

# NEVADA



## CONSTITUTIONAL PROVISIONS

### Blaine Amendment

“No public funds of any kind or character whatever, State, County or Municipal, shall be used for sectarian purpose [sic].” NEVADA CONST. Art. 11, § 10.

### Education Article

“The legislature shall provide for a uniform system of common schools ... any school district which shall allow instruction of a sectarian character therein may be deprived of its proportion of the interest of the public school fund during such neglect or infraction ....” NEVADA CONST. Art. 11, § 2.

### EXISTING SCHOOL CHOICE PROGRAMS

Public School Choice: **No**

Charter Schools: **Yes**

Nevada Revised Statutes Sections 386.500 to 386.610

Private School Choice: **No**

### RELEVANT CASE LAW

*State v. Hallock*, 16 Nev. 373 (Nev. 1882)

The Nevada Supreme Court held that public money given to a Catholic orphanage violates the Blaine Amendment of the Nevada Constitution.

*Attorney General Opinion 276* (11-5-1965) (copy available from the Institute for Justice)

The Nevada Attorney General opined that “[t]he requirement of a federal statute that a school district which receives a grant for special aid to educationally deprived children make such aid available to pupils of private schools does not violate Nevada’s Blaine Amendment ... if federal moneys are kept separate.”

*Attorney General Opinion 67* (9-5-1963) (copy available from the Institute for Justice)

The Nevada Attorney General opined that “[t]he prohibition of expenditures of public funds for sectarian purposes, as contained in Nevada’s Blaine Amendment, was primarily included for the purpose of preventing sectarian religious instruction in public schools, as indicated by Const., Art. 11, § 9, which prohibits sectarian instruction in any school or university established under the state Constitution.”

*Attorney General Opinion 209* (9-12-1956) (copy available from the Institute for Justice)

The Nevada Attorney General opined that “[h]ome instruction of a private or parochial school student by public school teachers when such student is ill is an unconstitutional expenditure of public funds for sectarian purpose. However, if such student enrolls in the public school during his illness he may then receive such home instruction.”

*Attorney General Opinion B-40* (2-11-1941) (copy available from the Institute for Justice)

The Nevada Attorney General opined that “[s]tate funds may be used to hospitalize crippled children in a sectarian hospital where no instruction of any kind is imparted, and such use does not violate Nevada’s Blaine Amendment.”

## ANALYSIS AND RECOMMENDATIONS

Despite a few inauspicious attorney general opinions from the 1960s and 70s, both voucher and tax credit programs are school choice options in Nevada. The only case discussing Nevada’s Blaine Amendment is from 1882 when the Nevada Supreme Court disallowed a direct appropriation of public funds to a Catholic orphanage in *State v. Hallock*. No more recent constitutional interpretations exist, let alone any addressing programs aiding students.

Standing alone, the *Hallock* decision would not bar the use of educational vouchers, as those funds would aid parents who would choose among an array of educational options. Although Nevada’s Legislature passed a law requiring that money allotted for public schools be used exclusively for public schools, Nevada Revised Statutes Section 387.045, other public money—general revenues or lottery proceeds, for instance—could support a voucher program.

Alternatively, tax benefits aimed at offsetting the cost of private education are another possible school choice option. They fully comply with the Uniform and Equal Tax clause of Nevada’s Constitution (Article X, Section 1) and the seminal case interpreting that provision, *State v. Eastbrook*, 3 Nev. 173, 178 (Nev. 1867).

*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*