

MISSOURI



CONSTITUTIONAL PROVISIONS

Compelled Support Clause

"That no person can be compelled to erect, support or attend any place or system of worship, or to maintain or support any priest, minister, preacher or teacher of any sect, church, creed or denomination of religion; but if any person shall voluntarily make a contract for any such object, he shall be held to the performance of the same." MISSOURI CONST. Art. I, § 6.

Blaine Amendments

"That no money shall ever be taken from the public treasury, directly or indirectly, in aid of any church, sect or denomination of religion, or in aid of any priest, preacher, minister or teacher thereof, as such; and that no preference shall be given to nor any discrimination made against any church, sect or creed of religion, or any form of religious faith or worship." MISSOURI CONST. Art. I, § 7.

"Neither the general assembly, nor any county, city, town, township, school district or other municipal corporation, shall ever make an appropriation or pay from any public fund whatever, anything in aid of any religious creed, church or sectarian purpose, or to help to support or sustain any private or public school, academy, seminary, college, university, or other institution of learning controlled by any religious creed, church or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the state, or any county, city, town, or other municipal corporation, for any religious creed, church, or sectarian purpose whatever." MISSOURI CONST. Art. IX, § 8.

Education Article

"The proceeds of all certificates of indebtedness due the state school fund, and all moneys, bonds, lands, and other property belonging to or donated to any state fund for public school purposes, and the net proceeds of all sales of lands and other property and effects that may accrue to the state by escheat, shall be paid into the state treasury, and securely invested under the supervision of the state board of education, and sacredly preserved as a public school fund the annual income of which shall be faithfully appropriated for establishing and maintaining free public schools, and for no other uses or purposes whatsoever." MISSOURI CONST. Art. IX, § 5.

EXISTING SCHOOL CHOICE PROGRAMS

Public School Choice: **Yes**

Interdistrict/mandatory
Missouri Revised Statutes Section 167.131
Interdistrict/voluntary
Missouri Revised Statutes Sections 162.1040 to 162.1059, 162.1060, 167.151

Charter Schools: **Yes**

Missouri Revised Statutes Sections 167.349 to 167.420

Private School Choice: **No**

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RELEVANT CASE LAW

Widmar v. Vincent, 454 U.S. 263 (1981)

The U.S. Supreme Court held that the state's Blaine Amendments and Compelled Support Clauses cannot justify a state university's policy denying religiously affiliated student groups the right to meet in university buildings.

Barrera v. Wheeler, 531 F.2d 402 (8th Cir. 1976)

The 8th U.S. Circuit Court of Appeals held that children attending nonpublic schools in Missouri are entitled to receive federal funds for remedial education programs comparable in quality, scope and opportunity to children



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NO
VOUCHERS



YES
TAX CREDITS

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in public schools, notwithstanding the Missouri Blaine Amendments.

Felter v. Cape Girardeau School District, 810 F. Supp. 1062 (D. Mo. 1993)

A federal district court held that using public funds to provide transportation for a disabled student from parochial to public school does not violate the Establishment Clause of the U.S. Constitution or the Missouri Constitution.

Luetkemeyer v. Kaufmann, 364 F. Supp. 376 (D. Mo. 1973), *aff'd by mem. op.*, 419 U.S. 888 (1974)

A three-judge federal district court held that the state's refusal to provide school bus transportation to religious school pupils did not violate the students' equal protection rights because the decision was not irrational.

Brusca v. Missouri, 332 F. Supp. 275 (D. Mo. 1971), *aff'd*, 405 U.S. 1050 (1972)

A federal district court held that a parent's right to choose a religious private school for his children did not mean that the state was compelled to finance his child's private school education, nor did he have a constitutional right to any credit for his taxes which supported the public schools simply because he would not or could not make use of them.

