVISIONS

Religion Provision

“No law shall be enacted respecting an establishment of religion or prohibiting the free exercise thereof.” LOUISIANA CONST. Art. I, § 8.¹

Education Article

“The Legislature shall provide for the education of the people of the state and shall establish and maintain a public education system.” LOUISIANA CONST. Art. VIII, § 1.

¹ Louisiana amended its Constitution in 1973 to delete two Blaine Amendments that dated to 1879.

EXISTING SCHOOL CHOICE PROGRAMS

Public School Choice: **Yes**

Interdistrict/voluntary
Louisiana Revised Statutes Annotated
Section 17:105

Charter Schools: **Yes**

Louisiana Revised Statutes Annotated
Sections 17.3971 through 17.4001

Private School Choice: **No**

RELEVANT CASE LAW

Cochran v. Louisiana State Board of Education, 281 U.S. 370 (1930)

The U.S. Supreme Court held that students and the state were the beneficiaries under a program providing textbooks to parochial school students, not the school or the religious denomination with which the school is affiliated.

Helms v. Picard, 151 F.3d 347 (5th Cir. 1998)

The 5th U.S. Circuit Court of Appeals examined only federal Establishment Clause precedent and held that Louisiana’s special education program did not offend the Establishment Clause because (1) the statute’s purpose of improving educational opportunity for disabled students was secular, and (2) the statute did not have the effect of advancing religion because it provides no incentive for parents to select religious institutions.

Seegers v. Parker, 241 So. 2d 213 (La. 1970) (result overturned by subsequent constitutional amendment)

The Louisiana Supreme Court held that spending tax funds for secular educational services from teachers employed by private schools violated three provisions of the Louisiana Constitution: the prohibition against the enactment of any law respecting an establishment of religion and two Blaine Amendments subsequently repealed in 1973.

Borden v. Louisiana State Board of Education, 123 So. 655 (La. 1929)

Despite the presence of Blaine Amendments in the state Constitution at the time of its decision, the Louisiana Supreme Court upheld the constitutionality of a program in which public funds were used to purchase, among other things, textbooks for parochial schools. The court explicitly accepted the argument that the primary beneficiaries of the aid were the children rather than the schools they attend.

ANALYSIS AND RECOMMENDATIONS

The Louisiana Constitution now contains parallel language to the federal Constitution’s religion clauses, and both tax credit and voucher programs are consistent with Louisiana’s current Constitution. In *Seegers*, the Louisiana Supreme Court specifically noted: “The great similarity of the establishment clause of our Constitution and that of the United States Constitution allows us to use the United States Supreme Court interpretations of the federal clause as an aid for interpreting our own.” Given that the U.S. Supreme Court’s ruling in *Zelman* upheld school vouchers under the federal Establishment Clause, it is likely that Louisiana’s Supreme Court would follow that decision.

Model Legislation: Parental Choice Scholarship Program (Universal Eligibility), Parental Choice Scholarship Program (Means-Tested Eligibility), Special Needs Scholarship Program, Foster Child Scholarship Program, Autism Scholarship, Great Schools Tax Credit Program, Family Education Tax Credit Program