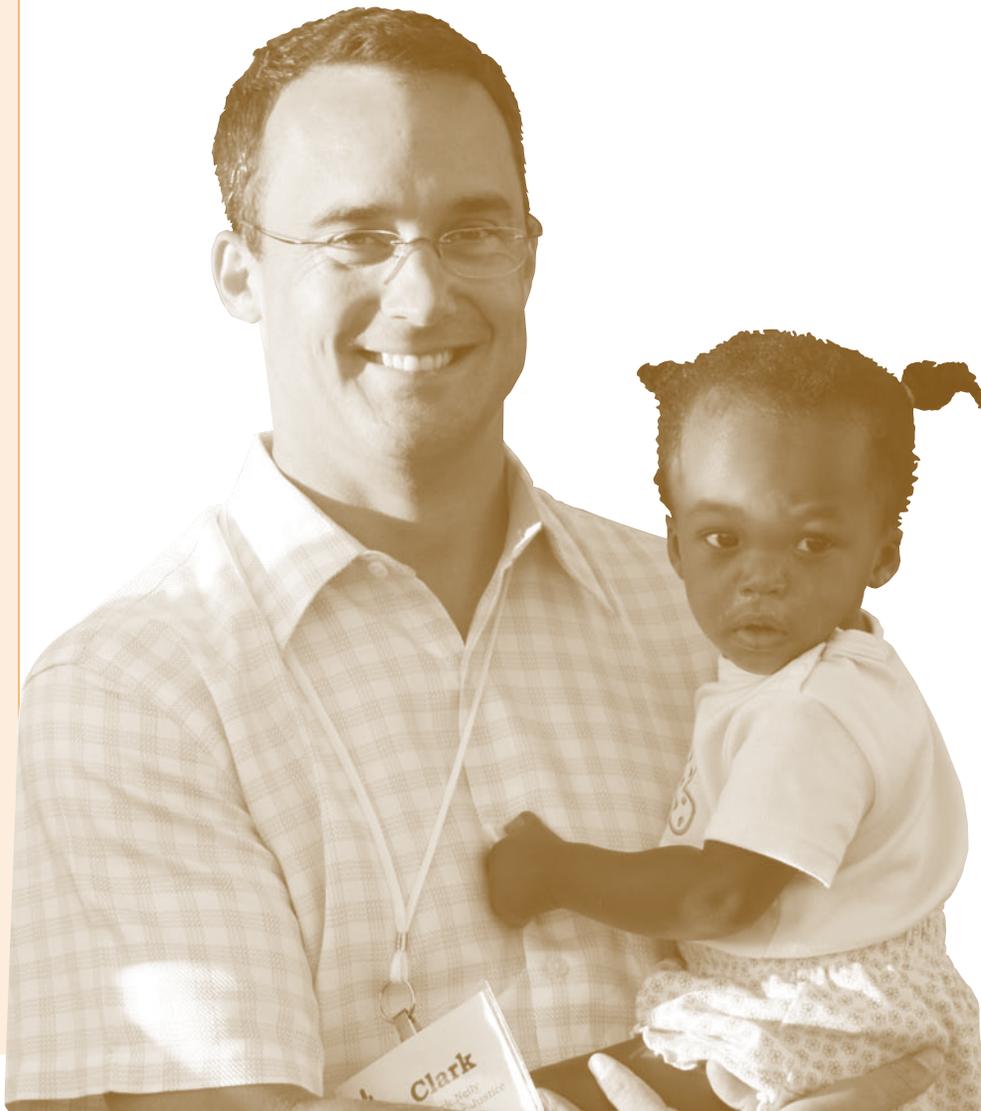
Americans United v. Rogers, 538 S.W.2d 711 (Mo. 1976)

The Missouri Supreme Court held that publicly funded higher education grants do not violate the Missouri Constitution because the public purpose of the statute, promoting higher education, overrides any incidental benefit to a private individual or private college.

Mallory v. Barrera, 544 S.W.2d 556 (Mo. 1976)

The Missouri Supreme Court held that use of any part of federal Title I education funds by the state to provide remedial education to elementary and secondary school children on the premises of parochial schools violates the Blaine Amendments of the Missouri Constitution.

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Paster v. Tussey, 512 S.W.2d 97 (Mo. 1974)

The Missouri Supreme Court held that requiring public school boards to provide textbooks to teachers in private schools violates the Compelled Support Clause of the Missouri Constitution, while requiring textbooks to be provided to pupils attending private schools violates a Blaine Amendment (Article IX, Section 8).

McDonough v. Aylward, 500 S.W.2d 721 (Mo. 1973)

The Missouri Supreme Court held that being required to pay taxes does not interfere with parents' constitutional right to send their children to religiously oriented schools.

Special District for Education & Training of Handicapped Children v. Wheeler, 408 S.W.2d 60 (Mo. 1966), see also *Harfst v. Hoegen*, 163 S.W.2d 609, 614 (Mo. 1942)

The Missouri Supreme Court held that the state may not use public school funds to send public school speech teachers into the parochial schools to provide speech therapy.

Berghorn v. Reorganized School District, 260 S.W.2d 573 (Mo. 1953)

The Missouri Supreme Court held that schools taught by Catholic nuns are not free public schools and therefore may not receive public funds.

McVey v. Hawkins, 258 S.W.2d 927 (Mo. 1953)

The Missouri Supreme Court held that use of state and school district funds for transportation of parochial school students violated one of Missouri's education provisions (Article IX, Section 5), which required that all funds earmarked for public schools be used to maintain free public schools and for no other purposes.

ANALYSIS AND RECOMMENDATIONS

Tax credit programs are Missouri's best option for a school choice program. A voucher program would require a state constitutional amendment to overturn the restrictive interpretations given to its Blaine Amendments by the Missouri Supreme Court.

Model Legislation: Great Schools Tax Credit Program, Family Education Tax Credit Program